LEGISLATIVE COUNCIL

Thursday 16 November 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.18 p.m. and read prayers.

GENETICALLY MODIFIED CROPS

A petition signed by 214 residents of South Australia, concerning the Genetically Modified Crops Management Act 2004 and praying that the council will amend the Genetically Modified Crops Management Act 2004 to extend South Australia's commercial GM crop ban until 2009, prohibit exemptions from the act, particularly the reduction of GM canola seed, and commission state funded scientific research into GM organisms, health and the environment in close consultation with the South Australian public and other governments, was presented by the Hon. M.C. Parnell.

Petition received.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 169, 180, 183 and 493.

QUESTIONS, REPLIES

169. **The Hon. R.I. LUCAS:** Will the minister provide answers to the following questions asked on the dates indicated below and recorded in *Hansard* under the subject lines indicated below, that the minister has either taken on notice or has indicated he will refer to the minister in another place and bring back a reply:

1. 7 May 2002—Beverley Mine;
2. 27 August 2002—Riverlink;
3. 22 October 2002—Uranium Mining;
4. 3 December 2002—Education, Further;
5. 3 June 2003—SAMAG;
6. 3 June 2003—Government Advertising;
7. 5 June 2003—SAMAG;
8. 16 July 2003—Nuclear Waste Storage Facility;
9. 31 March 2004—Mitsubishi Motors;
10. 3 May 2004—Mitsubishi Motors;
11. 24 May 2004—Mitsubishi Motors;
12. 14 September 2004—State Budget and GST Surpluses;
13. 16 September 2004—Ministerial Advisers;
14. 20 September 2004—Goods and Services Tax;
15. 13 October 2004—Departmental Funds;
16. 27 October 2004—Auditor-General's Report;
17. 9 November 2004—Departmental Funds;
18. 23 November 2004—Auditor-General's Report;
19. 6 December 2004—Government, Financial Management;
20. 7 February 2005—Under Treasurer's Contract;
21. 11 April 2005—Government, Corporate Assistance;
22. 3 May 2005—Senior Executive Committee;
23. 4 May 2005—Senior Executive Committee;
24. 30 May 2005—Budget Papers;
25. 1 June 2005—Air Warfare Destroyers;
26. 14 September 2005—Transport and Urban Planning Department;
27. 15 September 2005—Government Tenders;
28. 19 September 2005—OzJet and Jetstar;
29. 21 September 2005—Bus Contracts; and
30. 18 October 2005—Auditor-General's Report?

The Hon. P. HOLLOWAY: No. As the honourable member is aware, all business on the Notice Paper as at 1 December 2005, including all Questions without Notice asked prior to that date, has lapsed due to the prorogation of the 50th Parliament.

It should however be noted that the following questions as listed by the Honourable Member were tabled during the 50th Parliament:

Date asked	Subject	Date tabled
22 October 2002	Uranium Mining	Tabled 19/03/2003
3 December 2002	Education, Further	Tabled by the Minister for Aboriginal Affairs and Reconciliation on 20/02/2003
16 July 2003	Nuclear Waste Storage Facility	Tabled 10/11/2003
27 October 2004	Auditor-General's Report	Tabled 11/04/2005
15 September 2005	Government Tenders	Tabled 1/12/2005
21 September 2005	Bus Contracts	Tabled 1/12/2005

MINISTERIAL TRAVEL

180. **The Hon. R.I. LUCAS:** Can the Minister for Emergency Services state:

1. What was the total cost of any overseas trip undertaken by the minister and staff since 1 December 2004 up to 1 December 2005?
2. What are the names of the officers who accompanied the minister on each trip?
3. Was any officer given permission to take private leave as part of the overseas trip?
4. Was the cost of each trip met by the minister's office budget, or by the minister's department or agency?
5. (a) What cities and locations were visited on each trip; and
   (b) What was the purpose of each visit?

The Hon. CARMEL ZOLLO: The Minister for Emergency Services has provided the following information:

No overseas trips were undertaken in the period 23 March 2005 to 1 December 2005.

183. **The Hon. R.I. LUCAS:** Can the Minister for Families and Communities state:

1. What was the total cost of any overseas trip undertaken by the then Minister for Aboriginal Affairs and Reconciliation and staff since 1 December 2004 up to 1 December 2005?
2. What are the names of the officers who accompanied the minister on each trip?
3. Was any officer given permission to take private leave as part of the overseas trip?
4. Was the cost of each trip met by the minister's office budget, or by the minister's department or agency?
5. (a) What cities and locations were visited on each trip; and
   (b) What was the purpose of each visit?

The Hon. CARMEL ZOLLO: The Minister for Aboriginal Affairs and Reconciliation has provided the following information:

There were no overseas trips undertaken by the then Minister for Aboriginal Affairs and Reconciliation during the period of 1 December 2004 to 1 December 2005.

DRUG AND ALCOHOL SERVICES SOUTH AUSTRALIA

493. **The Hon. J.M.A. LENSINK:** For the years 2002-03, 2003-04, 2004-05 and 2005-06:

1. Which non-government organisations received funding from the South Australian Government to provide drug and alcohol services; and
2. How much funding did each organisation receive in each year?

The Hon. G.E. GAGO: I have been advised that:

1. Under the Department of Health's Drug and Alcohol Services Program the following non-government organisations received funding to provide drug and alcohol services during 2002-03, 2003-04, 2004-05 and 2005-06:

- Adelaide Day Centre for Homeless Persons Inc.
- Australian Drug Treatment and Rehabilitation Program
- Anglicare SA Inc
- Baptist Community Services (SA) Inc
- Ceduna Koonibba Aboriginal Health Service Inc
- Life Education SA
- Loreto Spirituality Centre (ceased providing services in December 2003).
- Mission Australia
- Nganampa Health Council Inc.
- Corporation of the City of Port Augusta
- Salvation Army (SA) Property Trust
- South East Drug and Alcohol Counselling Service Inc.
- UnitingCare Wesley Adelaide Inc
- UnitingCare Wesley Bowden

2. The funding received by each non-government organisation is as follows:

- Adelaide Day Centre for Homeless Persons Inc
  - 2002-03 $64 000
  - 2003-04 $65 600
  - 2004-05 $66 900
  - 2005-06 $68 900
- Australian Drug Treatment and Rehabilitation Program Inc
  - 2002-03 $261 400
  - 2003-04 $297 900
  - 2004-05 $273 300
  - 2005-06 $281 500
- Anglicare SA Inc
  - 2002-03 $563 500
  - 2003-04 $571 900
  - 2004-05 $585 100
  - 2005-06 $591 500
- Baptist Community Services (SA) Inc
  - 2002-03 $74 300
  - 2003-04 $69 550
  - 2004-05 $68 700
  - 2005-06 $70 800
- Ceduna Koonibba Aboriginal Health Service Inc
  - 2002-03 $155 000
  - 2003-04 $158 900
  - 2004-05 $162 100
  - 2005-06 $167 000
- Loreto Spirituality Centre
  - 2002-03 $20 900
  - 2003-04 $10 700
- Life Education SA
  - 2002-03 $512 800
  - 2003-04 $514 700
  - 2004-05 $520 100
  - 2005-06 $520 100
- Mission Australia
  - 2002-03 $279 200
  - 2003-04 $286 000
  - 2004-05 $290 000
  - 2005-06 $297 400
- Nganampa Health Council Inc
  - 2002-03 $72 300
  - 2003-04 $73 000
  - 2004-05 $74 800
  - 2005-06 $74 800
- Corporation of the City of Port Augusta
  - 2002-03 $418 200
  - 2003-04 $428 700
  - 2004-05 $437 300
  - 2005-06 $450 400
- Salvation Army (SA) Property Trust
  - 2002-03 $767 700
  - 2003-04 $705 400
  - 2004-05 $699 300
  - 2005-06 $701 100
- South East Drug and Alcohol Counselling Service Inc
  - 2002-03 $169 100
  - 2003-04 $173 300
  - 2004-05 $176 800
  - 2005-06 $182 100
- UnitingCare Wesley Adelaide Inc
  - 2002-03 $500 500
  - 2003-04 $458 500
  - 2004-05 $450 000
  - 2005-06 $463 500
- UnitingCare Wesley Bowden
  - 2002-03 $54 900
  - 2003-04 $56 300
  - 2004-05 $57 400
  - 2005-06 $59 100

PAPERS TABLED

The following papers were laid on the table:

By the President—

Reports, 2005-06—
Adelaide Hills Council
City of Prospect

By the Minister for Emergency Services (Hon. C. Zollo)—

Non-government Schools Registration Board—Report, 2005-06.

MITSUBISHI MOTORS

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to Mitsubishi made earlier today in another place by my colleague the Minister for Industry and Trade.

HUNTER, Mr R., DEATH

The Hon. G.E. GAGO (Minister for Environment and Conservation): I seek leave to make a ministerial statement relating to the death of Mr Richard Hunter, a Ngarrindjeri elder.

Leave granted.

The Hon. G.E. GAGO: The state government was saddened to learn of the passing of Mr Hunter and extends its condolences to his family, the Nanguraku people, the Peramangk people and the Ngarrindjeri nation. Mr Hunter was a much respected member of the Aboriginal community and was passionate about sharing his knowledge of Ngarrindjeri cultural traditions. The Rann government recognises that this is a difficult time for all Ngarrindjeri people who not only have lost a family member, a friend and a respected leader of the community but who also feel sad to lose a member so committed to preserving Aboriginal culture and traditions, and the land through conservation and the environment.

Mr Hunter was a great advocate of the Aboriginal community of South Australia, particularly those living in the Murraylands region. Mr Hunter was a man of vision and drive who was passionate about the protection of Aboriginal art, heritage and culture. He was also highly respected by both Aboriginal and non-Aboriginal people in the Murraylands, and throughout Australia. Mr Hunter had a long association with the Department for Environment and Heritage and worked tirelessly in establishing a tourist experience and creating a business enterprise for Aboriginal people around the significant Aboriginal heritage along the River Murray.

Mr Hunter was instrumental in the development of a co-management agreement for Ngaut Ngaut Conservation Park at Nildottie, between the local Aboriginal community and the Department for Environment and Heritage, to ensure that the quality and the natural environment of the park is maintained, and cultural significance to Aboriginal people is both recognised and protected. Mr Hunter worked with the local DEH rangers to ensure they had an understanding of Aboriginal culture and traditional land management. Mr Hunter's commitment and advocacy for co-management of the Ngaut Ngaut Conservation Park is a strong foundation partnership between the Aboriginal community and the government into the future.

In January this year, as part of National Australia Day celebrations, Mr Hunter received the Citizen of the Year Award to commemorate his significant contribution to South Australia. It was his rare combination of leadership skills and vision, commitment and determination to involve community in the protection of Aboriginal heritage that was recognised through this award. Mr Hunter will be remembered as a traditional owner and respected elder of the Ngarrindjeri, who

facilitated an exchange of ideas and cultural values between communities and government—locally, nationally and internationally. He worked tirelessly to pass Aboriginal wisdom to the next generation so that this great knowledge would not be lost but preserved for future generations. The work undertaken to showcase and protect Aboriginal art, heritage and culture by Mr Richard Hunter is an important legacy for all South Australians.

NURSES

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a ministerial statement on the registration of nurses made by the Hon. John Hill in another place.

MURRAY-DARLING BASIN

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a ministerial statement on the extremely dry conditions in the Murray-Darling Basin made by the Hon. Karlene Maywald in another place.

QUESTION TIME

YATALA LABOUR PRISON

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Correctional Services a question about the treatment of a remandee.

Leave granted.

The Hon. R.I. LUCAS: The Liberal Party has received just this week a copy of a letter of complaint from a family member to the Police Complaints Authority. The letter obviously raises issues of complaint about police behaviour, but it also raises some disturbing allegations in relation to some correctional services staff. As background, I will refer to the person as 'Jack', which is not his correct name. Jack suffers from an intellectual disability as a result of a motor vehicle accident and was charged in July of this year with rape. Jack spent three months on remand at Yatala prison, and at that stage the complainant admitted to fabricating the allegations and the charges were withdrawn. Jack's brother who lives in the country and who is his legal guardian drove to Yatala and arrived there at 9 a.m. on Friday 20 October this year to collect Jack but was told by prison authorities that Jack could not be released before midnight.

Jack's brother who, as I said, was his legal guardian and who had driven from the country came into Adelaide and intended to wait in the city until after midnight. Eventually, at 5.30 p.m., some 8½ hours later, he was contacted by prison authorities who told him that they had just released Jack. Jack's brother was in the city. It took him, he says, over half an hour to drive back to Yatala prison. I will now quote directly from the letter of complaint to the Police Complaints Authority, as follows:

> On my arrival I found [Jack] huddled behind a shed down a side road adjacent to the front gate of the prison. He was sheltering from the cold and only wearing paper like prison overalls. This garment was not made of cloth or material. It was constructed of a paper like substance which was almost transparent. [Jack] had no underpants or any other garment. [Jack] was clearly embarrassed at being virtually naked. His treatment was humiliating and cruel.
>
> I approached the gatekeeper of the prison to find out why he had been sent out of the institution in such a disgusting way. I asked why his clothes and private property had not been returned to him. He apologised stating that everyone had gone home and he could not get into the storeroom to collect [Jack's] property! This was the despite the fact that the prison authorities had been aware of his ordered release throughout the day—at least 8½ hours.

The letter of complaint to the Police Complaints Authority outlines other concerns, in relation to not only police behaviour both before that incident and afterwards but also correctional services staff. My questions are:

1. Is the minister aware of the concerns or the complaint in relation to this particular incident; and, if so, what action has she taken?

2. If she is unaware of the incident, will she order an immediate and urgent investigation into the treatment of the person I have referred to as Jack?

3. Is she prepared, on behalf of the government, to issue an apology to Jack and his legal guardian and family for the treatment they experienced at Yatala?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I am disturbed to hear the information that the honourable member has just put on the record. I am not aware of Jack's situation. The honourable member mentioned that the letter went to the Police Complaints Authority, so I am not certain why it would not have come to the Department for Correctional Services. Of course, I will undertake to get an urgent investigation happening and bring back a response for the honourable member.

The Hon. R.I. Lucas: Would you like a copy of the letter?

The Hon. CARMEL ZOLLO: I would be pleased to receive a copy of the letter, thank you.

WELLINGTON WEIR

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the Wellington weir.

Leave granted.

The Hon. D.W. RIDGWAY: Last week the Premier announced as an emergency measure the possibility of a weir being built across the River Murray at Wellington. When quizzed about the state of the Lower Lakes—and, in fact, the state of the Coorong—he added that they would now be constructing drains from the Lower South-East to bring water into the Coorong from the Lower South-East drains and into the Coorong at Salt Creek. My questions are:

1. Given that most of the South-East is suffering the same level of extreme drought as the rest of the nation, where will they get the water from these drains to put into the Coorong?

2. If water does eventually flow from Salt Creek into the southern lagoon—which I am told is a stagnant, stinking, hypersaline cesspool—this water will then flow into the northern lagoon. What ecological damage will that cause to the northern lagoon?

3. Will the South Australian government still be able to meet its RAMSAR obligations with the killing of that environment?

The Hon. G.E. GAGO (Minister for Environment and Conservation): As members know, we are in the midst of one of the severest droughts on record, and it is having far-reaching effects on all our community, not only here in South Australia but also interstate. As the Premier announced, a task force has been set up to look at these problems, to get up-to-date information, and to formulate strategies to respond to this drought.

As the honourable member pointed out, one option is to build a weir at Wellington if necessary. That obviously has significant implications to the lake system below that structure, and a range of strategies are being looked at in an attempt to address that, possibly involving, for instance, the South-East interconnector and the desalination plants. A range of potential options are being considered, and no decisions have been made as yet. These serious matters are still under careful monitoring and careful consideration.

Clearly, in respect of our need for water and also environmental conservation measures, this will be a significant balancing act. Our first priority, above all others, is to ensure that South Australians have adequate drinking water. That is first and paramount in our minds. We will be looking to incorporate a range of strategies to ensure that we receive adequate drinking water and that our other water needs are met throughout South Australia as best they can be, and this will be balanced with our conservation needs as well. As I have said, no decisions have been made as yet. These matters are still under serious consideration.

The Hon. D.W. RIDGWAY: If the weir is built, are you planning on flooding the lower lakes with sea water?

The Hon. G.E. GAGO: I understand that none of these matters have been finalised as yet. We are still in the planning stage and are still considering a range of potential options.

BOLIVAR PIPELINE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about the Bolivar pipeline project.

Leave granted.

The Hon. J.S.L. DAWKINS: The Bolivar pipeline project is a proposed extension of the existing Virginia pipeline scheme for the neighbouring Angle Vale irrigation district. The Australian government committed over $2 million to this $4 million project over 12 months ago. The project is designed to reduce the extraction of ground water in the region by substituting 3 gigalitres of ground water with class A treated waste water from the Bolivar treatment plant. The water would be provided to irrigators through an 18 kilometre pipeline. Apart from reducing the dependence on ground water, the project will reduce ocean outfall from the Bolivar waste water treatment plant by a further 6 per cent, help secure the long-term viability of the horticultural region and further demonstrate the effectiveness of reusing treated waste water on a large scale for commercial horticultural production.

The project was announced on 7 October 2005 after being canvassed for several years. However, the South Australian government has been very slow to match the Australian government's commitment. A number of members in this chamber are aware of the great benefits that the existing Virginia pipeline scheme has provided to this renowned horticultural region. It is also important to acknowledge the significant financial contribution made to the existing scheme and to the proposed extension by individual growers. I understand that the South Australian government has been given until 17 November (tomorrow) to meet its agreed obligations to this project or risk losing the commonwealth contribution.

My questions are: first, why is the state government delaying this project, particularly during drought conditions? Secondly, when will the government allow the pipeline extension to proceed by matching the Australian government's $2 million commitment? Thirdly, is it true that the latest advice to the Virginia Irrigation Association is that the extension will not be signed off until the government gets a total of 2 gigalitres of water contracted and paid for from the Angle Vale growers? Fourthly, is it also true that this will be the third time this has been done and money has been already refunded to growers twice?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his most important questions. These matters are not within my portfolio responsibilities. I am happy to refer them to the appropriate minister in another place, the Hon. Michael Wright, the acting minister, of course, being the Hon. John Hill.

The Hon. J.S.L. DAWKINS: As a supplementary question, does the minister support the reduction of ocean outfall from the Bolivar waste water treatment plant? Surely that comes under the portfolio responsibilities.

The Hon. G.E. GAGO: I still believe that these matters relate to the Bolivar treatment process and that it is relevant to pass them on to the appropriate minister.

ALCOHOL CONSUMPTION

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about excessive alcohol consumption.

Leave granted.

The Hon. I.K. HUNTER: Of course, I will not refer to members opposite in this question. Many South Australians are looking forward to the coming holiday season, with new year's eve and Christmas fast approaching. Traditionally, it is a time for celebration, and many of us will be planning parties with friends (if we have any), family and colleagues (sometimes at the infamous work party) and ringing in the new year in the spirit of the season. Unfortunately for some, this means drinking to excess, whether unintentionally or otherwise, increasing the risk of damage to their health and the health of others, and drink driving. It may even lead to antisocial behaviour. Will the minister inform the chamber what the government is doing to minimise the risk of alcohol abuse over this season?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his important question and ongoing interest in these important matters. I am pleased to inform the council that today the government unveiled an initiative to help revellers enjoy the Christmas and new year season responsibly and safely. We all know that Christmas is a great time for people to come together and have a good time at end-of-year celebrations. However, obviously it also has the potential of certain risks to health and safety (some of which can be quite substantial) if people drink an excessive amount of alcoholic beverages.

A 'Safer Celebrations' kit has been developed to achieve our goal by Drug and Alcohol Services SA (DASSA), in partnership with South Australia Police, the Office of the Liquor and Gambling Commissioner, and Safework South Australia. Let me be clear that this kit is not about taking the fun out of parties and get-togethers: it is quite the opposite. It highlights the very real health risks that can occur, such as accidental asphyxiation and injuries from falls, such as broken limbs, etc., and the potential increase in the number

of car accidents if people lose their discretion and do the wrong thing and drink and drive.

Alcohol is by far the most widely abused drug, and that is why this pack is even more important. The kit contains tips on safe partying strategies, responsible serving of alcohol, low-risk drinking guidelines, liquor licensing requirements, drink-driving information, and police and other emergency contact numbers. The kit was developed because many people get caught up in the festive atmosphere at this time of year and do not consider the effects that excessive alcohol consumption can have on their health and safety.

As we all know, during the festive season it can be easy to overindulge, especially given South Australia's excellent food and wine culture. This pack shows that, whether you are hosting a party at home or at work, simple strategies can be put in place to ensure that the party is safe and enjoyable for all. These include working out a plan for your party, including a finishing time; encouraging guests to organise safe transport options prior to the party; checking local licensing laws, if alcohol is going to be available, and finding out your obligations and responsibilities; and making sure that plenty of food and non-alcoholic drinks are available.

Other steps that Christmas revellers can take to ensure a safe and memorable time include remembering the number of standard drinks for men and women and how to stay in control. We still want every South Australian to have a great time this Christmas and New Year; it is just that we want them to be safe. You just need to look at the statistics on people in our emergency rooms to know the impact that alcohol abuse has on our community, especially for younger men and women. Alcohol misuse costs the Australian community over $7 billion annually, including $3 billion in road accidents and crime, and $225 million in health care. That is why these kits have been developed to help minimise those risks over the festive period, and they are being made available free of charge from the Drug and Alcohol Services of South Australia.

MOUNT LOFTY RANGES

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation questions about the Mount Lofty Ranges water prescription.

Leave granted.

The Hon. D.G.E. HOOD: In October 2004, the then minister for environment and conservation proclaimed the Mount Lofty Ranges to be 'under stress'. This reason was given for the immediate implementation of a two-year prohibition on water use and the intention to prescribe water resources in the Mount Lofty Ranges. During the past 18 months, the Mount Lofty Ranges Existing Water Users Group has become increasingly concerned about the implications of these measures. Given the specific nature of these questions, I expect that the minister will have to bring back an answer at some later stage. My questions are:

1. Will the minister explain the specific scientific data the state government used as a basis for its determination that the Mount Lofty Ranges are 'under stress'? Will the minister provide copies of this information to the Mount Lofty Ranges Existing Water Users Group?

2. Will the minister advise whether those who have paid for their full allocation of water will receive that total amount of water and, if not, will the minister consider payment of compensation, as has been done in New South Wales as a result of capital loss due to the reduction in water entitlements?

3. Will the minister consider providing landowners with a three-year water rollover period, given that SA Water has a five-year rollover period in which it can carry over unused water from one financial year to the next?

4. Will the minister look into compensation for any landowners whose means of earning a living may be taken away by any reduction in their water entitlements?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important questions. The water resources of the Mount Lofty Ranges are vitally important socially, economically and ecologically to South Australians, and the increasing demand for domestic, industrial and agricultural water supplies is placing these water resources under pressure. A risk has been identified that they may not meet future demand if increased use is not managed. The water resources of this area were prescribed on 20 October 2005, following extensive consultation.

In relation to the work done, I am happy to bring back the details but, broadly speaking, monitoring of the ground water occurs on what I believe is a regular basis. The water quality is measured. I understand that the volume of water available and various aspects of its quality, particularly salinity, is looked at, and these are measured and monitored over periods of time. I am happy to bring back the specific details. The prescription establishes a framework for the sustainable management of water resources, and this will provide more secure access to water for all users and recognise that the environment as a legitimate user of water.

Water allocation is now being developed by the Adelaide and Mount Lofty NRM board with extensive consultation with landholders, industry groups and the broader community. The plan will ensure sustainable allocation, transfer and management of water in this region. The notice of prohibition and notice of intention to prescribe has been placed in that area since 2004, and notice was placed in relation to a temporary moratorium on new commercial industrial irrigation water use and stock and domestic water use from large dams to prevent further degradation, while the long-term management measures are developed through the water allocation planning processes, as I said, in consultation with the community. New water extractions from the Fleurieu Peninsula swamps are also included. As I have outlined, this prescription process has been deemed to be necessary to ensure the long-term future of that water supply.

In relation to water allocation, the information I have is that the water levy associated with the access or licence to obtain underground water is moneys that are paid, not for the particular quantity of water but, rather, it is a water levy that goes to the NRM boards to help them manage that asset, if you like, and also to assist them in the design and implementation of their water allocation plans. My understanding is that the NRM water levy is payment for that, rather than for a particular right to access a particular quantity of water. In relation to some of the other questions, I am happy to bring back a response.

The Hon. D.G.E. HOOD: I thank the minister for her answer. Will the minister provide access to the scientific data upon which those decisions were based to the Mount Lofty Ranges Existing Water Users Group?

The Hon. G.E. GAGO: I am happy to take those questions on notice and bring back a response. I am not

exactly sure what data is available, but I will certainly attempt to provide whatever is available as a response to the chamber.

MENTAL HEALTH

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about staffing in acute mental health units.

Leave granted.

The Hon. J.M.A. LENSINK: The opposition has received information that in the past month two wards which care for people with acute mental illness have been under considerable pressure due to lack of staffing, and in particular nursing staff. One of these is the Margaret Tobin Centre. I have received an email which says that the Margaret Tobin Centre beds are not being used at full capacity because they do not have enough nurses to attend to patients. As a result, private organisations have been asked whether they could take patients on as a short-term measure.

Then, more recently, I have received information in relation to the C3 ward at the Royal Adelaide Hospital whereby, in the past month, this ward has been down to only one registered nurse per shift. This email says that the hospital cannot find regular staff and NASA, which is a nursing agency, can no longer fill the gaps. The email also says that this particular ward has a reputation of being a dangerous ward for staff to work on. My questions to the minister are:

1. Can she confirm that metropolitan acute units are indeed under pressure because of a lack of nursing staff?

2. Can she advise how many beds are operational within the Margaret Tobin Centre and the Royal Adelaide Hospital?

3. What impact has this had on waiting lists for people trying to get into acute beds in our hospitals?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for her questions. I have reported in this place before on the ongoing struggle that we have not only here in South Australia but also nationally, and there are some international trends, about being able to recruit and retain mental health care professionals—nursing staff in particular, and psychiatrists.

We have an extensive strategy in place to assist us, as best we can, to fill the positions that we need to fill. I have reported in this place recently that the holiday season, in particular, placed some strain on our system in terms of staffing, but I can assure all members here that, in terms of our mental health services, we continue at all times to provide safe, quality care.

Again, I place on the record the incredibly valuable work of the mental health staff and their fabulous efforts. They really do go beyond the call and are truly exceptional people. We owe them a lot, and they are to be admired for the work they do. As I have said, periodically we are under stress in terms of being able to fill all positions, and I understand currently we are under some pressure as well. But, as I have indicated, I can reassure every member here that, in terms of our mental health services, we continue to provide safe, quality care. In terms of the specifics sought by the honourable member, I do not have those details with me and am happy to provide them if they are available, and to bring back a response.

The Hon. J.M.A. LENSINK: I have a supplementary question, Mr President. Can the minister confirm whether the situation is still occurring regarding the shortages, or whether it has been resolved at Flinders and Royal Adelaide?

The Hon. G.E. GAGO: As I have said, I am generally aware that our system periodically has problems in terms of filling all positions. I understand there are some issues at the present time. I am not aware that they are particularly extensive or serious but, as I have said, I do not have the details of that. I am happy to ascertain that information and bring back a response.

The Hon. J.M.A. LENSINK: I have a further supplementary question. Is the minister saying she has not received a briefing on this issue?

The PRESIDENT: I heard the minister's answer. The Hon. Mr Wortley.

HERITAGE AREAS

The Hon. R.P. WORTLEY: My question is to the Minister for Urban Development and Planning. Can the minister provide details of an agreement between the government and Unley council on local heritage planning?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for his question. I am pleased to report that last week the government signed an agreement with the Unley council to progress a pilot program aimed at maintaining the desired character of neighbourhoods and better protecting the local heritage within the Unley council area. If successful, the pilot program could eventually lead to the revamp of policies for enhancing the desired character areas and protecting local heritage beyond Unley and into other South Australian council areas.

The pilot program has already been through the preliminary stages, with promising results. Planning SA has been working with the Unley council to identify better ways to deal with desired character and local heritage issues. That work has progressed to the stage where we can now try to develop a formal plan amendment to translate this new approach into the development plan for Unley. The agreement signals a joint approach between the state government and the Unley council to achieve that. It is important that the community has confidence in the procedures for establishing desired character policies and identifying local heritage places and zones. In recent times several councils have conducted their own processes to change zoning policies in an effort to maintain the desired character of their neighbourhoods and protect local heritage.

Consequently, South Australia now has a variety of different policy measures which in many cases are confusing and, in some cases, inappropriate. We need to provide more certainty for the community and for applicants through logical, easily understood and consistent planning tools. That is the aim of this pilot program. I can inform the council that the public will be invited to comment once a plan amendment report associated with the Unley pilot program is prepared and released by the council.

ELECTRONIC WASTE

The Hon. M. PARNELL: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about electronic waste in South Australia.

Leave granted.

The Hon. M. PARNELL: A recent Australian Bureau of Statistics report highlighted the looming issue of what is commonly known as e-waste—that is, electronic goods such as televisions, mobile phones, video cassette recorders, computers and office equipment that has reached, or is soon to reach, the end of its useful life. The ABS report states that e-waste is growing at more than three times the rate of general municipal waste, and stockpiles of used obsolete electronic products are growing to alarming levels. According to the commonwealth Department of Communications, Information, Technology and the Arts, it is estimated that in Australia in 2006 there will be around 1.6 million computers disposed of in landfill, with another 1.8 million set to join the 5.3 million already gathering dust in garages and other storage areas—two of those are mine, but there are another 5.3 million.

The fact that so many of these electronic products end up in landfill is very concerning, because many of the materials in these products can be re-used and recycled, and some items can be refurbished for a second life. However, more concerning is that these products contain a number of significant pollutants, in particular toxic and hazardous chemicals. These materials include lead, mercury, chromium and brominated flame retardants which all have the potential to leach into soil and water.

My neighbourhood recently had a hard rubbish collection and I was amazed at the amount of electronic waste that was put out for collection. One of the reasons for putting it out for collection is that people wishing to do the right thing need to engage commercial recyclers who charge a considerable amount—for example, $18 to $20 for a laptop computer, a TV set or a monitor; $12 for a printer or a microwave oven; and even a toaster costs $4 to have recycled.

The Hon. Carmel Zollo interjecting:

The Hon. M. PARNELL: It might be recycled, as the minister says, but probably to next year's hard rubbish collection, four doors up the street from where it was deposited. One solution for appropriate recycling is to make sure that the cost of recycling is built into the initial purchase price of these electronic products. My questions to the minister are:

1. How much e-waste is put into council hard rubbish and ends up in landfill?

2. How much e-waste is recycled in South Australia?

3. Why is there no comprehensive scheme in South Australia to include the cost of recycling e-waste in the initial purchase price of electronic products?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his most interesting questions. They are, indeed, challenging issues for us. Electronic waste loosely comprises (as the member says) computers, televisions, electronic appliances and mobile phones—which collectively are known as waste electronics and electrical equipment, shorthanded as WEEE. Disposal of this material into the environment is a matter of international concern, as well as national concern. New requirements in Europe are driving manufacturers to use less hazardous materials to manufacture appliances. It is most important that we continue to encourage that to occur. This requirement was known as the Waste Electronics and Electrical Equipment Directive, and was introduced in 2003 and became operational in 2005. The directive states, in part, that 'the objective of improving the management of WEEE cannot be achieved effectively by member states acting individually'. They called for a coordinated national and international approach.

It is clear that this is a difficult issue to deal with worldwide, although some progress has been made internationally. As we know, most of the companies involved in the manufacture of this type of equipment are international traders; they are not just local agents. Most electrical and electronic products are imported into Australia, which is a small market in global terms. The issue is being addressed at a national level through the development of a national environment protection measure on product stewardship. The imposition of levies has been suggested by some, but it raises a number of issues, in particular the impact on the Mutual Recognition Act, competition policy and the Australian Constitution. They are not straightforward matters. South Australia's beverage container scheme—

Members interjecting:

The Hon. G.E. GAGO: In terms of stewardship, if you are looking at imposing certain fees or levies on these companies, these are real issues. Members of the opposition can scoff, but they are just showing their ignorance in terms of the complexity of these matters. South Australia's beverage container scheme is exempt from mutual recognition: it predates that legislation. However, levies at point of sale can be applied only by the commonwealth, and those members who are scoffing across the chamber from me could take heed of that.

South Australia is well placed to recover these materials through its network of collection depots. In 2005-06 Zero Waste SA ran a grants scheme for depots that was designed to encourage depots to receive this material for recycling, and they are developing recycling solutions for WEEE internationally and under development in Melbourne, and some large manufacturers are already seeking the return of products for recycling. In relation to some of the specific quantities, I do not have those details with me but I am happy to take that on notice and bring back a response.

PORT STANVAC

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Police, representing the Treasurer and the Minister for Industry and Trade, a question about Mobil's Port Stanvac refinery site.

Leave granted.

The Hon. T.J. STEPHENS: Recently the opposition, *The Advertiser* newspaper, many members of the southern community and, indeed, the wider community have been asking the government for answers on the future of Mobil's mothballed refinery at Port Stanvac. Thus far, the government has refused to give any response to the community's calls for it to release details about the agreement it has reached with Mobil regarding the clean-up and future of the site. The Treasurer has remarked that the deal is confidential and it contains information commercially sensitive to Mobil. A spokesman for the Treasurer was quoted on the weekend as saying that they need to say that we can release it (meaning Mobil). However, it has come to my attention recently that Mobil is quite happy to discuss with the government releasing this supposedly confidential document. My questions are:

1. Will the minister inform the council whether the Treasurer has spoken with Mobil about releasing the details of the agreement, given that Mobil seems to be quite happy for that agreement to be released?

2. Does the minister concede that no commercially sensitive information is contained in the document that would embarrass Mobil?

3. What does the government have to hide regarding releasing this agreement?

The Hon. P. HOLLOWAY (Minister for Police): I will refer that question to the Deputy Premier and bring back a reply.

COUNTRY FIRE SERVICE, TANUNDA

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about fire service facilities in the Tanunda area.

Leave granted.

The Hon. J. GAZZOLA: The Barossa Valley is a prime tourism destination and winery production area, with associated business and residential developments, as you are aware, Mr President. Will the minister advise what, if any, improvements to fire service facilities have taken place in the area to meet these fire risk categories?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I would like to thank the honourable member for his important question. I am certain that he is aware that the Barossa Valley is also a prime tourist and wine destination. On Sunday 12 November—

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

The PRESIDENT: Order! The minister has the call.

The Hon. CARMEL ZOLLO: On Sunday 12 November 2006 I was delighted to open a fully refurbished two-bay fire station for the CFS Tanunda brigade. It was also the open day. The Mayor of the Barossa Council (Brian Hurn), the Deputy Mayor, the CFS Chief Officer and the Regional Commander CFS Region 2 were also at the opening. The opening of the station continues the progress being made by this government in developing emergency service facilities. Currently, an average of eight new or refurbished stations are being brought online each year.

Since coming to government we have opened 28 new CFS stations, with a further five new stations due to be completed by June 2007. The Tanunda brigade is part of the Angaston CFS group, which consists of brigades at Angaston, Nuriootpa, Tanunda and Truro. The Tanunda brigade attends around 60 call-outs per year. At the opening I was able to meet with and talk to brigade members about some of the issues affecting them. Improvements to facilities and protective equipment—such as the almost $2 million provided to the CFS during 2005-06 for an upgrade of personal protective equipment and clothing to volunteer firefighters—demonstrates that we value the contribution of volunteers to community safety.

The new station at Tanunda is a significant improvement and a further demonstration of our appreciation of volunteers in that region. I was pleased to learn that the Tanunda brigade has cadets. As I have previously, I encourage members to promote emergency services cadets as an opportunity for young people in their community to develop leadership skills and learn some practical life skills. The Tanunda brigade also officially took delivery of a new $234 886 (plus GST) 34P 3 000 litre four-wheel drive pumper as part of the 2005-06 $6.4 million appliance program, which saw the construction of 42 new fire appliances for the CFS. The Truro brigade, which is part of the Angaston group, also received a new appliance as part of the 2005-06 appliance program, costing $203 004 (plus GST).

Next year will see the 50th anniversary of the Tanunda brigade and it seems fitting that this fully refurbished station will see in the next era of the brigade's service for the community. Tanunda is also serviced by a modern Metropolitan Fire Service station, staffed by retained firefighters, so fire services are well prepared and resourced to respond on behalf of the Tanunda community.

FREE SOUTH AUSTRALIAN EYRE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister, representing the Minister for Regional Development, a question about Free South Australian Eyre.

Leave granted.

The Hon. CAROLINE SCHAEFER: A group of Eyre Peninsula farmers and business people have become so frustrated with the lack of success of development in their region that they have formed a group to be known as Free South Australian Eyre. At this stage they have pledged privately $400 000, because this group of Eyre Peninsula growers believe they can achieve better returns for the quality commodities they produce, so they are willing to invest their own money into the employment of professionals for grain marketing and value-added opportunities. My question is: what assistance has this group received from the government?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am happy to refer the question to the relevant minister in another place and bring back a response.

TOBACCO CONTROL STRATEGY

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about tobacco controls.

Leave granted.

The Hon. B.V. FINNIGAN: Earlier this year the Minister for Mental Health and Substance Abuse advised the council about measures the government is taking to encourage people to give up smoking. Evidence suggests that children who take up smoking at an early age have a higher risk of serious illness. This government has previously announced a range of measures that target youth smoking, including banning smoking in cars when children under the age of six are present. Will the minister advise the council what other action this government is taking to reduce the uptake of youth smoking?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his question and for his ongoing interest in these important policy issues. As Minister for Substance Abuse, I was deeply concerned when I learned of the 'kiddy pack' cigarettes (a split pack of 20), which hit our shops a short time ago. Australia spends billions of dollars each year treating the victims of tobacco-related illnesses, with lost productivity and associated social costs. One key to reducing this is to stop young people from taking up the habit in the first place. We know that, once a person has established a habit and an addiction to nicotine, it is far more difficult for them to give it up.

Members can imagine how concerned I was when I learned about these packets, which could quite easily entice young consumers to start smoking and make it easier for them to do so. Quite simply, such a product is unacceptable, and that is why I took swift and decisive action. Last Friday, these packets were banned, and I am advised that they have been recalled from all shops. I am pleased to say that the

tobacco company involved has agreed to bear the costs associated with that recall. My message to the tobacco industry is simple: any attempt to sidestep the laws, which are designed to protect young people from taking up smoking and to convince current smokers to quit, will be countered swiftly by this government.

Clearly, tobacco companies are looking to expand their market share, but any such attempts will be met with swift legislative action, just as happened in response to the split packet cigarettes. As members can imagine, I am extremely disappointed that tobacco companies would try to beat the laws that we have put in place to protect our state's children and try to find new ways of getting around them. This quick action has been recognised by those in the industry. Anne Jones, Chief Executive, Action on Smoking and Health (ASH) Australia, said that the decision to recall these products is great news and shows that state governments can act faster and more effectively than the federal government or the ACCC to protect young people. These thoughts were mirrored by Quit SA, which came out in praise of this government's move.

This campaign does not stop there. At the start of this month, we banned fruit-flavoured cigarettes as another step in preventing young people from taking up the habit. We have also flagged legislation to ban smoking in cars when children under the age of 16 are present, and we are the first state to do so. We are also planning to force retailers to display large and horrifying images of the dangers of the health risks associated with tobacco and smoking. These are real measures to protect future generations from becoming cigarette smokers, because research overwhelmingly shows that the majority of smokers today started as teenagers. These measures are aimed at stopping marketing ploys that make smoking attractive to young people. We will not stand by and watch tobacco companies try to circumvent our legislation.

TAFE LECTURERS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the minister representing the Minister for Employment, Training and Further Education a question about cuts in the number of TAFE lecturers.

Leave granted.

The Hon. SANDRA KANCK: This morning, the Minister for Employment, Training and Further Education was on radio extolling the virtues of pre-vocational courses at TAFE and proudly announcing that tomorrow, at Port Adelaide TAFE, there will be a national meeting of TAFE ministers and TAFE directors. I think this needs to be looked at in perspective, given the news that I have heard today that TAFE in the northern Adelaide region is being asked to meet government budget targets by cutting the number of lecturers in that region by 15. Apprenticeship numbers already have been basically agreed upon between TAFE and industry at this point as we are quite close to the end of the academic year; so, the contractual obligations are effectively there. If TAFE lecturer numbers are cut, it means that they have to be found from other areas, and the pre-vocational area is where that is most likely to occur. Pre-vocational courses have become a vital step for young people who are waiting to take up apprenticeships and they are particularly useful for students who have minimal educational qualifications. My questions are:

1. If 15 lecturing staff are to be cut in the northern Adelaide region of TAFE, are cuts being asked of other regions? If so, how many in each region?

2. Does the minister believe that the current number of pre-vocational students can be serviced without these lecturers?

3. Has the minister discussed with industry organisations, especially those which run group training schemes, the proposed cuts in the number of lecturers and the implications that this will have for pre-vocational courses in 2007?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions. I will refer her questions to the minister in another place and bring back a response.

CLOSED-CIRCUIT TELEVISION

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Police questions about closed-circuit television.

Leave granted.

The Hon. S.G. WADE: *The Advertiser* of 14 November reported that the government is looking at better use of CCTV to support public safety and security. My questions are:

1. To what extent are public and private closed-circuit television facilities in South Australia networked and monitored?

2. Does the government have any plans to expand the networking or increase monitoring?

3. How will the government's plans for CCTV protect both public safety and security and minimise the impact on privacy? In particular, has the government sought advice from the Privacy Committee in developing its plans?

The Hon. P. HOLLOWAY (Minister for Police): The government is very aware of the value that CCTV can play in terms of crime reduction. As I have told the council on previous occasions, when I was in the United Kingdom earlier this year I had the opportunity of looking at the CCTV network that they have in that city where they have literally thousands of CCTV cameras. It is said that, if you move around the city of London, you are likely to be on CCTV at least 300 or 400 times every week. Of course, we do not have that coverage here, but we still use CCTV in the city in areas such as Rundle Mall and Hindley Street. A significant number of CCTV cameras are privately operated in stores, garages and so on and, of course, that footage is very important for evidence should crime be committed or for the identification of offenders. Those CCTV cameras are privately operated and, often, the technology will not be compatible with the technology that is used in more extensive systems. Monitoring is undertaken centrally here in Adelaide of CCTV through much of the city but, as I said, many private CCTV cameras operate as well.

Following the experience we have gained from the United Kingdom, the government seeks to get a list of all those CCTV cameras that are available. What happened after the London bombings was that, in trying to piece together the movements of the terrorists who were responsible for that, the authorities at the time did not have a list of where all the cameras were and it was a huge logistical exercise for the police to recover some of that CCTV footage. It was necessary to have a huge warehouse to house all of that footage; with some of it, of course, the technology is such that it is incompatible with other forms of recording devices.

There are also difficulties in terms of monitoring or recovering the footage from those various cameras. There has recently been publicity in the press about the government seeking to gain that sort of information. It has also been highlighted recently that CCTV cameras have been installed in places such as Moseley Square, Glenelg. The federal government is providing some funding for that and the state government has agreed to monitor it through the police station. Incidentally, of course, every police station with cells has internal CCTV monitoring.

The whole question is one where technology is evolving, and the capacity to store information is a critical issue with the older systems that record the CCTV footage on tape, where it is generally wiped after a certain period of time (30 days or some other standard period). That becomes an issue in terms of recovering that footage in time, whereas with modern digital systems there are some advantages. I trust that answers the thrust of the honourable member's question, but if he has any more details I will re-examine the question and provide him with any additional information should any be necessary.

FREEDOM OF INFORMATION

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Administrative Services and Government Enterprises, a question on the subject of freedom of information.

Leave granted.

The Hon. R.D. LAWSON: Earlier this week the minister tabled the annual report under the Freedom of Information Act. In the foreword to that report the Minister for Administrative Services and Government Enterprises refers to the fact that a new system has been installed, the Freedom of Information Management System (FOIMS), to collect statistical data from agencies to help create the annual report. It is a web-based database for recording and managing FOI applications—the first of its type in Australia—and will enhance the statistical records of the report.

The report already contains quite detailed statistical information about freedom of information applications. The figures are not all good: 67 per cent of applications processed in the latest year were finalised within 30 days; that means about a third of them were not. The speed has fallen because 10 per cent fewer applications were processed this year than last. The percentage of applications where full access was given has been decreased by 4 per cent from the previous reporting year. Extensions were granted in 55 per cent more cases this year, which means that they were not dealt with in the 30 days required. A total of 2 163 unfinished applications had to be carried over to this current year; that is an increase of 300 per cent on the previous year.

The table on page 22 of the report sets out in quite some detail the grounds upon which refusals were made. The government has adopted the practice in recent years of refusing to release documents on the ground that their release would involve a breach of parliamentary privilege. This is not a specific ground of exemption under the act. A cynic might think that these are refused not to protect the parliament but to protect the government. However, this report contains no details at all of the number of occasions on which, during the past year, this government relied upon this ground for avoiding the release of documents. My questions to the Minister for Administrative Services are:

1. Will the minister provide statistics for the year 2005-06 of the number of occasions on which parliamentary privilege was used as a ground to refuse release, either wholly or in part, of a document applied for under the FOI act?

2. Will the minister ensure that in next year's annual report there are full details of this ground of refusal if, in fact, it is used?

The Hon. P. HOLLOWAY (Minister for Police): I will refer that question to the minister in another place and bring back a reply.

REPLIES TO QUESTIONS

RAIL, NOARLUNGA

In reply to **Hon. S.G. WADE** (1 June).

The Hon. P. HOLLOWAY: The Minister for Transport has provided the following information:

The Government has not abandoned the investigation of the extension of the Noarlunga rail corridor to Seaford including new stations at Seaford and Seaford Meadows as outlined in the Strategic Infrastructure Plan for South Australia.

The investigation is progressing, with the development of possible alignment options including consideration of earlier studies carried out in 1990. The investigation is considering a number of issues associated with the project including how many people may use the rail line, what type of rail service will operate on it, engineering aspects and its impact on the environment.

A decision regarding if and when such a rail line would be built will be made by the Government based on its economic viability, funding availability and opportunities relating to land development and the future development of the rail network. The Strategic Infrastructure Plan identified a five to ten-year time frame on the concept.

ONESTEEL

In reply to **Hon. M. PARNELL** (6 June).

The Hon. P. HOLLOWAY: In conjunction with the Minister for Environment and Conservation, I have been advised that**:**

The Wall Street monitoring site has recorded 7 exceedences of the national environment protection measure standard for particulate matter between 1 January and 8 June 2006.

ABALONE AQUACULTURE LEASES

In reply to **Hon. SANDRA KANCK** (27 April).

The Hon. CARMEL ZOLLO: The Minister for Agriculture, Food and Fisheries has provided the following information:

The Minister provides for monitoring of Australian Bight Abalone's (ABA) subtidal mollusc aquaculture licence under Section 22 of the *Aquaculture Regulations 2005* (the Regulations), Environmental Monitoring and Reporting, as well as the terms and conditions of their aquaculture licence and lease. Section 52 of the *Aquaculture Act 2001* allows for the Minister to vary licence conditions if the Minister believes there may be risk of significant environmental harm. In this circumstance, the licensee is permitted to use 45 metre diameter rings on the licensed site.

As a requirement under the Regulations ABA is to provide an environmental monitoring report annually, which includes a benthic assessment, details of any supplemental feed regime, use of chemicals or interactions with large marine vertebrates. The Department of Primary Industries and Resources SA (PIRSA), Aquaculture then assesses this information, and provides a management response. ABA has had no management issues arise during their environmental monitoring process.

In addition, PIRSA Fishwatch conducts site inspections of various aquaculture sites across the State throughout the year either as part of a random inspection program or following reports to Fishwatch. Following a number of reports against ABA and its farming practices last year, PIRSA Fishwatch conducted an extensive investigation.

Even though there were 30-40 knot winds and swells of up to thirty-two feet in the Elliston area in late April, I have been advised no losses or damages have been incurred. ABA has, however, advised that they are in the process of installing a new anchoring

system for the site which will increase the mooring strength three fold. The rings are designed so they can be submerged. Every second link in each ring is flooded so that they sit on the water line, which decreases the effect of swell and wave motion on the farm as well as reducing the effects on visual amenity in the area.

HOMELESS SINGLE MOTHERS

In reply to **Hon. A.L. EVANS** (30 May).

The Hon. CARMEL ZOLLO: The Minister for Housing has provided the following information:

As of 1 July 2006, the Commonwealth Government redirected funding of the Jobs Placement and Employment (JPET) Program from the Salvation Army at Ingle Farm (SAIF) to the Service to Youth Council (SYC).

The South Australian Department for Families and Communities (DFC), in liaising with both SYC and SAIF, has reported that the two agencies will be developing, on a case by case basis, transition plans to ensure clients affected by the funding change will receive uninterrupted services at similar levels. Both agencies have well established services for homeless youth in the Northern metropolitan region, and have a demonstrated commitment to continue to provide services to this target group.

Funding is provided via the Supported Accommodation Assistance Program (SAAP) to provide services to homeless people. In 2005-06, SAIF received funding of $774,800 to provide a range of services for homeless youth and $210,600 for services for homeless families. Both these programs provide emergency housing and other support services for homeless young women with children. In addition, funds are provided seven other non-government housing providers in the Northern metropolitan region to provide emergency housing and support services, via SAAP, to homeless youth, families and those women and children affected by domestic violence. Funding to these services in 2005-06 totalled $3,599,750.

BREAK EVEN SERVICES

In reply to **Hon. NICK XENOPHON** (31 May).

The Hon. CARMEL ZOLLO: The Minister for Families and Communities has provided the following information:

Resources were provided to assist gambling service providers to submit reviews to the Independent Gambling Authority (IGA) Review Codes of Practice. The Department for Families and Communities convened a discussion with service providers and collated their views into a written document that formed a substantial component of the Break Even Services of South Australia (BESSA) submission to the IGA.

It is not departmental policy to provide funding solely to organisations that provide positive comments about its functions. The Department for Families and Communities provides significant funding to peak bodies for the purpose of providing frank and fearless advice to Government.

Funding is allocated to services to deliver counselling, information and referral services for people affected by problem gambling, not their opinions of government policy or services. Indeed, funding has increased.

Statements that have been attributed to the Department for Families and Communities by the Hon Nick Xenophon were not made with the knowledge or approval of the Minister for Families and Communities.

The Minister for Families and Communities has reinforced to the Chief Executive of the Department for Families and Communities, in meetings and by memorandum that it is not the Rann Government's policy and never has been to desist from funding organisations that are critical of it.

The landmark agreement, *Common Ground*, demonstrates the Government's intention to work collaboratively with the community sector and that part of the sectors role is to provide of fiercely independent and sometimes uncomfortable analysis and critiques on Government policy.

SALISBURY RAIL CROSSING

In reply to **Hon. J.S.L. DAWKINS** (6 June).

The Hon. CARMEL ZOLLO: The Minister for Transport has advised that:

The potential to create a new railway crossing in the Salisbury area was investigated by the Department for Transport, Energy and Infrastructure in 2003.

The Department for Transport, Energy and Infrastructure considers that retaining the existing crossing at Park Terrace, and focussing on maximising the safety of the crossing by undertaking improvements as necessary to reduce the risk of crashes, is the most appropriate approach to providing access in and around the Salisbury area.

EYRE PENINSULA BUSHFIRES

In reply to **Hon. S.G. WADE** (22 June).

The Hon. CARMEL ZOLLO: I advise that:

- It is not appropriate for me to comment on matters before the Coroner.
- I am advised by the Country Fire Service that all material requested by the Coroner has been supplied.

GULFVIEW HEIGHTS

In reply to **Hon. J.S.L. DAWKINS** (8 June).

The Hon. CARMEL ZOLLO: I advise that:

1. Modifications to the layout of the Wynn Vale Drive and Bridge Road junction were completed in mid 2004. Prior to the upgrade of the junction, for the three and a half-year period from January 2001 to June 2004 (inclusive), there were 19 crashes recorded at this location, of which 6 six crashes resulted in casualties.

This compares to five recorded crashes after the modifications were completed for the one and a half-year period from mid June 2004 to December 2005 (inclusive), none of which resulted in casualties. To put this in perspective, there are 128 other unsignalised intersections in the metropolitan area with a worse crash history.

The frequency and severity of crashes at this location have reduced since the modification of the layout of the junction. Consequently, the junction is considered to be operating satisfactorily in its present form, and a further review is not required at this time.

2. With regard to the installation of traffic signals, DTEI the Department for Transport, Energy and Infrastructure has advised that the junction was last reviewed in September 2005. At the time, 69 vehicles were observed turning right in the morning period, and 45 in the afternoon period. This did not meet the warrant for the installation of traffic control treatments of 100 vehicles undertaking a right turn from the minor road in two separate one-hour periods on an average weekday.

It is considered the traffic movements at this junction have not changed significantly since the traffic count was undertaken.

INTERNET AUCTIONS

In reply to **Hon. R.D. LAWSON** (6 June).

The Hon. G.E. GAGO: The Minister for Consumer Affairs has provided the following information**:**

1. I am advised in the past six months the Office of Consumer and Business Affairs (OCBA) has received nine complaints concerning products purchased via the eBay site, two of which relate to private sales where the goods were not supplied. Of the nine complaints, six concerned PayPal, but none of them related to non-supply of goods.

In his questions the Hon. Robert Lawson specifically mentioned two consumers who paid for plasma televisions and did not receive the goods. OCBA has not received any complaints concerning the purchase of plasma televisions via the Internet in the past six months.

Fraudulent activity can occur in a range of mediums including Internet auction sites, online stores, telemarketing, door-to-door sales, and at the trader's premises. OCBA issues a number of warnings to consumers each year about the potential pitfalls when buying goods or services via a range of means. The OCBA website contains general information about precautions to take when shopping online.

2. A range of activities and approaches are used to protect consumers when buying goods or services in the marketplace. These can be summarised as enforcing legislation and providing public warnings and education messages.

In the main, the same consumer protection laws apply regardless of the method of purchase. The Fair Trading Act 1987 prohibits traders from accepting payment where, at the time of accepting the payment he or she:

- Intends not to supply the goods or services;
- Intends to provide something materially different to what was agreed to; or

· Is reasonably aware he or she is unable to provide the agreed goods or services within a reasonable time or within the specified time.

Where there is evidence of a breach OCBA will take action. I am advised OCBA prosecuted a company and its two directors earlier this year for demanding payment for services that were significantly different to the claims made. This resulted in fines totalling $26,000.

OCBA can investigate or conciliate matters between consumers and traders, but private sales are beyond its jurisdiction. In these matters OCBA will provide advice, which would normally include to complain to eBay and/or the Police. If the complaint is an alleged criminal fraud, it should be referred to the SA Police - Electronic Crime Branch.

EBay warns about Internet fraud and conducts their own investigations into fraudulent use of their services. Ebay also presents users of the site with a range of information, accessible from its front page, about sensible and secure shopping online.

OCBA has reminded consumers on a number of occasions this year about things to consider when buying online. These include:

· The risks of buying from companies based overseas, as Australian consumer protection legislation does not extend to offshore companies.
· The importance of dealing with reputable businesses.
· When buying via an Internet auction site to send money to a trust account where it will be held until the goods are received.
· It is usually safest to pay by credit card when shopping on-line as most financial institutions have a charge back facility where if something should go wrong, the consumer is able to have the transaction reversed.

A major scams campaign was conducted during February and March 2006 organised by the Australasian Consumer Fraud Taskforce, of which OCBA is a member. During this campaign there was a significant amount of media activity warning consumers about a range of scams, and how to avoid becoming a victim. A specific component of the campaign dealt with online scams.

During May 2006 OCBA devoted a week to reminding consumers of things to look out for when purchasing goods over the Internet. Interviews were provided on talkback and community radio stations.

In addition to information on the OCBA website about online shopping, OCBA's youth website "Spendwell" is an education resource that is utilised by a number of schools across South Australia. Presentations to high school students include a component about online shopping, and specifically eBay. Students are reminded to read the information on eBay's website about secure payment options. Students are informed of their rights when selecting eBay's "buy now" option as opposed to bidding for an item.

3. OCBA will continue to remind consumers of potential traps when buying over the Internet, through its website, its ongoing education activities of presentations to school and community groups, its regular radio interview program, and encouraging more schools to use the "Spendwell" education resource. Many education programs conducted by OCBA, particularly those with schools and community groups, include a component about online shopping.

4. The Office of Consumer and Business Affairs are one of 18 other Government regulatory agencies and departments who have a responsibility for consumer protection in relation to frauds and scams and who have formed The Australasian Consumer Fraud Taskforce (ACTF), established in March 2005.

The purposes of the ACFT are:

· to work together to enhance the Australian, State, Territory and New Zealand Governments' enforcement activity against frauds and scams;
· to create a yearly co-ordinated information campaign for consumers, timed to coincide with Global Consumer Fraud Prevention Month and to involve the private sector in that initiative; and
· to share information and generate greater interest in research on consumer frauds and scams.

I am advised the Australian High Tech Crime Centre investigates serious, complex, multi-jurisdictional high tech crimes and is responsible for the implementation of the Electronic Crime Strategy through its partnerships with all Australian State and Territory police services, Governments, industry groups and allied organisations. The Centre is a member of the ACFT.

OCBA will continue to seek redress for consumers who may be in dispute with an online trader. Other action, where appropriate, would include public warnings specifically naming a trader who puts consumers at risk and taking disciplinary action.

OCBA is in regular communication with eBay about a range of matters, including their complaint handling, and ensuring that goods offered for sale meet safety standards and are not banned items in any Australian state or territory. eBay may remove an individual or trader who is reported and following investigation, found not to supply goods.

COMMUNITY BUILDERS PROGRAM

In reply to **Hon. J.S.L. DAWKINS** (11 May).

The Hon. G.E. GAGO: The Minister for Regional Development has provided the following information**:**

I am pleased to inform the Member that the SA Government will continue to provide this vital program, and that a call for expressions of interest from host organisations will be made early in the new financial year.

MULTIPLE CHEMICAL SENSITIVITY

In reply to **Hon. A.L. EVANS** (5 June).

The Hon. G.E. GAGO: In response to the honourable member's specific questions, the Minister for Health has been advised:

1. The Department of Health is currently seeking nominations from key agencies to the Multiple Chemical Sensitivity Reference Group.

2. The reference group will be appropriately resourced from the Department of Health.

3. The Department of Health is seeking nominations from the SA Task Force on Multichemical Sensitivity and the Chronic Fatigue Syndrome Society of South Australia.

4. In addition to the Department of Health, nominations will be sought from Primary Industries, the Environmental Protection Agency, the Department for Families and Communities and Local Government.

MARINE PARKS

In reply to **Hon. M. PARNELL** (9 May).

The Hon. G.E. GAGO: I have been advised that:

1. The Wilderness Advisory Committee is progressing the *Wilderness Protection Act 1992* assessment of the Investigator Group of Islands. I have asked the Wilderness Advisory Committee to report back progress by January 2007.

2. The wilderness assessment of the Investigator Group of Islands will be considered through the zoning and implementation phases of the proposed roll out of Marine Parks.

3. DEH and the Coast Protection Board will work with the Department of Primary Industries and Resources South Australia to ensure that areas of industrial use that occur within Marine Parks do not inhibit the protection and conservation of the coast and marine environment.

EYRE PENINSULA NATURAL RESOURCE MANAGEMENT BOARD

In reply to **Hon. SANDRA KANCK** and **Hon. CAROLINE SCHAEFER** (10 May).

The Hon. G.E. GAGO: I have been advised that**:**

1. In 2005-06, the Eyre Peninsula NRM Board was provided with $103,384 of State Government funding directed towards establishment costs. This was in addition to the ongoing contributions made by the State Government towards animal and plant control and soil management in each region. For the Eyre Peninsula Board this contribution was $346,000 for 2005/06. The $103,384 provided to the Eyre Peninsula NRM Board for establishment costs was consistent with that provided for the same purpose to NRM Boards in other regions where there had previously been a catchment water management Board and, hence, where funding via a catchment levy was already in place

2. The selection process for Board appointments in each region, sought to ensure a cross-section of relevant expertise on each Board consistent with the requirements of the *Natural Resources Management Act.* One of the members of the Eyre Peninsula NRM Board has a conservation background and in particular a tertiary qualification in environmental management.

3. The classification of NRM Board General Manager positions was independently assessed by Mercer Consulting, who have been appointed by the Office for Public Employment to classify executive level positions within the public sector. The NRM Board General Manager classifications were determined taking into consideration the size and complexity of NRM issues associated with the region.

The classification and associated salary of the General Manager of the Eyre Peninsula NRM Board lies in the mid range of the General Managers of the eight NRM Boards. I am not aware of any direction to Board members to keep quiet about this prior to the election.

4. The Initial Natural Resources Management Plans combine existing plans and programs developed by the NRM Board's predecessor natural resources management bodies, namely the catchment water management Boards, soil conservation Boards, animal and plant control Board and integrated natural resource management groups. The purpose of the initial plans is to allow the NRM Boards to continue to implement these existing plans and programs, while they prepare their comprehensive regional NRM plans. The NRM levy will replace previous catchment levy and animal and plant control contributions to help fund these programs, while State and Commonwealth funding will provide further resources for Board activities. In terms of commencing new projects or on-ground works, these would need to be determined and prioritised in consultation with the community through the development of regional NRM plans.

Response to supplementary question asked by Hon. Caroline Schaefer.

5. The Natural Resources Management (NRM) levy will apply in relation to all rateable land in the region of an NRM Board, where the NRM plan provides for such a levy. Rateable land for the purposes of the NRM levy is that defined as rateable under the *Local Government Act 1999*. This means that all land within the area of a council is rateable except for land that falls within a specific exemption specified in that Act. One exemption is in relation to land used or held by the Crown or an instrumentality of the Crown for a public purpose, except for land held by the Crown under a lease or licence or that constitutes domestic premises.

CYCLING NETWORK

In reply to **Hon. M. PARNELL** (1 June).

The Hon. CARMEL ZOLLO: I advise that:

The Bike*direct* maps do not show the location of 'cycling black spots'. The purpose of the map series is to show people different ways to get around Adelaide by bicycle that they may not have considered before.

Road safety audits identify safety issues relating to all road users, including cyclists. Further to this, the Department for Transport, Energy and Infrastructure specifically reviews cycling crash statistics to determine if there are any particular locations where engineering interventions may make sites safer for cyclists. Community feedback is also taken into consideration—and safety audits specifically for cycling may be undertaken at sites of community concern. One such site was the South Road underpass at River Sturt, which was recently upgraded as part of the State Black Spot—Cycling Program.

INDUSTRIAL RELATIONS COMMISSION, PRESIDENT

The Hon. P. HOLLOWAY (Minister for Police): I move:

That pursuant to section 29 of the Fair Work Act 1994, the nominee of this council to the panel to consult with the Minister for Industrial Relations regarding the appointment of the President of the Industrial Relations Commission be the Hon. Russell Wortley.

This motion relates to the appointment of the President of the IRC. A panel to undertake that task is formed under section 29 of the Fair Work Act 1994. My information is that the minister consults with the panel regarding the appointment. The panel consists of a representative of the House of Assembly and a representative of the Legislative Council. Other panel members are: SA unions, Business SA and the Commissioner for Public Employment. This motion follows the longstanding conventions of this and previous governments. The member for MacKillop (who is the shadow spokesperson) is the house representative and it is proposed that the Hon. Russell Wortley MLC be the representative of this council. I am advised that the office of the Minister for Industrial Relations has discussed this motion with the member for MacKillop (Mitch Williams) and that the opposition has agreed to support the motion in both houses.

Motion carried.

TOBACCO PRODUCTS REGULATION (SMOKING IN CARS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

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

That this bill be now read a second time.

In the last 20 years evidence has grown to show that passive smoking—that is, breathing secondhand tobacco smoke—is dangerous to health. Passive smoking is known to increase the risk of asthma, bronchitis, pneumonia and chest infections, as well as lung cancer and cardiovascular disease. Children and babies are especially vulnerable as their lungs are less well developed. About 8 per cent of new cases of asthma in children are attributable to passive smoking, and the risk of respiratory and middle ear infections increases with exposure to environmental tobacco smoke. Passive smoking can also increase the risk of Sudden Infant Death Syndrome.

The bill that I am introducing today is aimed at minimising the exposure of children to the harms of passive smoking whilst travelling in a motor vehicle. Children can spend many hours per week in vehicles and the concentration of environmental tobacco smoke may be greater than in the home, due to the more confined space. Additionally, unlike in the home, children are unable to get away from the smoke. A recent study conducted in the United States of America has shown that concentrations of harmful particles from tobacco smoke in the rear seat of a car can be greater than in a smoky bar. Concentrations during the time of actual smoking are greater than those considered to be hazardous to health.

This government has already introduced laws to prohibit smoking in vehicles that are used for work purposes, to help protect the health of workers. This new proposal will afford the same protection to children who are exposed to this harm while travelling in cars or other motor vehicles. Media campaigns conducted in recent years advocating for people to make their cars smoke-free have reduced the numbers of people who smoke in their cars when their children are present.

Despite these campaigns, as many as 30 per cent of smokers who have cars continue to smoke in them when children are present. This bill will ban smoking in cars when any child under the age of 16 years is present. A child 16 years or over who may be driving a vehicle will not be committing an offence if smoking in the car, provided there are no other children under 16 years present at the time.

South Australian police officers are authorised to enforce the Tobacco Products Regulation Act 1997 and will be responsible for the enforcement of this ban when it comes into effect. Expiation notices—that is, on the spot fines—can be issued for breaches of this law. The expiation fee has been set at $75, which is the same as the expiation fee for smoking in other places where it is not allowed such as indoor workplaces. The maximum fine is $200.

This government is committed to reducing the harm from smoking and passive smoking, and this is another strategy that will help achieve that goal. South Australia will be the first state or territory in Australia to introduce a ban on smoking in cars when children are present, which shows this government's determination to make the hard decisions to protect our communities, and especially our children's health. I commend the bill to members. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Tobacco Products Regulation Act 1997*

4—Insertion of section 48

This clause inserts new section 48 into the principal Act. That section creates a new offence of smoking in a motor vehicle (which has the same meaning as in the *Motor Vehicles Act 1959*) if a child is present in the vehicle. A ***child*** is defined as being a person who is under 16 years of age.

The maximum penalty for contravening the new section is a fine of $200, however an expiation notice may be issued instead of prosecuting, with an expiation fee of $75 applying.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION (EXPIATION FEES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

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

That this bill be now read a second time.

The Tobacco Products Regulation Act 1997 regulates all aspects of tobacco control in South Australia from the licensing and supply of tobacco products to restrictions on where smoking can take place. These laws are aimed at reducing the harm caused by tobacco smoking to the South Australian population. I am pleased to tell the chamber that recent research has revealed that smoking rates amongst school students is continuing to decline. Less than 5 per cent of 12 to 15-year old students reported that they were current smokers in 2005—a huge improvement from 1984, when just over 20 per cent of 12 to 15-year olds indicated that they smoked. Enforcement and compliance with all tobacco control measures needs to continue in order to reduce smoking rates even further across all age groups.

To support improved compliance with the Tobacco Products Regulation Act 1997, it is proposed that expiation fees be applied to more offences. Currently, only 10 offences can be expiated—that is dealt with by way of issuing an on-the-spot fine—whilst the remaining offences can be prosecuted only through the court system. The process of prosecution is both time consuming and resource intensive and may be considered inappropriate for pursuing anything other than very serious ongoing offences. In contrast to prosecution, the process of issuing an expiation notice is an efficient and effective way to deal with non-compliance issues in appropriate cases. This bill will encourage increased compliance with tobacco control laws and contribute to the reduction in harm caused by smoking in South Australia. I commend the bill to members. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Tobacco Products Regulation Act 1997*

4—Amendment of sections 6 to 45

These clauses amend the specified sections of the principal Act to provide expiation fees (and hence the ability to issue expiation notices) for the offences set out in those sections.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

DENTAL PRACTICE (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Environment and Conservation): 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 purpose of the *Dental Practice (Miscellaneous) Amendment Bill 2006* is to amend the *Dental Practice Act 2001* to ensure consistency with government policy and the expectations and obligations of all registered health practitioners and registration Boards. The Bill is based on the *Medical Practice Act 2004* template and other health practitioner legislation recently passed by Parliament.

Consistent with the Government's commitment to National Competition Policy the Bill removes ownership restrictions from the current Act. The removal of the ownership restrictions allows a dental services provider, being a person who is not a registered dental practitioner, to provide dental treatment through the instrumentality of a registered dental practitioner. It will now be possible for any fit and proper person to own a dental clinic. The removal of the ownership restrictions will ensure that the Government has properly met its National Competition Policy obligations for this legislation.

Like the *Medical Practice Act 2004*, there will be some new regulatory requirements placed on dental services providers to ensure that there is accountability for the quality of services provided by non-registered providers and to ensure that the health and safety of consumers is not put at risk. These requirements include the need for dental services providers to provide certain information to the Board and the need to report medical unfitness and unprofessional conduct of a dental practitioner or a dental student. In this way the Board can ensure that all services are provided in a manner consistent with a code of conduct or professional standard, and the interest of the public is protected. The Board may also make a report to the Minister about any concerns it may have arising out of the information provided to it. Consumer protection is ensured by these and other measures that require dental services providers and those in a position of authority in a trust or other corporate entity to act legally and professionally in the consumer's health interest.

The definition of dental services provider in the Bill excludes "exempt providers". This ensures that recognised hospitals, incorporated health centres or private hospitals within the meaning of the *South Australian Health Commission Act 1976*, for which the Minister of Health is responsible, are not accountable to both the Minister and the Board for the services they provide. They are therefore exempt from the services provider provisions in the Act. However, they still have an obligation to report medical unfitness and unprofessional conduct to the Board.

Section 88 of the current Act, which relates to the protection of members and employees of the Board from personal liability, is to be repealed. Immunity of Board members and employees is now covered by the *Public Sector Management Act 1995*, as amended by the *Statutes Amendment (Honesty and Accountability in Government) Act 2003*. This Act provides a clear framework for the operation of the public sector, including the Dental Board of South Australia.

The Bill proposes to deal with medical fitness in the same way as it is managed under the *Medical Practice Act 2004*. That is, where a determination is made of a person's fitness to provide dental treatment; regard is given to the person's ability to provide dental treatment without endangering a patient's health or safety. This includes consideration of communicable diseases.

Section 53 – offences by inspectors will not remain in the Act because there are other means by which to deal effectively with any inappropriate conduct by inspectors. These include disciplinary action under the *Public Sector Management Act 1995* for inspectors who are public sector employees and civil action against those inspectors who are private employees. This is consistent with the other health practitioner registration Acts.

Other amendments include:

- references to associations' representative of dental practitioners have been replaced with the concept of representative bodies, with the relevant bodies to be prescribed in the regulations. These representative bodies will be entitled to appear before the Board to speak to an application under certain circumstances;
- replacing the personal address of a practitioner on the register with a nominated contact address to protect the privacy of the practitioner;
- making provision for casual vacancies for an elected position to be filled on the Board without the need for the Board to call an election. This ensures that elections are conducted by the State Electoral Office under a proportional voting system and enables the Governor to appoint a member where an election fails or where a casual vacancy cannot be filled on the basis of the results of the election. An amendment to the *Medical Practice Act 2004* has also been made to ensure consistency with government policy and other health practitioner legislation;
- changing the terms of membership of the Board so that a person can only hold a position on the Board for three consecutive 3-year terms after which they must step down;
- making provision to prevent the use of legal professional privilege and self incrimination as a means of avoiding the revealing of information under the Act;
- making provision for the Board to receive any revenue from fines resulting from offences against the Act.

These and several other minor amendments to the wording of the Act have been made to ensure that the *Dental Practice Act 2001* is consistent with that of the *Medical Practice Act 2004* and the other health practitioner registration Acts that have recently been passed by Parliament.

I now turn to further amendments that have been made to the Act as a result of the consultation process with stakeholders, including the Dental Board, professional associations, and consumer associations. These amendments will provide for greater public protection, increased fairness for practitioners and will better support the powers and processes of the Dental Board.

Under the current Act the Board has the power to suspend the registration of the practitioner who is the subject of disciplinary proceedings. However, where the Board determines that the complaint should be referred to the Tribunal, the Board can no longer exercise these powers. Where it is not possible to get an urgent hearing before the Tribunal, the consequence is that the person who is the subject of the proceedings is allowed to continue practising to the potential detriment of public health and safety. Consistent with its function to regulate the practice of dentistry in the public interest and to avoid this situation occurring the powers of the Board to suspend or impose conditions on a person's registration have been extended to apply until the complaint has been heard and determined by the Tribunal, or until the Tribunal revokes or varies the orders imposed by the Board.

The Board currently has the power to suspend the registration of a practitioner who is the subject of disciplinary proceedings for up to 1 month. This has been amended to allow the Board to suspend a practitioner's registration for a period of up to 3 months. This amendment will give the Board flexibility in determining the period of suspension to apply in those cases that are not serious enough to be referred to the Tribunal, but where a suspension of one month would be inadequate.

In addition the Bill includes an amendment to make it clear that the Board can lay a complaint to the Tribunal without there first being a complaint to the Board. The inclusion of an express provision for this purpose in the Act will avoid potential difficulties and challenges to the validity of a complaint by the Board to the Tribunal. Because this and the previous 2 issues could also arise under the *Medical Practice Act 2004*, amendments to that Act will also be necessary.

Another amendment gives the Board and the Tribunal the power to impose conditions on a person's registration, in addition to the power to suspend a person's registration, pending hearing and determination of disciplinary proceedings. The Board and the Tribunal would apply these powers where they are of the opinion that it is desirable to do so in the public interest. This is more equitable application of the provision whilst still protecting the health and safety of the public. An amendment to the powers of the Tribunal under the *Medical Practice Act 2004* will also be necessary.

Amendment has been made for the scope of practice for prosthetists to be removed from the Act and placed in the Regulations, similar to the situation for dental therapists and dental hygienists. This amendment will make it considerably easier to update the scope of practice for prosthetists in the future to allow for technological advances and other changes in the profession. A further amendment is the removal of the "advanced dental prosthetist" register to ensure that this register is consistent with those of other jurisdictions. Instead there will be a single register for dental prosthetists with partial dentures only able to be provided by those prosthetists that have been specifically authorised, in writing, by the Board to do so.

The scope of practice of dental technicians has been amended to specifically include corrective appliances. In the current Act corrective appliances are not included as part of the practice of dental technology. This amendment will ensure that corrective appliances are not constructed without being prescribed by a dental practitioner who is registered to provide such corrective services.

Amendment has been made so that when inquiring into the medical fitness of a dental practitioner or dental student the Board can make an order to both impose conditions on the person's registration restricting their right to provide dental treatment, and at the same time require the person to undergo counselling or treatment. In certain circumstances it may be that in the interests of public health and safety and the registered practitioner to do both. This amendment gives the Board the power to restrict a practitioner's right to provide dental treatment and where it considers it appropriate to require that person to undergo counselling or treatment. To ensure consistency across the legislation, amendments have also been made to comparable sections in all health practitioner registration Acts, including the *Medical Practice Act 2004*.

All recently passed health practitioner registration Acts, including the *Medical Practice Act 2004*, are being amended in relation to fitness of members of a Board that is a body corporate where that person has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the Commonwealth *Corporations Act 2001*. This amendment will provide greater protection for practitioners and the public by ensuring that all members of a Board are fit and proper persons to hold such a position.

A further amendment will remove the requirement from the *Medical Practice Act 2004* and the other recently passed health practitioner registration Acts that all practitioners be insured for the costs of disciplinary action awarded against them. This provision was proposed by the then Medical Board to address situations where the Board found itself confronted with considerable costs when it could not recover the costs awarded against a medical practitioner arising out of a disciplinary proceeding. Because this Act was the template for the other health registration Acts and these other registration boards supported this provision, it was included in these Acts also.

Since the Medical Practice Act was passed further information provided to the Department has indicated that it is an uncommon occurrence for the Board to be unable to recover its costs. The provision to address this situation will create an unreasonable cost impost on medical practitioners with little public benefit and therefore I have decided that it should be removed for the benefit of all registered health practitioners. The Boards will continue to meet these costs as they have done in the past.

Schedule 1 of the *Dental Practice (Miscellaneous) Amendment Bill 2006* sets out the proposed amendments to the *Medical Practice*

Act 2004, as well as the amendments to the other health practitioner registration Acts mentioned previously. The amendments in this Schedule will better support the processes and powers of the Medical and other Boards and provide greater fairness and equity for practitioners.

In addition, included in Schedule 1 are amendments to sections 25 and 56 of the *Medical Practice Act 2004* based on an instruction from the Attorney-General that in establishing specialist Tribunals, no reference is to be made to the method of appointing a District Court Judge.

Consistent with the function of the Board to oversee the practice of the relevant profession in the public interest, all of the other Acts are being amended so that, pending hearing and determination of proceedings, the Board may suspend or impose conditions on a person's registration only if it is desirable to do so in the public interest. This "public interest" test only applies to this section of the Acts and enables the Boards to consider broader criteria for suspending registration or imposing conditions than is currently the case.

By following the model of the *Medical Practice Act 2004*, this and the other recently passed health practitioner registration Acts will have consistently applied standards and expectations for all services provided by registered health practitioners. This will be of benefit to all health consumers who can feel confident that no matter which kind of registered health professional they consult, they can expect consistency in the standards and the processes of the registration Boards.

I believe this Bill will provide an improved system for ensuring the health and safety of the public in regulating the dental profession in South Australia and I commend it to all members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

Clauses 1 to 3 are formal.

Part 2—Amendment of *Dental Practice Act 2001*

4—Amendment of long title

The amendment to the long title of the Act is consequential on the amendments to the Act relating to dental services providers.

5—Amendment of section 3—Interpretation

This clause inserts definitions and other interpretation provisions.

6—Amendment of section 4—Medical fitness to provide dental treatment

This clause removes a reference to "prescribed communicable infection".

7—Amendment of section 6—Composition of Board

This clause makes a number of minor amendments to the provisions relating to the constitution of the Board.

8—Insertion of section 6A

6A—Elections and casual vacancies

This section requires elections to choose registered dentists for appointment as members of the Board be held in accordance with the principles of proportional representation. It enables the Governor to appoint persons as members in the event of the failure of an election or in the event of a casual vacancy in the membership of the Board.

9—Amendment of section 7—Terms and conditions of membership

This clause amends section 7 to prevent a member of the Board from holding office for consecutive terms that exceed 9 years in total. It adds a provision that has the effect of making a member's office vacant if the member is disqualified from managing corporations. The section is also amended to allow a member of the Board who resigns before proceedings under Part 5 are completed to continue to act as member of the Board for the purpose of hearing and determining those proceedings.

10—Amendment of section 13—Functions of Board

This clause confers additional functions on the Board and sets out requirements in relation to administrative processes established by the Board to deal with complaints.

11—Amendment of section 14—Committees

This clause amends section 14 to enable committees of the Board to be established to provide advice to the Registrar of the Board.

12—Amendment of section 16—Board's procedures

This clause amends section 16 to enable members of the Board to express concurrence with a proposed resolution of the Board by e-mail.

13—Substitution of section 17

17—Conflict of interest etc under Public Sector Management Act

This section provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* by reason only of the fact that the member has an interest in the matter that is shared in common with dental practitioners generally or a substantial section of dental practitioners in this State.

14—Amendment of section 18—Powers of Board in relation to witnesses etc

This clause empowers the Board to require a written English translation and translator's certificate in relation to documents not in English to be produced to the Board.

15—Amendment of section 19—Principles governing hearings

This clause inserts a provision requiring the Board to keep parties to proceedings before the Board properly informed as to the progress and outcome of the proceedings.

16—Amendment of section 21—Costs

This clause provides for costs awarded by the Board to be taxed by a Master of the District Court rather than the Supreme Court.

17—Amendment of section 23—Annual report

This clause inserts a provision requiring certain additional information to be included in an annual report of the Board to the Minister.

18—Amendment of section 25—Composition of Tribunal

This clause provides for the President of the Dental Practice Professional Tribunal to be the Chief Judge or another Judge of the District Court.

19—Amendment of section 26—Terms and conditions of appointed members

This clause makes a number of minor amendments to the wording of section 26 so that it applies only to appointed members of the Tribunal. It also provides for the office of a member of the Tribunal to become vacant if the member becomes disqualified from managing corporations.

20—Substitution of section 29

29—Registrar of Tribunal

This section provides for the person for the time being holding or acting in the office of Registrar of the District Court to be the Registrar of the Tribunal.

29A—Constitution of Tribunal for purpose of proceedings

This section sets out how the Tribunal is to be constituted for the purpose of disciplinary proceedings under the Act and empowers the member presiding over proceedings to deal with questions of laws and certain other technical matters sitting alone.

29B—Protection from personal liability

This section protects members of the Tribunal and the Registrar from personal liability for acts or omissions in good faith in the performance or purported performance of statutory functions or duties. Liability instead lies against the Crown.

21—Amendment of heading to Part 4

This clause amends the heading to Part 4 to encompass practice as well as registration.

22—Amendment of section 30—Registers

This clause makes a number of minor amendments to the provisions dealing with the keeping of registers.

23—Amendment of section 31—Authority conferred by registration

This clause amends section 31 to remove the scope of practice of dental prosthetists to the regulations, to remove references to "advanced dental prosthetist" and to include the manufacture of corrective dental appliances in the scope of practice of dental technicians.

24—Amendment of section 32—Registration of natural persons as dental practitioners

This clause amends section 32 to require dental practitioners to be insured or indemnified against civil liabilities that may be incurred in connection with the provision of dental treatment as a dental practitioner.

25—Repeal of section 33
This clause repeals section 33 which provides for the registration of companies.
26—Amendment of section 34—Registration of dental students
This clause amends section 34 to require persons to be registered as dental students in order to be entitled to provide dental treatment in this State as part of a course of study related to dentistry that is being undertaken outside South Australia.
27—Amendment of section 35—Application for registration and provisional registration
This clause is consequential on clause 55 which inserts new section 73A empowering the Board to require information to be verified by statutory declaration.
28—Amendment of section 36—Removal from register
29—Amendment of section 37—Reinstatement on register
These clauses make minor technical amendments to the provisions dealing with removal from registers and reinstatement on registers.
30—Amendment of section 38—Fees and returns
This clause amends section 38 to require registered persons to furnish the Board with an annual return containing information relating to their practice of dentistry, continuing dental education and other matters relevant to registration.
31—Substitution of Part 4 Division 3
Division 3—Special provisions relating to dental services providers
39—Information to be given to Board by dental services providers
This section requires a dental services provider to notify the Board of the provider's name and address, the name and address of the dental practitioners through the instrumentality of whom the provider is providing dental treatment and other information. It also requires the provider to notify the Board of any change in particulars required to be given to the Board and makes it an offence to contravene or fail to comply with the clause. A maximum penalty of $10 000 is fixed. The Board is required to keep a record of information provided to the Board under this clause available for inspection at the office of the Board and may make it available to the public electronically.
32—Substitution of section 43
43—Illegal holding out concerning limitations or conditions
This section makes it an offence for a person whose registration is restricted, limited or conditional to hold himself or herself out, or permit another person to hold him or her out, as having registration that is unrestricted or not subject to a limitation or condition. It also makes it an offence for a person to hold out another whose registration is restricted, limited or conditional as having registration that is unrestricted or not subject to a limitation or condition. In each case a maximum penalty of $50 000 or imprisonment for 6 months is fixed.
33—Amendment of section 44—Use of certain titles or descriptions prohibited
This clause removes unnecessary provisions. The amendments are consequential on the removal of references to "advanced dental prosthetist".
34—Amendment of section 45—Restrictions on provision of dental treatment by unqualified persons
This clause amends section 45 which makes it an offence for an unqualified person to provide dental treatment for fee or reward. The amendment allows dental treatment to be provided by unqualified persons through the instrumentality of qualified persons.
35—Repeal of sections 47 and 48
This clause removes provisions relating to practising in partnership and the employment of registered persons by companies registered under the Act.
36—Substitution of sections 49 and 50
49—Interpretation
This section provides that in Part 5 of the Act the terms ***dental services provider***, ***occupier of a position of authority*** and ***registered person*** includes a person who is not but who was, at the relevant time, a dental services provider, an occupier of a position of authority or a registered person.
50—Cause for disciplinary action
This section specifies what constitutes proper cause for disciplinary action against a registered person, a dental services provider or a person occupying a position of authority in a corporate or trustee dental services provider.
37—Amendment of section 51—Powers of inspectors
This clause makes minor technical amendments to the provisions dealing with the powers of inspectors under the Act.
38—Repeal of section 53
This clause repeals section 53 which deals with certain offences by inspectors.
39—Amendment of section 54—Obligation to report medical unfitness or unprofessional conduct of dental practitioner or dental student
This clause amends section 54 to require dental services providers and exempt providers to report to the Board if of the opinion that a dental practitioner or dental student through whom the provider provides dental treatment has engaged in unprofessional conduct. A maximum penalty of $10 000 is fixed for non-compliance.
40—Amendment of section 55—Medical fitness of dental practitioner or dental student
Section 55 of the Act empowers the Board to impose 1 of the following conditions on the registration of a dental practitioner or dental student who is medically unfit:

- a condition restricting the person's right to provide dental treatment;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 55 to enable the Board to impose both those conditions.
41—Amendment of section 56—Inquiries by Board as to matters constituting grounds for disciplinary action
This clause makes a number of amendments to the provisions relating to the Board's powers in disciplinary proceedings. It provides for a complaint to be made in a manner and form approved by the Board and requires the Board to give a respondent the opportunity to elect to have proceedings heard before the Tribunal. It also empowers the Board to suspend registration for up to 3 months (instead of the current maximum of 1 month), and enables the Board to fix a time within which a fine imposed by the Board must be paid, or to extend the time for the payment of a fine.
42—Amendment of section 57—Variation or revocation of conditions imposed by Board
This clause amends section 57 to enable representative bodies prescribed by the regulations to be heard on an application to the Board to vary or revoke conditions of registration of a dental practitioner or dental student.
43—Amendment of section 59—Provisions as to proceedings before Board
This clause amends section 59 to empower the member of the Board presiding over disciplinary proceedings to enter consent orders. It empowers the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest. In addition, the clause amends the section to entitle a person aggrieved by conduct the subject of proceedings to be present at the hearing of the proceedings.
44—Amendment of section 60—Inquiries by Tribunal as to matters constituting grounds for disciplinary action
This clause amends section 60 to allow the Board to lay a complaint against a person before the Tribunal whether or not a complaint against the person has been laid before the Board. It also expands the Tribunal's disciplinary powers to enable it to prohibit a person from carrying on business as a dental services provider or from occupying a position of authority in a corporate or trustee dental services provider.
45—Amendment of section 62—Provisions as to proceedings before Tribunal
This clause amends section 62 to empower the Tribunal to make an interim order suspending registration or imposing registration conditions restricting practice rights if the Tribunal is of the opinion that it is desirable to do in the public interest. It also enables the Tribunal to vary or revoke such an order made by the Board where a case before the Board is transferred to the Tribunal.

46—Amendment of section 63—Powers of Tribunal
This clause empowers the Tribunal to require a written English translation and translator's certificate in relation to documents not in English to be produced to the Tribunal.
47—Substitution of section 64
64—Costs
This section enables costs awarded by the Tribunal against a party to proceedings before it to be fixed by the Tribunal or taxed by a Master of the District Court.
64A—Contravention of prohibition order
This section makes it an offence for a person to contravene an order prohibiting the person from engaging in business as a dental services provider or occupying a position of authority in a corporate or trustee dental services provider. It also makes it an offence for a person to contravene or fail to comply with a condition imposed by the Tribunal as to the conduct of the person or the person's business. The maximum penalty in each case is $75 000 or imprisonment for 6 months.
64B—Register of prohibition orders
This section requires the Registrar of the Tribunal to keep a register of persons who have been prohibited by order of the Board from carrying on business as a dental services provider or occupying a position of authority in a corporate or trustee dental services provider.
48—Amendment of section 65—Power of Tribunal to make rules
This clause amends section 65 so that rules can be made by the President of the Tribunal and 2 other members selected by the President, rather than by the whole Tribunal.
49—Amendment of section 66—Right of appeal to Supreme Court
This clause amends section 66 to specify that appeals to the Supreme Court go to the Full Court against a decision of the Tribunal and to a single judge in any other case.
50—Amendment of section 68—Variation or revocation of conditions imposed by Court
This clause amends section 68 to enable representative bodies prescribed by the regulations to be heard on an application to the Supreme Court to vary or revoke conditions of registration of a dental practitioner or dental student.
51—Amendment of section 69—Interpretation
This clause amends section 69 to remove definitions that are moved to section 3 of the Act by this measure and to bring other definitions into line with those in other health professional registration Acts.
52—Amendment of section 70—Improper directions to dental practitioners or dental students
This clause amends section 70 to make it an offence for a person occupying a position of authority in a corporate or trustee dental services provider to direct or pressure a dental practitioner or dental student through whom the provider provides dental treatment to engage in unprofessional conduct. The maximum penalty is $75 000.
53—Amendment of section 71—Offence to contravene conditions of registration
This clause makes a semantic amendment to section 71.
54—Amendment of section 72—Offence to give, offer or accept benefit for referral or recommendation
This clause amends section 72 to expand the meaning of ***benefit*** to include anything of value.
55—Insertion of section 73A
73A—Statutory declarations
This section empowers the Board to require information provided to the Board to be verified by statutory declaration.
56—Amendment of section 75—Registered person etc must declare interest in prescribed business
This clause makes a semantic amendment to section 75.
57—Substitution of sections 76 and 77
76—Registered person must report medical unfitness to Board
This section requires a registered person who becomes aware that he or she is or may be medically unfit to provide dental treatment to forthwith give written notice of that fact of the Board and fixes a maximum penalty of $10 000 for non-compliance.
77—Report to Board cessation of status as student
This section requires the person in charge of an educational institution to notify the Board that a dental student has ceased to be enrolled at that institution in a course of study providing qualifications for registration as a dental practitioner. A maximum penalty of $5 000 is fixed for non-compliance. It also requires a person registered as a dental student who completes, or ceases to be enrolled in, the course of study that formed the basis for that registration to give written notice of that fact to the Board. A maximum penalty of $1 250 is fixed for non-compliance.
58—Amendment of section 78—Registered persons and dental services providers to be indemnified against loss
This clause amends section 78 to prohibit dental services providers from providing dental treatment unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by provider in connection with the provision of dental treatment. It fixes a maximum penalty of $10 000.
59—Amendment of section 79—Information relating to claim against registered person or dental services provider to be provided
This clause amends section 79 to require a dental services provider to provide the Board with prescribed information relating to a claim made against the provider for alleged negligence by the provider in connection with the provision of dental treatment. A maximum penalty of $10 000 is fixed for non-compliance.
60—Substitution of section 81
81—Self-incrimination
This section provides that if a person is required to provide information or to produce a document, record or equipment under the Act and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence against this measure or any other Act relating to the provision of false or misleading information.
61—Substitution of section 83
83—Vicarious liability for offences
This section provides that if a corporate or trustee dental services provider or other body corporate is guilty of an offence against the Act, each person occupying a position of authority in the provider or body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.
62—Substitution of section 84
84—Application of fines
This section provides that fines imposed for offences against the Act must be paid to the Board.
63—Amendment of section 85—Board may require medical examination or report
This clause inserts a definition into section 85.
64—Amendment of section 87—Confidentiality
This clause amends section 87 to enable persons engaged in the administration of the Act to disclose confidential information to registration or licensing authorities outside the State and to interstate and Commonwealth government agencies and instrumentalities.
65—Repeal of section 88
This clause repeals section 88 which protects members of the Board, the Registrar and other Board staff and inspectors from personal liability for acts or omissions in the performance or purported performance of statutory powers and duties. Members of public sector agencies and public sector agency employees are protected from personal liability by section 74 of the *Public Sector Management Act 1995*.
66—Amendment of section 89—Service
This clause amends section 89 to enable documents to be served on a person to be sent to their nominated contact address or be transmitted by facsimile or e-mail to a facsimile number or e-mail address provided by the person.
67—Amendment of section 90—Evidentiary provision
68—Amendment of section 91—Regulations
These clauses make amendments that are consequential on other amendments made by this measure.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Chiropractic and Osteopathy Practice Act 2005*

2—Amendment of section 8—Terms and conditions of membership

This clause amends section 8 to so that the office of a member of the Chiropractic and Osteopathy Practice Board becomes vacant if the member is disqualified from managing corporations.

3—Amendment of section 27—Registration of natural persons as chiropractors or osteopaths

This clause amends section 27 to remove the requirement that an applicant for registration as a chiropractor or osteopath have insurance against civil liabilities that may incurred in connection with disciplinary proceedings.

4—Amendment of section 44—Medical fitness of chiropractor, osteopath, chiropractic student or osteopathy student

Section 44 of the Act empowers the Board to impose 1 of the following conditions on the registration of a chiropractor or osteopath, or a chiropractic or osteopathy student, who is medically unfit:

- a condition restricting the person's right to provide chiropractic or osteopathy;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 44 to allow the Board to impose both those conditions.

5—Amendment of section 50—Provisions as to proceedings before Board

This clause amends section 50 to empower the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest.

6—Amendment of section 63—Report to Board of cessation of status as student

This clause amends section 63 so that an educational institution does not have to notify the Board that a chiropractic student or osteopathy student has completed a course of study providing qualifications for registration.

7—Amendment of section 64—Registered persons and chiropractic or osteopathy services providers to be indemnified against loss

This clause amends section 64 to remove the requirement that chiropractors, osteopaths and chiropractic or osteopathy services providers have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

Part 3—Amendment of *Medical Practice Act 2004*

8—Amendment of section 6—Composition of Board

This clause makes an amendment to section 6 that is consequential on the insertion of section 6A.

9—Insertion of section 6A

6A—Elections and casual vacancies

This section requires elections to choose medical practitioners for appointment as members of the Board be held in accordance with the principles of proportional representation. It enables the Governor to appoint persons as members in the event of the failure of an election or in the event of a casual vacancy in the membership of the Board.

10—Amendment of section 7—Terms and conditions of membership

This clause amends section 7 so that the office of a member of the Medical Practice Board becomes vacant if the member is disqualified from managing corporations.

11—Amendment of section 25—Composition of Tribunal

This clause makes a minor technical amendment.

12—Amendment of section 33—Registration of natural persons on general or specialist register

This clause amends section 33 to remove the requirement that an applicant for registration as a medical practitioner have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

13—Amendment of section 50—Medical fitness of medical practitioner or medical student

Section 50 of the Act empowers the Board to impose 1 of the following conditions on the registration of a medical practitioner or medical student who is medically unfit:

- a condition restricting the person's right to provide medical treatment;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 50 to allow the Board to impose both those conditions.

14—Amendment of section 51—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause amends section 51 to empower the Board to suspend registration for up to of 3 months (instead of the current maximum of 1 month).

15—Amendment of section 55—Provisions as to proceedings before Board

This clause amends section 55 to empower the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest.

16—Amendment of section 56—Constitution of Tribunal for purpose of proceedings

This clause makes a minor technical amendment.

17—Amendment of section 57—Inquiries by Tribunal as to matters constituting grounds for disciplinary action

This clause amends section 57 to enable the Board to lay a complaint against a person before the Medical Professional Conduct Tribunal whether or not a complaint has been laid against the person before the Board.

18—Amendment of section 59—Provisions as to proceedings before Tribunal

This clause amends section 59 to enable the Tribunal to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Tribunal's opinion it is desirable to do so in the public interest. It also enables the Tribunal to vary or revoke such an order made by the Board where a case before the Board is transferred to the Tribunal.

19—Amendment of section 78—Report to Board of cessation of status as student

This clause amends section 78 so that an education institution is not required to notify the Board that a medical student has completed studies providing qualifications for registration.

20—Amendment of section 79—Registered persons and medical services providers to be indemnified against loss

This clause amends section 79 to remove the requirement that medical practitioners and medical services providers have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

Part 4—Amendment of *Occupational Therapy Practice Act 2005*

21—Amendment of section 8—Terms and conditions of membership

This clause amends section 8 so that the office of a member of the Occupational Therapy Practice Board becomes vacant if the member is disqualified from managing corporations.

22—Amendment of section 26—Registration of natural persons as occupational therapists

This clause amends section 26 to remove the requirement that an applicant for registration as an occupational therapist have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

23—Amendment of section 41—Medical fitness of occupational therapist or occupational therapy student

Section 41 of the Act empowers the Board to impose 1 of the following conditions on the registration of an occupational therapist or occupational therapy student who is medically unfit:

- a condition restricting the person's right to provide occupational therapy;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 41 to allow the Board to impose both those conditions.

24—Amendment of section 47—Provisions as to proceedings before Board

This clause amends section 47 to empower the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest.

25—Amendment of section 61—Registered persons and occupational therapy services providers to be indemnified against loss

This clause amends section 61 to remove the requirement that occupational therapists and occupational therapy services providers have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

Part 5—Amendment of *Physiotherapy Practice Act 2005*

26—Amendment of section 8—Terms and conditions of membership

This clause amends section 8 so that the office of a member of the Physiotherapy Practice Board becomes vacant if the member is disqualified from managing corporations.

27—Amendment of section 27—Registration of natural persons as physiotherapists

This clause amends section 27 to remove the requirement that an applicant for registration as a physiotherapist have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

28—Amendment of section 44—Medical fitness of physiotherapist or physiotherapy student

Section 44 of the Act empowers the Board to impose 1 of the following conditions on the registration of a physiotherapist or physiotherapy student who is medically unfit:

- a condition restricting the person's right to provide physiotherapy;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 44 enable the Board to impose both those conditions.

29—Amendment of section 50—Provisions as to proceedings before Board

This clause amends section 50 to empower the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest.

30—Amendment of section 63—Report to Board of cessation of status as student

This clause amends section 63 so that an education institution is not required to notify the Board that a physiotherapy student has completed studies providing qualifications for registration.

31—Amendment of section 64—Registered persons and physiotherapy services providers to be indemnified against loss

This clause amends section 64 to remove the requirement that physiotherapists and physiotherapy services providers have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

Part 6—Amendment of *Podiatry Practice Act 2005*

32—Amendment of section 8—Terms and conditions of membership

This clause amends section 8 so that the office of a member of the Podiatry Practice Board becomes vacant if the member is disqualified from managing corporations.

33—Amendment of section 27—Registration of natural persons on general or specialist register

This clause amends section 27 to remove the requirement that an applicant for registration as a podiatrist or specialist have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

34—Amendment of section 44—Medical fitness of podiatrist or podiatry student

Section 44 of the Act empowers the Board to impose 1 of the following conditions on the registration of a podiatrist or podiatry student who is medically unfit:

- a condition restricting the person's right to provide podiatric treatment;
- a condition requiring the person to undergo counselling or treatment or enter into any other undertaking.

This clause amends section 44 to enable the Board to impose both those conditions.

35—Amendment of section 50—Provisions as to proceedings before Board

This clause amends section 50 to empower the Board to make an interim order suspending registration or imposing registration conditions restricting practice rights if in the Board's opinion it is desirable to do so in the public interest.

36—Amendment of section 64—Registered persons and podiatric services providers to be indemnified against loss

This clause amends section 64 to remove the requirement that podiatrists, specialists and podiatric services providers have insurance against civil liabilities that may be incurred in connection with disciplinary proceedings.

Part 7—Transitional provision

37—Removal of companies from register of dental practitioners

This clause requires the Registrar of the Dental Board to remove from the relevant register any company that was registered as a dental practitioner under the *Dental Practice Act 2001* immediately before the commencement of this measure.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

STATUTES AMENDMENT (PUBLIC SECTOR EMPLOYMENT) BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Police): 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.

On 27 March 2006 the federal government's *Workplace Relations Amendment (Work Choices) Act 2005* came into operation. The federal government has relied on the Corporations power in section 51(xx) of the Australian Constitution to enact this legislation. This State Government has vigorously opposed this federal attack on ordinary working men and women and joined with other States in a High Court challenge against the legislation.

Although the High Court has ruled the so-called "Work Choices" legislation as being constitutionally valid, the fact remains that it leaves ordinary workers with no choice; it doesn't mention fairness and it has greatly reduced the power of the Australian Industrial Relations Commission to be an "independent umpire". It is commonly referred to as the "No Choice" Act of the federal government.

This State Government is not prepared to allow tens of thousands of public sector employees to be at serious risk of being dragged into the complexities and uncertainties of "Work Choices" because a corporate sole of the State Government employs them. Nor does this Government want decent private sector employers and employees to be without an easy effective process for fairly resolving issues that they agree need to be resolved by a fair independent umpire.

The "Work Choices" legislation is a 1 000 page nightmare for ordinary working employees and reasonable employers.

For the public sector, there are even greater vagaries and uncertainties about its operation and application. "Work Choices" applies to "constitutional corporations". What is a "constitutional corporation"? It is defined in the federal legislation as "*a corporation to which paragraph 51(xx) of the Constitution applies*": What does that mean? I am told that that means: foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth. What does that mean? How does one determine whether the corporation is a "trading or financial corporation"? Again, I'm told the legal test in relation to each corporate employer is whether the trading activities are 'substantial' or 'not insubstantial'; or if they constitute a 'sufficiently significant proportion of its overall activities' (a trading corporation); or if it borrows and lends or otherwise deals in finance as its principal or characteristic activity (a financial corporation).

Assessing whether a public sector corporate entity is a trading or financial corporation is therefore fraught with difficulty and uncertainty in the absence of a determination by a Court. The same difficulty does not apply to private sector corporate entities because

generally (but not necessarily) the entity will be involved in trading or financial activities to a sufficient extent. What at least is clear is that administrative units of the public service are not "constitutional corporations" because they are not corporate entities.

The High Court's majority decision on 14 November 2006 did not provide any clarification of what is a trading corporation, even where the corporate entity is operating for a public purpose. Instead, the High Court said any debate about what kinds of corporations will come within the constitutional expression "trading or financial corporations formed within the limits of the Commonwealth" must await a case in which that question properly arises. That may take years and this Government does not want to sit and wait while the lawyers ponder and argue.

There are very many corporate entities in the public sector undertaking a variety of roles and functions. Some have been established by governments to operate as Government Business Enterprises (eg. Forestry SA, SA Water, TransAdelaide, SA Lotteries, Funds SA). Others have been established for governmental purposes (such as providing public health services) but engage in some "trading activities" (eg. public hospitals charging private patients for services; TAFE Institutes charging for training courses; Education charging for overseas students; SA Ambulance Service charging for patient transport).

The federal "Work Choices" legislation creates great uncertainty for this latter group of corporate entities and their employees.

This Bill will create certainty and industrial fairness for about 61 000 public sector employees employed in the public health and public education sectors, as well as in a number of other public sector corporate entities.

It will do so by establishing under the Acts within the ambit of this Bill a non-corporate "employing authority" that will be a person designated by proclamation. Consequently "Work Choices" won't apply and 61 000 public sector employees will have the certainty of coming within State industrial legislation and will have access to the fair processes, entitlements and remedies that our *Fair Work Act 1994* provides.

The amendments are generally based on a model that:

- Defines employing authority as the person designated by proclamation, which can be varied from time to time. It is the intent that generally the person designated will be the chief executive of the portfolio to which the entity is assigned.
- Provides for the employing authority to employ staff together with consequential issues such as delegation and the corporate entity meeting all the costs of the employing authority in connection with employing staff (eg. remuneration and conditions of employment; superannuation; costs of services, administration or any other liabilities that arise whether pursuant to statute, operational or other reasons).
- Deals with consequential and transitional matters.

In relation to the education sector, the Bill substitutes the employing authority in place of the applicable Ministers, with consequential amendments.

The Bill provides for transitional provisions that will give effect to the change in employer from the corporate entity to the non-corporate entity and will facilitate relevant awards and certified agreements becoming awards and enterprise agreements under the *Fair Work Act 1994*.

The Bill also inserts a new Schedule in the *Commercial Arbitration Act 1986* that will enable 2 or more parties to enter into a written "referral agreement" to seek the assistance of the Industrial Relations Commission of South Australia with a view to resolving an industrial matter; resolving an industrial dispute; or resolving a question about the dismissal of an employee. The Bill will enable the particular parties that have made the "referral agreement" to have access to an expeditious resolution process under the auspices of the Industrial Relations Commission of South Australia and the role of the Commission will be as specified by the parties in their particular "referral agreement". This Schedule and the new process that it provides will not apply generally to employment. It will apply only to those parties that decide between themselves to use a "referral agreement" to resolve the relevant matters. It is similar to the private arbitration process that is used by commercial parties. The name of the Act will be amended to reflect its new role in relation to industrial referral agreements.

The *Statutes Amendment (Public Sector Employment) Bill 2006* is a Bill for an Act to amend various Acts in order to provide new employment arrangements within the public sector for state government employees and many employees of state government agencies who have become subject to the "Work Choices" legislation.

The Acts to be amended are as follows:

Aboriginal Lands Trust Act 1966
Adelaide Cemeteries Authority Act 2001
Adelaide Festival Centre Trust Act 1971
Adelaide Festival Corporation Act 1998
Ambulance Services Act 1992
Children's Services Act 1985
Commercial Arbitration Act 1986
Education Act 1972
Electricity Act 1996
Fair Work Act 1994
Fire and Emergency Services Act 2005
History Trust of South Australia Act 1981
Institute of Medical and Veterinary Science Act 1982
Natural Resources Management Act 2004
Public Sector Management Act 1995
Senior Secondary Assessment Board of South Australia Act 1983
South Australian Country Arts Trust Act 1992
South Australian Film Corporation Act 1972
South Australian Health Commission Act 1976
South Australian Motor Sport Act 1984
South Australian Tourism Commission Act 1993
State Opera of South Australia Act 1976
State Theatre Company of South Australia Act 1972
Technical and Further Education Act 1975.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that operation of the measure will commence on a day to be fixed proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Aboriginal Lands Trust Act 1966*

4—Amendment of section 3—Interpretation

Clause 4 amends section 3 of the *Aboriginal Lands Trust Act 1966* by inserting a new definition of ***employing authority***. The employing authority for the purpose of the Act is a person designated by proclamation as being the employing authority for the purposes of the definition. Section 3 is further amended by the insertion of a new subsection that provides that a proclamation made for the purposes of the definition of ***employing authority*** may apply by reference to a specified person or by reference to the person for the time being holding or acting in a specified office or position. New subsection (2) also provides that a proclamation made for the purposes of the definition may be varied or substituted by a new proclamation.

A definition of ***employing authority*** in the same terms as the proposed new definition described above is to be inserted by this Bill into a number of Acts and is described below as the ***standard definition***.

5—Amendment of section 11A—Delegation by Trust

Section 11A(2) of the *Aboriginal Lands Trust Act 1966* provides that the Trust may not delegate certain of its powers and functions including, under paragraph (d), the appointment of an officer or employee of the Trust or the determination of a matter associated with appointment or employment of a person. This clause deletes paragraph (d) because, as a consequence of other amendments made to the Act, the Trust will no longer have the power to employ a person.

6—Substitution of section 15

Section 15 of the *Aboriginal Lands Trust Act 1966*, which provides that the Trust may appoint officers and employees as are required for the purposes of the Trust, is deleted by clause 6 and a new section substituted in its place. Under new section 15, the employing authority may employ staff to perform functions in connection with the operations or activities of the Trust. The employing authority will determine the terms and conditions of a person employed by the employing authority.

A person employed by the employing authority will be taken to be employed by or on behalf of the Crown. However, the person will not be employed in the Public Service of the State

unless incorporated into an administrative unit under the *Public Sector Management Act 1995*.

Section 15(4) provides that the employing authority may direct a person employed under the section to perform functions in connection with the operations or activities of a specified public sector agency (within the meaning of the *Public Sector Management Act 1995*). A person given such a direction is required to comply with the direction.

Although the employing authority is subject to direction by the Minister, the Minister may not give a direction relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

Under section 15(7), the employing authority is authorised to delegate a power or function under section 15. Subsection (8) provides that a delegation—

- must be by instrument in writing; and
- may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
- may be unconditional or subject to conditions; and
- may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
- does not derogate from the power of the employing authority to act personally in any matter; and
- may be revoked at any time by the employing authority.

Subsection (9) provides that the continuity of employment of a person employed under the section will not be affected by a change in the person who constitutes the employing authority.

The Trust is required under subsection (10) to make payments with respect to any matter arising in connection with the employment of a person under the section at the direction of the Minister, the Treasurer or the employing authority. Payments that might be made include payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities.

The Trust does not have the power to employ any person but may make use of the staff of an administrative unit by entering into an arrangement established by the Minister administering the unit.

A provision in terms substantially similar to those of new section 15 as described above is to be inserted by this Bill into a number of Acts and is referred to below as the ***model provision***.

Part 3—Amendment of *Adelaide Cemeteries Authority Act 2001*

7—Amendment of section 3—Interpretation

This clause inserts the standard definition of ***employing authority*** into the *Adelaide Cemeteries Authority Act 2001*.

8—Amendment of section 11—Common seal and execution of documents

As the Authority will no longer have the power to employ any person, this clause amends section 11 to change a reference to "an employee of the Authority" to "a person employed under this Act".

9—Substitution of section 18

This clause repeals the section under the Act that currently deals with staffing matters and substitutes a new section that is substantially the same as the model provision. The repealed section provides that the Authority may employ staff whereas under the new section, the employing authority may employ staff to perform functions in connection with the operations or activities of the Corporation. Under the new section, the Authority does not have the power to employ any person.

Part 4—Amendment of *Adelaide Festival Centre Trust Act 1971*

10—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *Adelaide Festival Centre Trust Act 1971* by inserting the standard definition of ***employing authority***.

11—Substitution of sections 21 and 22

This clause revokes sections 21 and 22 of the Act, which deal with employment matters, and substitutes the model provision.

An additional provision, new section 22, deals with matters that are currently included in section 21(3) and (4). Section 22 provides that, for various specified purposes, the employing authority may, with the approval of the Minister, determine that previous service of a person employed under the Act with an employer other than the employing authority may be regarded, to the extent approved by the Minister, as service with the employing authority.

The section also authorises the employing authority to enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*. That section of the *Superannuation Act* provides that the South Australian Superannuation Board may enter into arrangements with an instrumentality or agency of the Crown or a prescribed authority, body or person under which the employees of the instrumentality, agency, authority, body or person become eligible to apply to be accepted as contributors under the *Superannuation Act 1988*.

Part 5—Amendment of *Adelaide Festival Corporation Act 1998*

12—Amendment of section 3—Interpretation

This clause amends the interpretation provision of the *Adelaide Festival Corporation Act 1998* by inserting the standard definition of ***employing authority***.

13—Amendment of section 6—Powers of the Corporation

This clause removes paragraph (a) of section 6(2) of the Act. This provision provides that the Adelaide Festival Corporation may employ staff on terms or conditions determined by the Corporation or make use of the services of staff employed in the public or private sector. The amendment is necessary because, as a consequence of the amendments made by this Bill, the employing authority, rather than the Corporation, will be responsible for the employment of staff to perform functions in connection with the operations or activities of the Corporation.

14—Insertion of new Division

This clause inserts a new Division, comprising new section 20A, into Part 4 of the Act. Section 20A is in substantially similar terms to the model provision and provides, among other things, that the employing authority may employ staff to perform functions in connection with the operations or activities of the Corporation. The section also states that the Corporation does not have the power to employ any person.

Part 6—Amendment of *Ambulance Services Act 1992*

15—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *Ambulance Services Act 1992* by inserting the standard definition of ***employing authority***.

16—Insertion of section 13A

This clause inserts a new section based on the model provision into the *Ambulance Services Act 1992*. The new section provides that the employing authority may employ persons to perform functions in connection with the operations or activities of SAAS.

Part 7—Amendment of *Children's Services Act 1985*

17—Amendment of section 3—Interpretation

Under the definition of ***employing authority*** inserted into section 3 of the *Children's Services Act 1985*, the employing authority is the Director of Children's Services or a person, or a person holding or acting in an office or position, designated by proclamation.

18—Amendment of section 9—Delegation

Section 9, which sets out the Minister's power of delegation, is amended by the insertion of a new subsection that provides for a power or function delegated under the section to be further delegated if the instrument of delegation so provides.

19—Amendment of section 10—Director and other staff may be referred to as the Children's Services Office

As a consequence of other amendments made to the Act that will result in staff being employed by the employing authority, section 10 is amended to remove references to staff "of the Minister".

20—Amendment of section 11—Director of Children's Services

Section 11 is amended to provide the Director of Children's Services with a power of delegation. A delegation under the section is revocable at will and does not derogate from the power of the Director to act personally in any matter. A power or function delegated under the section may be further

delegated if the instrument of delegation provides for such further delegation.

21—Substitution of section 12

This clause repeals section 12, which provides that the Minister may appoint officers and employees to assist the Minister to carry out his or her functions under the Act, and substitutes a new section that is substantially similar to the model provision. However, new section 12 also repeats, in a modified form, a number of provisions from existing section 12. For example, the new section provides that although the *Public Sector Management Act 1995* will not apply to a person employed under the section, the provisions of that Act with respect to long service leave apply in relation to such persons with such modifications as may be prescribed.

The new section also authorises the Minister, in connection with the operation of the Act, to make use of the services of any member of the teaching service constituted under the *Education Act 1972*.

22—Substitution of section 13

Section 13 provides that the Minister may enter into arrangements with the South Australian Superannuation Board with respect to superannuation of the Minister's officers and employees. This clause is repealed and a new section substituted. Under new section 13, the employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.

23—Amendment of section 14—Transfer of staff from public service or prescribed employment

24—Amendment of section 51—Recognised organisations

The amendments made by these clauses are consequential on the fact that the employing authority rather than the Minister will employ staff for the purposes of the Act.

Part 8—Amendment of *Commercial Arbitration Act 1986*

25—Amendment of section 1—Short title

The name of the Act is to be amended to reflect the fact that it will also include provisions relating to the referral of certain matters or disputes to the Industrial Relations Commission of South Australia.

26—Amendment of section 3—Application provisions

The general provisions of the Act will not apply in relation to the referral of a matter or dispute to the Industrial Relations Commission of South Australia.

27—Insertion of Schedule

This clause inserts a new Schedule into the Act. This Schedule will allow 2 or more parties to enter into an agreement in writing (a ***referral agreement***) to seek the assistance of the Industrial Relations Commission by making a referral to the Commission. A referral may be made in order to obtain—

- the resolution of an industrial matter arising between the parties; or
- the resolution of an industrial dispute between the parties; or
- the resolution of the question whether, on the balance of probabilities, the dismissal of an employee was harsh, unjust or unreasonable.

A referral agreement may relate to a particular matter or dispute, or to matters or disputes of a specified class. The parties to a referral agreement may specify in the agreement whether the Commission is—

- to act as a conciliator, mediator or arbitrator; or
- to make recommendations to the parties; or
- to make determinations or orders that the parties agree to accept or observe.

Under this scheme, the Commission has and may perform or exercise such functions or powers with respect to the referred matter as the Commission might exercise in the exercise of its jurisdiction under section 26 of the *Fair Work Act 1994* (which sets out the jurisdiction of the Commission). A referral agreement may, however, specify limitations or exclusions to the Commission's functions and powers, and the Commission may not give any form of relief outside the referral agreement.

The parties to a referral agreement may be an employer or group of employers, an employee or group of employees, a registered association or the United Trades and Labor Council. The parties to a referral agreement may amend the agreement from time to time.

Regulations may make provision for or with respect to the application of the provisions of the *Fair Work Act 1994* to the performance or exercise of functions or powers under this Schedule and may modify provisions that are to be so applied. Subject to any such regulations, the Commission for the purposes of a referral is to be constituted of a single member of the Commission.

The new provisions authorise the making of rules of the Commission in connection with the practice and procedure of the Commission in the performance or exercise of functions or powers conferred by referral agreements.

A determination, order or other decision of the Commission on a referral is binding on the parties to the referral agreement.

The Commission may make any determination as to the scope or operation of a referral agreement, or as to the meaning of any provision of an agreement. A determination of the Commission will have effect according to its terms.

The Commission may decline to proceed with a referral if it thinks fit.

The parties to a matter in respect of which a determination has been made by the Commission under the section will have a right of appeal against the determination. However, if the referral agreement provides that a determination will be final and conclusive and not subject to appeal, a party cannot appeal against the determination. An appeal will be taken to be part of the referral to the Commission under the referral agreement.

The functions and powers conferred on the Commission are in addition to, and do not derogate from, any other function or power of the Commission under the *Fair Work Act 1994*.

Part 9—Amendment of *Education Act 1972*

28—Amendment of section 5—Interpretation

The definition of ***employing authority*** inserted into section 5 of the *Education Act 1972* provides that the employing authority is the Director-General of Education or a person, or a person holding or acting in an office or position, designated by proclamation.

Under new subsection (5) of section 5, if the Director-General is the employing authority, and the Act requires that the employing authority refer a matter to the Director-General, or provides that the Director-General is to make a recommendation to the employing authority, the Director-General will be able to take action without a referral or recommendation.

29—Amendment of section 8—Power of delegation

This clause amends the section dealing with the Minister's power of delegation. A reference to the Minister's power to dismiss an officer of the teaching service is deleted and a new subsection is inserted. Under subsection (3), a power, duty, responsibility or function delegated under the section may be further delegated if the instrument of delegation provides for further delegation.

30—Amendment of section 9—General powers of Minister

Section 9(4) authorises the Minister to appoint such officers and employees (in addition to officers and employees of the Department and the teaching service) as the Minister considers necessary for the proper administration of the Act or the welfare of students of any school. Although this subsection is deleted, a provision in substantially similar terms is included in new subsection 101B, which authorises the employing authority, rather than the Minister, to make appointments of a kind referred to in section 9(4).

31—Amendment of section 15—Appointment to teaching service

Section 15(1) presently provides that the Minister may appoint such teachers to be officers of the teaching service as the Minister thinks fit. This clause substitutes a new subsection that authorises the employing authority to appoint teachers to the teaching service. A number of consequential amendments are also made to section 15.

32—Amendment of section 15B—Appointment to promotional level positions

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

These amendments are consequential on the employing authority becoming responsible for employment of staff in addition to related matters, such as promotion and retrenchment, under the Act.

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

Section 17 authorises the Director-General of Education to take certain action where he or she is satisfied that an officer is incapacitated on account of illness or disability. As a consequence of the amendments made by this clause, the Director-General will be authorised to take steps to transfer the officer to some other employment in the Government of the State.

Under section 17(1c), if the Director-General determines to take steps to transfer an officer, he or she may recommend to the employing authority that the officer be appointed to an office or position pursuant to section 101B or attempt to secure for the officer some other appropriate employment in the Government of the State. (New section 101B authorises the employing authority to appoint other officers and employees (in addition to the employees and officers of the Department and teaching service) for the proper administration of the Act or the benefit of the students of a school.)

35—Amendment of section 21—Payment in lieu of long service leave

36—Amendment of section 22—Interruption of service

37—Amendment of section 24—Rights of persons transferred to the teaching service

38—Amendment of section 26—Disciplinary action

39—Amendment of section 27—Suspension

40—Amendment of section 53—Appeals in respect of appointments to promotional level positions

These amendments are consequential on the employing authority becoming responsible for employment of staff under the Act.

41—Insertion of section 101B and 101C

New section 101B provides that the employing authority may appoint other officers and employees (in addition to the employees and officers of the Department and teaching service) if necessary for the proper administration of the Act or the benefit of the students of any school. Although the employing authority is, in acting under the section, subject to the direction of the Minister, a Ministerial direction may not be given relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

Where the Director-General is not the employing authority, the authority is required to consult with the Director-General in acting under section 101B.

Section 101C authorises the employing authority to delegate any power or function under the Act. A delegation—

- must be by instrument in writing; and
- may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
- may be unconditional or subject to conditions; and
- does not derogate from the power of the employing authority to act personally in any matter; and
- may be revoked at any time by the employing authority.

If the person who constitutes the employing authority changes, the change will not affect the continuity of employment or appointment of a person under the Act.

Part 10—Amendment of *Electricity Act 1996*

42—Amendment of section 4—Interpretation

The interpretation provision of the *Electricity Act 1996* is amended by the insertion of the standard definition of ***employing authority***.

43—Amendment of section 6F—Common seal and execution of documents

This amendment is consequential on the employing authority becoming responsible for the employment of persons to perform functions in connection with the operations or activities of the Electricity Supply Industry Planning Council.

44—Substitution of section 6L

Under current section 6L, the Minister may appoint a chief executive of the Planning Council and the Council may appoint such employees as it thinks necessary or desirable. This clause repeals section 6L and substitutes two new sections.

New section 6L provides that the employing authority may employ a chief executive of the Planning Council on terms and conditions determined by the employing authority. Under subsection (2), a person may not be employed as chief executive of the Council, and may not be removed from that office, except with the approval of the Minister.

New section 6LA, which is in substantially the same terms as the model provision, authorises the employing authority to employ persons to perform functions in connection with the operations or activities of the Planning Council. The section also provides that the Planning Council does not have the power to employ any person.

Part 11—Amendment of *Fair Work Act 1994*

45—Amendment of section 44—Protection for officers

This amendment is consequential on the extension of the jurisdiction of the Commission to industrial matters or industrial agreements referred to the Commission by two or more interested parties by agreement under the amendments to the *Commercial Arbitration Act 1986*.

Part 12—Amendment of *Fire and Emergency Services Act 2005*

46—Amendment of section 17—Staff

This clause amends section 17 of the *Fire and Emergency Services Act 2005*. That section currently provides that the staff of the South Australian Fire and Emergency Services Commission will comprise, in addition to persons employed in a public sector agency and made available to the Commission, persons appointed by the Commission on terms and conditions determined by the Commission and approved by the Commissioner for Public Employment. As a consequence of the amendments made by this clause, persons comprising the staff will be appointed by the Chief Executive of the Commission on terms and conditions determined by the Chief Executive on the basis that the Chief Executive is the employer. The Commission is to be responsible for the costs or expenses associated with the employment of a person by the Chief Executive.

47—Amendment of section 28—Deputy Chief Officer and Assistant Chief Officers

Section 28 provides that the Chief Officer of the South Australian Metropolitan Fire Service (SAMFS) may appoint a Deputy Chief Officer and one or more Assistant Chief Officers. As a consequence of the amendment made by this clause, such an appointment is made by the Chief Officer on the basis that he or she is the employer of the person appointed.

48—Amendment of section 29—Other officers and firefighters

49—Amendment of section 30—Employees

The amendments made by these clauses to sections 29 and 30 are similar to the amendment made to section 28. Other officers, firefighters and employees of SAMFS will be appointed by the Chief Officer on the basis that he or she is the employer.

50—Amendment of section 31—Staff

A new subsection inserted into section 31 provides that SAMFS is responsible for any costs or expenses associated with the employment of a member of the staff of SAMFS.

51—Amendment of section 61—Deputy Chief Officer and Assistant Chief Officers

52—Amendment of section 62—Other officers

53—Amendment of section 63—Employees

54—Amendment of section 64—Staff

The amendments made by these clauses are to sections of the Act relating to the South Australian Country Fire Service (SACFS) and are substantially the same as those made to sections relating to SAMFS. As a consequence of the amendments, appointments of the Deputy Chief Officer, Assistant Chief Officers, other officers and employees will be made by the Chief Officer of SACFS on the basis that the Chief Officer is the employer.

55—Amendment of section 110—Deputy Chief Officer and Assistant Chief Officers

56—Amendment of section 111—Other officers

57—Amendment of section 112—Employees

58—Amendment of section 113—Staff

The amendments made by these clauses are to sections of the Act relating to the South Australian State Emergency Service (SASES) and are substantially the same as those made to sections relating to SAMFS and SACFS. As a consequence of the amendments, appointments of the Deputy Chief Officer, Assistant Chief Officers, other officers and employ-

ees will be made by the Chief Officer of SASES on the basis that the Chief Officer is the employer.

Part 13—Amendment of *History Trust of South Australia Act 1981*

59—Amendment of section 4—Interpretation

This clause inserts the standard definition of ***employing authority*** into the interpretation provision of the *History Trust of South Australia Act 1981*.

60—Substitution of section 16

This clause repeals section 16, which deals with staffing matters, and substitutes a new section that is in the same terms as the model provision. The new section provides, among other things, that the employing authority may employ staff to perform activities in connection with the operations and activities of the History Trust. The Trust will no longer have the power employ any person.

Part 14—Amendment of *Institute of Medical and Veterinary Science Act 1982*

61—Amendment of section 3—Interpretation

The definition of ***employing authority*** inserted into section 3 of the *Institute of Medical and Veterinary Science Act 1982* provides that the employing authority is the Chief Executive of the Department or a person, or a person holding or acting in an office or position, designated by proclamation.

62—Amendment of section 14—Functions and powers of Institute

This amendment, which removes a reference to officers and employees of the Institute, is consequential on the fact that staff of the Institute will be employed by the employing authority.

63—Amendment of section 16—Director of Institute

The Director of the Institute is currently appointed by the council of the Institute. As a consequence of the amendments made by this clause, the Director will be appointed by the employing authority after consultation with the Institute on terms and conditions fixed by the Minister and approved by the Commissioner for Public Employment. A person may not be appointed to the office of Director or removed from that office except with the approval of the Minister. This is consistent with the current provision.

64—Substitution of section 17

This clause deletes section 17, which authorises the council of the Institute to appoint officers and employees, and substitutes a new section that is in similar terms to the model provision. Subsection (1) states that the employing authority may employ other staff for the purposes of the Act. New section 17(2) provides that the terms and conditions of employment of a person will be determined by the employing authority after complying with any recommendation of the Commissioner for Public Employment. Under subsection (3), a person employed under section 17 will be taken to be employed by or on behalf of the Crown. The *Public Sector Management Act 1995* will not apply to a person employed under the section. However, the Governor may, by regulation, declare that specified provisions of that Act apply, with such modifications as may be prescribed, in relation to a person or class of persons employed under the section.

65—Amendment of section 18—Superannuation, accrued leave rights etc

Section 18, as amended by this clause, provides that the employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*. A number of amendments are made to the section consequential on the employing authority becoming the employer of staff for the purposes of the Act.

66—Amendment of section 21—Accounts, audit etc

This is a further consequential amendment.

67—Repeal of section 27

Section 27, which states that the Department is to be regarded as the employer of all officers and employees of the Institute for the purposes of industrial proceedings, is no longer required and is repealed.

68—Amendment of section 28—Recognised organisations

This amendment is consequential on the employing authority becoming the employer of staff for the purposes of the Act.

69—Repeal of section 29

Section 29 provides that the Director is to be taken to be the Permanent Head in relation to certain officers for the purposes of the *Public Sector Management Act 1967*. The section is redundant and is repealed by this clause.

70—Amendment of section 30—Duty to maintain confidentiality

This is a further consequential amendment.

Part 15—Amendment of *Natural Resources Management Act 2004*

71—Amendment of section 3—Interpretation

The definition of ***employing authority*** inserted into section 3 of the *Natural Resources Management Act 2004* provides that the employing authority is the Chief Executive of the Department or a person, or a person holding or acting in an office or position, designated by proclamation.

72—Amendment of section 34—Staff

Section 34 provides that the staffing arrangements for a regional NRM board will be approved by the Minister. Subsection (3) currently provides that a regional NRM board may appoint persons to the staff of the board on terms and conditions fixed by the board with the approval of the Commissioner for Public Employment, and subsection (4) states that a person appointed under subsection (3) is not a Public Service Employee.

Subsections (3) and (4) are deleted by this clause and a series of new subsections in similar terms to the model provision are inserted in their place. The new provisions provide that the employing authority may, after consultation with a regional NRM board, employ a person to perform functions in connection with the operations or activities of the board. The terms and conditions of employment are to be determined after consultation with the Commissioner for Public Employment. A regional NRM board does not have the power to employ any person.

Part 16—Amendment of *Public Sector Management Act 1995*

73—Amendment of Schedule 1—Persons excluded from Public Service

Schedule 1 of the *Public Sector Management Act 1995* specifies persons excluded from the Public Service. The Schedule includes references to officers and employees appointed by the Minister under the *Education Act 1972* and the *Technical and Further Education Act 1975*. The relevant provisions are amended by this clause to substitute "employing authority" for "Minister".

Part 17—Amendment of *Senior Secondary Assessment Board of South Australia Act 1983*

74—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *Senior Secondary Assessment Board of South Australia Act 1983* by inserting the standard definition of ***employing authority***.

75—Amendment of section 9A—Chief Executive Officer

Section 9A(3) currently provides that the appointment of the Chief Executive Officer of the Senior Secondary Assessment Board of South Australia is to be made by the Board on conditions determined by the Board and approved by the Minister. As amended by this clause, the section will provide that the Chief Executive is to be appointed by the employing authority on terms and conditions determined by the employing authority. A person may not be employed as Chief Executive Officer or removed from that office unless or until the employing authority has consulted with the Board and obtained the approval of the Minister.

76—Amendment of section 12—Delegation

This amendment is consequential on the employing authority becoming responsible for employment of staff under the Act.

77—Substitution of section 18

Section 18 provides that the Board may engage employees to assist in carrying out its functions under the Act. The section is repealed by this clause and in its place a provision in substantially the same terms as the model provision is inserted. The new section provides, among other things, that the employing authority may employ staff to perform activities in connection with the operations or activities of the Board and that the Board does not have the power to employ any person.

Part 18—Amendment of *South Australian Country Arts Trust Act 1992*

78—Amendment of section 3—Interpretation

This clause amends the interpretation provision of the *South Australian Country Arts Trust Act 1992* by inserting the standard definition of ***employing authority***.

79—Substitution of section 13

Under section 13, the South Australian Country Arts Trust may employ persons for the purposes of the Act. This clause repeals section 13 and substitutes a new provision that is in substantially similar terms to the model provision. The new section provides, among other things, that the employing authority may employ staff to perform functions in connection with the operations or activities of the Trust and that the Trust does not have the power to employ any person.

Part 19—Amendment of *South Australian Film Corporation Act 1972*

80—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *South Australian Film Corporation Act 1972* by inserting the standard definition of ***employing authority***.

81—Substitution of section 9

Section 9 authorises the South Australian Film Corporation to appoint the Chief Executive Officer and other employees of the Corporation. The section is repealed by this clause and two new sections are substituted in its place.

New section 9A provides for the appointment of the Chief Executive Officer by the employing authority on terms and conditions determined by the authority. The section includes a requirement that the employing authority consult with the Corporation and obtain the approval of the Minister before employing a person as Chief Executive Officer or removing a person from that office.

Section 9A is in substantially the same terms as the model provision. Under the new section, the employing authority may employ other staff to perform functions in connection with the operations or activities of the Corporation. The Corporation does not have the power to employ any person.

82—Amendment of section 12—Power of Corporation to delegate powers

This amendment is consequential on the employing authority becoming responsible for employment of staff under the Act.

83—Substitution of section 26

Under new section 26, the employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.

84—Amendment of section 33—Regulations

The amendment made by this clause is a further consequential amendment.

Part 20—Amendment of *South Australian Health Commission Act 1976*

85—Amendment of section 6—Interpretation

The definition of ***employing authority*** inserted into section 6 of the *South Australian Health Commission Act 1976* provides that the employing authority is the Chief Executive of the Department or, if the Governor thinks fit, a person, or a person holding or acting in an office or position, designated by proclamation. The Governor may designate different persons (including the Chief Executive) as employing authorities with respect to different classes of employees or potential employees.

86—Amendment of section 19—Staff and facilities

This clause deletes subsection (1) and (2) of section 19. Those subsections provide that the South Australian Health Commission may be assisted by persons assigned to the staff of the Commission by the Minister and that those staff will, unless the Governor otherwise determines, be appointed and hold office subject to, and in accordance with, the *Public Sector Management Act 1995*.

Those provisions are replaced with a new subsection that provides that the Commission does not have the power to employ any person.

87—Amendment of section 29—Management of hospital

The amendment made by this clause is consequential on the employing authority (or authorities) becoming responsible for the employment of persons for incorporated hospitals.

88—Substitution of section 30

Section 30 provides that the board of an incorporated hospital may appoint such officers and employees as it thinks necessary or desirable for the proper administration of the hospital. That section is repealed by this clause. New section 30 provides that an employing authority may employ persons to perform functions in connection with the operations or activities of an incorporated hospital. The terms and conditions of employment of a person employed under the section will be fixed by the employing authority and approved by the Commissioner of Public Employment.

Although the new section is substantially similar to the model provision, it includes in subsection (13) a statement that, on the incorporation of a hospital, any Public Service employees who had, before the date of incorporation, been assigned by the Chief Executive to work in the hospital and have been designated by the Chief Executive as employees to whom subsection (13) applies will become persons employed by an employing authority designated by the Chief Executive under the section on terms and conditions fixed by the Chief Executive (without reduction of salary or status). This provision is in similar terms to current section 30(4).

89—Amendment of section 31—Superannuation, accrued leave rights, etc

Section 31 is amended to provide that an employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988* with respect to a person employed at an incorporated hospital.

Other amendments made to section 31 are consequential on the employing authority (or authorities) becoming responsible for the employment of persons for incorporated hospitals.

90—Substitution of section 51

Under section 51, the board of an incorporated health centre may appoint such officers and employees as it thinks necessary or desirable for the proper administration of the health centre. That section is repealed by this clause. New section 51 provides that an employing authority may employ persons to perform functions in connection with the operations or activities of an incorporated hospital. The terms and conditions of employment of a person employed under the section will be fixed by the employing authority and approved by the Commissioner of Public Employment. An incorporated health centre does not have the power to employ any person. The terms of the new section are, in other respects, substantially similar to those of the model provision.

91—Amendment of section 52—Superannuation, accrued leave rights, etc

Section 52 is amended to provide that an employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988* with respect to a person employed at an incorporated health centre.

Other amendments made to section 52 are consequential on the employing authority (or authorities) becoming responsible for the employment of persons for incorporated health centres.

92—Amendment of section 59—Application of Public Sector Management Act to employees

Section 59, as amended by this clause, provides the Governor with a power to declare, by proclamation, that specified provisions of the *Public Sector Management Act 1995* will apply, with such modifications as may be specified, in relation to persons employed by an employing authority at designated incorporated hospitals or designated incorporated health centres, or any class of such persons.

93—Repeal of section 60

Section 60, which states (among other things) that the Department is to be regarded as the employer of all officers and employees of incorporated hospitals and incorporated health centres for the purposes of industrial proceedings, is no longer required and is repealed by this clause.

94—Amendment of section 61—Recognised organisations

95—Amendment of section 63A—Conflict of interest

96—Amendment of section 64—Duty to maintain confidentiality

The amendments made to sections 61, 63A and 64 are consequential on the employing authority (or authorities) becoming responsible for the employment of persons for incorporated hospitals and incorporated health centres.

Part 21—Amendment of *South Australian Motor Sport Act 1984*

97—Amendment of section 3—Interpretation

This clause amends the interpretation provision of the *South Australian Motor Sport Act 1984* by inserting the standard definition of ***employing authority***.

98—Substitution of Part 2 Division 3

The subject of Division 3 of Part 2 of the Act is the staff of the South Australian Motor Sport Board. The current provisions of Division 3 provide that there will be a Chief Executive of the Board in addition to other staff of the Board as the Board considers necessary or expedient for the proper administration of the Act.

New section 13 recasts subsections (1), (2) and (8) of the existing section so that all matters in respect of the appointment of the Chief Executive are separated from the provisions dealing with other staffing arrangements.

New section 14 provides that the employing authority may employ staff to perform functions in connection with the operations or activities of the Board. A person employed under the section is to be taken to be employed by or on behalf of the Crown but the *Public Sector Management Act 1995* will not apply to such a person unless the Governor declares by regulation that specified provisions of the *Public Sector Management Act 1995* will apply, with such modifications as may be prescribed, in relation to persons employed under the section, or any class of such persons.

The new section differs from the model provision in that, consistent with existing section 13, it provides that a person must not be employed for the purposes of the Act except under an approval of the Minister.

The provisions of the new section are, in other respects, substantially the same as those of the model provision.

Part 22—Amendment of *South Australian Tourism Commission Act 1993*

99—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *South Australian Tourism Commission Act 1993* by inserting the standard definition of ***employing authority***.

100—Amendment of section 16—Common seal and execution of documents

This amendment is consequential on the employing authority becoming responsible for the employment of staff for the South Australian Tourism Commission.

101—Insertion of Part 2 Division 5

This clause inserts a new Division into Part 2 of the Act. Division 5 consists of a new section that is based on the model provision. Section 18A provides that the employing authority may employ staff to perform functions in connection with the operations or activities of the Commission. The section states that the Commission does not have the power to employ any person.

102—Amendment of section 20—Powers of Commission

Section 20(2)(b), which authorises the Commission to employ staff or make use of the services of staff employed in the public or private sector, is deleted by this clause as the employing authority, rather than the Commission, will be the employer of staff for the purposes of the Act.

Section 20(3) provides that an employee of the Commission is not a member of the Public Service. The subsection is deleted as the Commission no longer has the power to employ any person.

Part 23—Amendment of *State Opera of South Australia Act 1976*

103—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *State Opera of South Australia Act 1976* by inserting the standard definition of ***employing authority***.

104—Amendment of section 7—Staff participation on Board

105—Repeal of section 20

The amendments made by these clauses are consequential on the employing authority becoming responsible for the employment of staff to perform functions in connection with the operations or activities of the State Opera.

106—Amendment of heading to Part 3

This amendment is also consequential on the employing authority becoming responsible for staffing arrangements of the State Opera.

107—Substitution of section 21

Section 21(1) currently provides that the Board of Management may employ such persons as employees of the State Opera as it thinks fit. This clause substitutes the model provision for section 21. Consequently, the employing authority becomes responsible for the employment of staff in lieu of the Board, which no longer has the power to employ.

The clause also inserts a new section that reflects the terms of the repealed section 21(2) and (3). Section 21A(1) authorises the employing authority to determine (with the approval of the Minister) that, for purposes associated with accrual of long service leave and leave on account of illness, previous service of a person employed under this Act with an employer other than the employing authority may be regarded as service with the employing authority.

Section 21A(2) authorises the employing authority to enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.

108—Amendment of section 22—Secretary to the Board

Section 22(2) currently states that the secretary of the Board must be an employee of the State Opera. This clause amends the provision so that the secretary must be a person employed under the Act.

Part 24—Amendment of *State Theatre Company of South Australia Act 1972*

109—Amendment of section 4—Interpretation

This clause amends the interpretation provision of the *State Theatre Company of South Australia Act 1972* by inserting the standard definition of ***employing authority***.

110—Amendment of section 6—Board of Governors

111—Amendment of section 9—Casual vacancies

112—Amendment of section 16—Declaration of interest

The amendments made by these clauses are consequential on the employing authority becoming responsible for the employment of staff in lieu of the State Theatre Company of South Australia.

113—Repeal of section 19

Section 19 authorises the Company to make use of the services of officers or employees of Departments of the public service. The section is repealed by this clause because new section 20(12) provides that the Company may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit.

114—Amendment of heading to Part 3

The amendment made by this clause is consequential.

115—Substitution of sections 20 and 21

Sections 20 and 21, which deal with the employment of employees of the Company and the appointment of the artistic director, are repealed by this clause, and three new sections are inserted.

New section 20 is based on the model provision. Under the section, the employing authority may employ staff to perform functions in connection with the operations or activities of the Company. The Company does not have the power to employ any person.

New section 20A, which repeats in essence the terms of existing section 20(3), provides that the employing authority may determine (with the approval of the Minister) that, for purposes associated with accrual of long service leave and leave on account of illness, previous service of a person employed under this Act with an employer other than the employing authority may be regarded as service with the employing authority. Section 20A also authorises the employing authority to enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.

116—Amendment of section 22—Secretary to the Board

Section 22 currently requires the Board to appoint a person to be the secretary to the Board. As a consequence of the amendment made by this clause, the Board is required to appoint a person employed under Part 3 of the Act to the position of secretary.

Part 25—Amendment of *Technical and Further Education Act 1975*

117—Amendment of section 4—Interpretation

The definition of ***employing authority*** inserted into section 4 of the *Technical and Further Education Act 1975* provides that the employing authority is the Chief Executive Officer or a person, or a person holding or acting in an office or position, designated by proclamation.

Under new subsection (5) of section 5, if the Chief Executive Officer is the employing authority, and the Act requires that the employing authority refer a matter to the Chief Executive Officer, or provides that the Chief Executive Officer is to make a recommendation to the employing authority, the

Chief Executive Officer will be able to take action without a referral or recommendation.

118—Amendment of section 8—Delegation by Minister

Section 8 authorises the Minister to delegate his or her powers, duties or functions under the Act. Under subsection (1)(b), the Minister may delegate to the person for the time being holding or acting in a position or office established by the Minister under section 9 or 15. The section is amended by this clause because sections 9 and 15 are to be amended by clauses 119 and 121 respectively to remove the Minister's power to employ persons or appoint officers for the purposes of the Act.

Section 8, as amended, authorises the Minister to delegate to the person for the time being holding or acting in a position or office established for the purposes of the Act. An additional subsection inserted into section 8 by this clause provides that a power, duty or function delegated under the section may, if the instrument of delegation so provides, be further delegated.

119—Amendment of section 9—General powers of Minister

Section 9(6) provides that the Minister may employ such persons (in addition to officers appointed under the Act and employees of the Department) as he or she considers necessary for the proper administration of the Act. That subsection is deleted by this clause as, under new section 39AAB(1), the employing authority is to be responsible for the employment of such persons as are currently referred to in section 9(6).

120—Amendment of section 13—Delegation by Chief Executive Officer

This amendment to the Chief Executive Officer's power of delegation is consequential on the employing authority becoming responsible for the employment of staff and the appointment of officers under the Act.

This clause also inserts a new subsection, which provides that a power, duty or function delegated under section 13 may be further delegated if the instrument of delegation so provides.

121—Amendment of section 15—Appointment of officers

Section 15(1) currently provides the Minister with a power to appoint such officers to provide technical and further education and undertake related functions for the purposes of the Act. That subsection is deleted by this clause and a new subsection inserted in its place. Under the new subsection, it is the employing authority, rather than the Minister, that is authorised to make such appointments.

An additional subsection inserted by this clause provides that the employing authority must, in acting under the section, consult with the Chief Executive Officer (unless the Chief Executive Officer is the employing authority).

122—Amendment of section 15A—Termination of appointment of officers on probation

As a consequence of the amendment to section 15A made by this clause, the employing authority, rather than the Minister, may terminate the appointment of an officer who is on probation.

A new subsection inserted by this clause provides that the employing authority must, in acting under the section, consult with the Chief Executive Officer (unless the Chief Executive Officer is the employing authority).

123—Amendment of section 16—Retrenchment of officers

As a consequence of the amendment to section 16 made by this clause, the employing authority, rather than the Minister, may retrench an officer if the authority is satisfied as to certain matters.

Again, a new subsection inserted by the clause provides that the employing authority must, in acting under the section, consult with the Chief Executive Officer (unless the Chief Executive Officer is the employing authority).

124—Amendment of section 17—Incapacity of officers

Section 17(1) authorises the Chief Executive Officer to take certain action if he or she is satisfied that an officer is incapable of performing the officer's duties satisfactorily because of mental or physical illness or incapacity. Under subsection (1)(b), the Chief Executive Officer is currently authorised to recommend to the Minister that the officer be transferred to some other employment in the Government of the State. As a consequence of the first amendment made by this clause, the Chief Executive Officer may determine to take steps to transfer the officer rather than make a recommendation to the Minister. A related subsection inserted by this clause provides that in acting under subsection (1)(b), the Chief Executive Officer may recommend to the employing authority that the officer be appointed to an office or position under section 39AAB or attempt to secure for the officer some other appropriate employment in the Government of the State. (Section 39AAB is inserted by clause 131.)

Under section 17(1)(d), as amended by this clause, the Chief Executive Officer may recommend to the employing authority that an ill or incapacitated officer be retired.

125—Amendment of section 21—Payment in lieu of long service leave

126—Amendment of section 22—Interruption of service

127—Amendment of section 23—Recognition of previous employment

128—Amendment of section 26—Disciplinary action

129—Amendment of section 27—Suspension

The amendments made by these clauses are consequential on the employing authority becoming responsible for employment of officers under Part 3 of the Act.

130—Amendment of section 39AA—Operation of industrial relations legislation

A reference in section 39AA to officers or persons employed by the Minister under the Act is amended by this clause to remove the words *by the Minister*. This is a further amendment consequential on the employing authority becoming responsible for the employment of officers and other persons under the Act.

131—Insertion of sections 39AAB and 39AAC

This clause inserts two new sections.

Section 39AAB authorises the employing authority to employ persons, in addition to officers under Part 3 and employees in the Department, necessary for the proper administration of the Act. Although the employing authority is, in acting under the section, subject to direction by the Minister, a Ministerial direction may not be given relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

If the Chief Executive Officer is not the employing authority, the authority is required to consult with the Chief Executive Officer when acting under the section.

Section 39AAB also requires the Department, at the direction of the Minister or the Treasurer, to make payments with respect to any matter arising in connection with the employment of a person under this section. Such payments include, but are not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities.

Section 38AAC deals with a number of matters related to the employing authority. Under the section, the employing authority is authorised to delegate a function or power under the Act. A delegation—

- must be by instrument in writing; and
- may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
- may be unconditional or subject to conditions; and
- does not derogate from the power of the employing authority to act personally in any matter; and
- may be revoked at any time by the employing authority.

Under section 39AAC(4), the appointment and continuity of employment of a person will not be affected by a change in the person who constitutes the employing authority.

Schedule 1—Transitional provisions

1—Interpretation

This clause includes a number of definitions necessary for the purposes of the transitional provisions. The definition of ***prescribed body*** lists all those bodies that, prior to the commencement of the Act, are the employers of persons who will be, following that commencement, employed by an employing authority.

2—Transfer of employment

This clause provides that a person who was employed by a prescribed body immediately before the commencement of

the clause will be taken, on that commencement, to be employed by the employing authority as defined in the Act under which the person is employed.

Subclause (2) provides that—

· a person who, immediately before the commencement of clause 2, was employed under section 6L(1) of the *Electricity Act 1996* will, on that commencement, be taken to be employed by the employing authority under that Act;

· a person who, immediately before the commencement of clause 2, was employed by the South Australian Fire and Emergency Services Commission will, on that commencement, be taken to be employed by the Chief Executive of that body;

· a person who, immediately before the commencement of clause 2, was employed by an emergency services organisation under the *Fire and Emergency Services Act 2005* will, on that commencement, be taken to be employed by the Chief Officer of that body;

· a person who, immediately before the commencement of clause 2, was employed by an incorporated hospital or incorporated health centre under the *South Australian Health Commission Act 1976* will, on that commencement, be taken to be employed by an employing authority designated by the Governor by proclamation.

Under subclause (3), the Governor may, by proclamation, provide that a person employed by a subsidiary of a public corporation under the *Public Corporations Act 1993* will be taken to be employed by a person or body designated by the Governor.

An employment arrangement effected by clause 2 will be taken to provide for continuity of employment without termination of an employee's service. Also, the employment arrangement will not affect an employee's existing conditions of employment or existing or accrued rights to leave, or a process commenced for variation of those conditions or rights.

However, if, immediately before the commencement of clause 2, a person's employment was subject to the operation of an award or certified agreement (but not an Australian Workplace Agreement) under the *Workplace Relations Act 1996* of the Commonwealth, then, on the commencement of clause 2, an award or enterprise agreement will be taken to be created under the *Fair Work Act 1994*. An award or agreement so created will have the same terms and provisions as the relevant industrial instrument under the *Workplace Relations Act 1996*. The award or agreement will also have terms or provisions that existed under an award or enterprise agreement under the *Fair Work Act 1994*, that applied in relation to employment of the kind engaged in by the person, immediately before 27 March 2006, and that ceased to apply by virtue of the operation of provisions of the Commonwealth Act that came into force on that day. These terms and provisions will be subject to any modification or exclusion prescribed by regulations.

Also, where an award or agreement is created as described above—

· the award or enterprise agreement will be taken to be made or approved under the *Fair Work Act 1994* on the day on which clause 2 commences; and

· the *Fair Work Act 1994* will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of clause 2(6); and

· the Industrial Relations Commission may, on application by the Minister to whom the administration of the *Fair Work Act 1994* is committed, or on application by a person or body recognised by regulations made for the purposes of clause 2(6), vary or revoke any term or provision of the award or enterprise agreement if the Commission is satisfied that it is fair and reasonable to do so in the circumstances.

3—Superannuation

This clause provides continuity where a prescribed body is party to an arrangement relating to the superannuation of one or more persons employed by the body. The employing authority is to become a party to the arrangement instead of the prescribed body.

4—Interpretative provision

Under this clause, the Governor may, by proclamation, direct that a reference in an instrument or a contract, agreement or other document to a prescribed body or other specified agency, instrumentality or body will have effect as if it were a reference to an employing authority, to the Minister to whom the administration of a relevant Act is committed or to some other person or body designated by the Governor.

5—Related matters

This clause provides that certain notices made under provisions amended by this Act in the *Children's Services Act 1985*, the *Institute of Medical and Veterinary Science Act 1982*, the *South Australian Health Commission Act 1976* and the *South Australian Motor Sport Act 1984* will continue to have force. The amendments effected by this Act will not affect the status of a person as an employer of public employees for the purposes of the *Fair Work Act 1994*.

6—Other provisions

This clause authorises the Governor to make additional provisions of a saving or transitional nature by regulation.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

APPROPRIATION BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: In the second reading response yesterday, I provided a number of answers to the Hon. Mr Lucas. I have some more information today in answer to questions he asked during the second reading stage, and I will put them on the record in relation to clause 1. All these questions relate to education. The Hon. Mr Lucas asked during the second reading debate:

> Was the minister correctly quoted in *The Sunday Mail* when she said that a supposed super school would still be built in the region, even if all the schools did not agree to close? I will explore that concept. If there are five or six schools and one or two of those five or six schools does not agree to close, is the minister correctly quoted in *The Sunday Mail* when she says that she is going ahead with the supposed super school concept? If that is the case, how does that affect the financial underpinning of the concept?

The answer is that I believe the minister was correctly quoted in *The Sunday Mail*, other than describing them as super schools. The term 'super schools' seems to have been a media concept, which is now being used to describe these new schools. If one of those schools did not agree to close, other schools would be invited to look at being part of the new school process. As a consequence, it is anticipated that there would be no financial impact. The Leader of the Opposition then asked:

> Will the minister outline to the Legislative Council what facilities a supposed super school, which is a primary school, would have that the most recently built new primary school, probably in Mawson Lakes or the Seaford area, does not have? What specific facilities, in terms of equipment, structure, size or space, will a supposed super primary school have that the most recently built primary schools do not have? Similarly, what supposed curriculum advantages will a super primary school have over an equivalent sized existing primary school, certainly one of those built more recently?

I have been provided with the following answer. As stated, the media has described the schools as super schools. We would describe them as 21st century learning facilities with sustainable design and embedded technology. These new schools will have early years services. Where these are children's centres they will provide a one-stop shop for family, education and health services for families with young children. The other difference between schools built in more recent times, such as Mawson Lakes or Seaford, is that we are intending them to be built through a public-private partnership. As far as curriculum advantages are concerned, they will be larger than the existing schools which they are

replacing. Under current resourcing arrangements this allows for much greater teacher flexibility and curriculum specialisation. The Leader of the Opposition then asked:

What we want to know is what is supposedly super about these super primary schools as compared to any new primary schools which could have been built, or which already have been built, under the traditional procurement method.

The answer is that, as stated, the media has described the schools as super schools. We would describe them as 21st century learning facilities with sustainable design and embedded technology built under a public-private partnership arrangement. They will have new thinking in regard to early years services. The Leader of the Opposition asked:

What facilities will the R to 12 have in relation to secondary school offerings?

The answer is that the new schools will be 21st century learning facilities with sustainable design and embedded technology and have early years services. The curriculum offerings may be different in the schools, depending on each community's views on specialisation, but students will be offered greater choices than they are getting now. The leader then asked:

However, in terms of the secondary component of the R to year 12 schools, what are the facilities or equipment offerings that will supposedly justify the title of 'super', compared to any existing secondary school offerings, such as Brighton High School or Marryatville High School, or any of the quality secondary school offerings throughout the metropolitan area? Specifically, what equipment or facilities will be offered in a super school that do not already exist in some of our existing government secondary schools?

Similarly, what curriculum offerings, in the secondary school component of these R to 12s, will be offered that are different from, or wider than, any equivalent sized existing government secondary school? If one of these schools is to have a secondary component of 1 000 students, comparing it to an existing school such as Brighton or Marryatville, which have 1 000 students, for example (if they do)—

they had 1 250 when I was there at the end of the Playford era—

what additional curriculum offerings will be offered in the super schools?

The answer I have been provided with is that the new schools will be 21st century learning facilities, with sustainable design, embedded technology and have early years services. The curriculum offerings may be different in the schools, depending on each community's views on specialisation, but students will be offered greater choice than they are getting now. The Hon. Mr Lucas then asked:

There is a series of budget lines there about which we seek an explanation from the minister. The first is 'Education Works—implementation teams', $2.5 million for the first year and $6 million over the next three years. Can the minister outline what expenditure is included in those lines? Does it include expenditure on consultants that would be available to both the department and schools if that is required?

The answer I have is that the expenditure is on establishing a small number of teams of education and other experienced staff to work with schools in the Education Works program. It is anticipated that some use of consultants will be necessary to address skill areas that fall outside of education. The leader then asked:

Similarly, there is a separate budget line, 'Education Works—support for implementation', which is $500 000 in each of the first two years. What specifically is that money to be expended on and why is that accounted for differently from the implementation team's line just above it?

The answer is that the support for implementation budget line refers to DECS' development of the public-private partnership project. The leader then asked:

We seek clarification from the minister as to whether the $13 million is the estimate of the annual payment to the private sector for $134 million worth of public-private partnered schools.

I am provided with the following answer. The $13 million provision is an estimate of what the private sector would charge for school accommodation and infrastructure services, including maintenance, utilities and waste management. It is a provision, as the final PPP contract will determine the full range of accommodation and other service costs following a competitive tender of the project. The leader then asked:

Further down page 226 of Budget Paper 3 is 'Education Works—land sales': $6 million in two years; $17 million in the third year; and $7.5 million in the fourth year. We seek clarification that that is the estimate of the land sales for the particular 17 schools and preschools that either will be closed down or, in some cases, I assume, sold to the private sector to build the six new schools; or does that include other land sales as well? We also seek clarification of exactly what the government's estimate is—and we accept that that might change with the passage of time. Is it correct that the government's best guess at the estimate—that is, what it has used so far of the six new schools—is $134 million, as outlined in various statements made by the minister, the Treasurer and others in the budget and subsequent to the budget?

The answer I have been provided with is that the figure for land sales is an estimate for land to be sold over the forward estimates period. The $134 million figure is the current estimate of the cost of the new schools. The leader then asked:

We seek clarification as to whether the $134 million public/private partnership proposal is the estimate of the cost of building the six schools and that the additional expenditure (which takes it up to $216 million) is expenditure on other schools which might enter into other rationalisations or closure arrangements.

The answer I have is that the $134 million figure is the current estimate of the cost of the new schools. The private sector's estimate will be determined through the PPP procurement process. The remainder is expenditure on other schools for the upgrade of existing infrastructure under Education Works. The leader then asked:

The question is: are those payments at $56 million over four years an investment in upgrading schools that are not part of the $134 million public-private partnership proposal and, if it is, will that funding involve further closures of school and pre-school sites over and above the 17 that are targeted for closure as part of the six new school concept referred to as Education Works?

The answer that I have been provided with is that the expenditure is for upgrades to existing school infrastructure under Education Works. The leader then asked:

Will the Minister for Education confirm that the six schools will require fewer teachers and school service officers under the existing staffing formula than the current 17 schools and pre-schools would require, and will she also confirm that they will generate significant financial savings?

In answer to that, the existing teacher allocation formula is based on enrolments in a school, and this will continue. The leader asked:

We seek clarification as to whether those three estimated payments/savings are being collected into the consolidated account (that is, going back into Treasury and the budget) and not savings being kept in the education and children's services budget. Is the approximate $31 million or $32 million in savings over three years savings from the closure of 17 schools and pre-schools and the building of six new schools, and is that approximately $31 million to $32 million being taken out of the education budget and put into consolidated account as part of the budget savings from the education sector?

I advise members that the Education Works operational efficiencies from new investment are reinvested in education under the DECS budget over the forward estimates period. The leader then asked:

In relation to the education portfolio, can the Minister for Education and Children's Services provide the number of full-time equivalent speech pathology positions within the Department of Education and Children's Services and its equivalent agencies for each year from 1996 to 2006?

My answer is that, within the Department of Education and Children's Services, the number of budgeted speech pathologist positions by financial year is provided as follows: for 1996-97 and 1997-98, the figures are not available (a footnote states that this level of budget detail is not maintained by the department); in 1998-99, the figure was 60.4; in 1999-2000, it was 61.5; in 2000-01, it was 62.0; in 2001-02, it was 64.7; in 2002-03, it was 65.2; in 2003-04, it was 63.2; in 2004-05, it was 63.2; in 2005-06, it was 63.2; in 2006-07, it is estimated at 63.2.

There is also a note with the table which says that, in 2003-04, the department realigned support services from central office to district offices. As part of this process, management administrative functions previously included in the speech pathology head count were separated from the actual service providers to students and children within DECS sites. The reduction of the 2.0 FTE from 2002-03 to 2003-04 reflects this rearrangement of functions. Finally, in relation to education, the leader asked:

On page 4.11, the fourth paragraph (of the Budget Statement) states: 'Specific Purpose Payments (SPPs) for government schools are estimated to decrease by 2.1 per cent in 2006-07 to $185 million, primarily reflecting cessation of a Department of Education and Children's Services project that had been funded by the commonwealth. Will the Treasurer or the minister advise what the project was and why the project was stopped?

I provide this answer: the project in question was the RegNet project funded by the commonwealth Department of Communications, Information Technology and the Arts. The project commenced in 2003-04 for a total agreed commonwealth contribution of $6 million. The project was completed in 2005-06 and a final instalment of $4.5 million was provided. I also have answers to some additional questions that the leader asked of the Treasurer, I think. The leader asked:

The next question relates to the cost of consultancies for shared services. Again, this was touched on in the estimates committee but we specifically seek the total cost of consultancies entered into by DAIS, or indeed any other agency, including Treasury. In relation to the notion of the shared services concept, the names of the individual consultants, the expenditure on each of the individual consultants and the total aggregate expenditure and whether or not in each of those cases the consultancy had been let after an open request for tender.

The answer I have been provided with is that the total amount spent on consultancies in 2003-04 and 2004-05 in relation to shared business services case development was $1 012 525. This comprises: Deloitte Touche Tohmatsu for shared services advice, $10 000 (contract let after a selective process); Ernst and Young for shared services business case development report, $386 936 (contract let after an open competitive process); Ernst and Young for benchmarking of SAG Corporation, $82 128 (contract let after an open competitive process); and Ernst and Young for development of a business case for shared corporate services, $533 461 (contract let after a selective process). The leader then asked:

Finally, in relation to fines and penalties, in budget Paper 3, page 3.21, the fines and penalties line shows a 2005-06 estimated result of $74.5 million and, in the 2006-07 budget, a figure of $106.9 million, increasing to $133.3 million in 2009-2010. Will the government provide a breakdown for each year of what comprises these figures in the fines and penalties line? We understand the majority of that relates to speed or traffic offences from police, as I will refer to later in relation to the SAPOL budget papers, but it appears there is still a not insignificant percentage of that fines and penalties line which must refer to other departments and agencies in relation to fines and penalties. Will the Treasurer provide a breakdown of the respective components of that?

I have been provided with a table, which summarises fees and penalties revenue by type and agency across the forward estimates period. There are also a number of notes in relation to that. I seek leave to have that inserted in *Hansard* without my reading it.

Leave granted.

Fine/penalty		2005-06 Est. result $'000	2006-07 Budget $'000	2007-08 Estimate $'000	2008-09 Estimate $'000	2009-10 Estimate $'000
Speeding—mobile cameras	SAPOL	19 255	19 727	20 441	21 225	21 909
Speeding—fixed cameras	SAPOL	10 306	22 335	29 207	30 644	31 625
Red light cameras	SAPOL	3 572	13 319	17 443	21 578	22 269
Other speed detection devices	SAPOL	9 220	9 594	9,898	10 214	10 540
Other traffic fines	SAPOL	5 783	7 157	6 353	6 554	6 755
Other fines (a)	SAPOL	1 592	1 093	1 726	1 746	1 796
Reminder fee	SAPOL	1 959	1 959	1 959	1 959	1 959
Corporate fee (b)	SAPOL	1 127	1 127	1 127	1 127	1 127
		52 814	76 311	88 154	95 047	97 980
Court imposed fines/penalties (c)	Courts Administration Authority	20 544	29 259	31 365	33 360	33 982

Penalties for exceeding water allocations (d)	Water, Land Biodiversity & Conservation	1 025	1 051	1 077	1 104	1 132
Other fines (e)	Various agencies	93	273	221	228	236
Total fines and penalties		74 476	106 894	120 817	129 739	133 330

(a) Includes revenue from notices issued by police officers and other authorised officers including NP&WS rangers, fisheries officers, TransportSA officers with SAPOL acting as the collection agency.
(b) A $300 fee per notice is imposed where an expiation notice or a fee is issued as a result of a camera detected offence where the offending vehicle is not registered to an individual (i.e. to a company, government agency, etc.) and is expiated without a driver being nominated.
(c) Over 50% of these fines and penalties relate to police fines/penalties (predominantly speeding, red light and other traffic offences) that have been the subject of court action (either because the prescribed date for payment has passed or some other reason).
(d) Penalty charges for exceeding water allocations under Section 116(1)(b) of the Natural Resources Management Act 2004.
(e) Includes parking fines, electoral fines and other minor amounts.

The Hon. P. HOLLOWAY: Finally, the leader asked:

In relation to payroll tax, Business SA has put a submission to the government, opposition and others. It believes that the payroll tax free threshold should be lifted from $504 000 to $800 000. Can the Treasurer advise what the cost to revenue would be for each of the forward estimate years for such an increase, and what the cost would be of an increase in threshold to $650 000? Also, if the Treasurer adopts the same position as he adopted in the estimates committees—that is, to criticise the opposition for being lazy—is he prepared to give an undertaking that the opposition can have access to the baseline data from within Revenue SA which would allow estimates of the impact of such a payroll tax free threshold change?

Similarly, in relation to Business SA's request regarding a reduction in the rate, can the government indicate what would be the cost per year to reduce the payroll tax rate, first, to 5.25 per cent and, secondly, to 5 per cent? Again, if the government is not prepared to do that is it prepared to provide access to the database to allow the opposition to undertake those calculations? The Treasurer said, 'You can get the data and do your own calculations', so if the Treasurer refuses access to the data from Revenue SA can he advise exactly where the data can be obtained so that someone other than the government can undertake the calculation?

The answer I have been provided with is that information regarding payroll tax is available in Budget Paper 3, chapter 3, page 3.9.

The Hon. R.I. LUCAS: Perhaps if I start with the last one first. Without actually having the budget paper in front of me, the information in the budget paper does not provide the detail for anybody to calculate the impact of an increase of the threshold or a reduction in the rate—the Treasurer and the Leader of the Government would well know that. The reference to the many *Hansard* readers that the information is available on such and such a page of the budget paper is untrue; it is just as simple as that. Stronger language could be used, but it is untrue.

It is cute for the Treasurer, who I am sure would be preening himself at authorising that response, but he knows and, as I said, the Leader of the Government knows that the particular page reference in the budget paper gives no indication at all of the number of businesses with respective payrolls to enable a calculation of the impact of an increase in the threshold or the reduction in the rate.

I think the worrying thing about that particular response is that it is a further indication of something that was raised yesterday that has been raised by a number of people, and that is the arrogance of the current incumbent and an indication of the arrogance of the current government. In due course I will put it on the record, but governments in the past—I think of both persuasions, frankly—have provided information in relation to what the costs to revenue will be of increases in thresholds or reductions in rates that have been called for by interest groups such as Business SA, or other interest groups in the past. Indeed, in one of the debates on payroll tax in the period 2002 to 2006, there was a reference on a couple of occasions to what the cost would be of a particular payroll tax change that had been canvassed at that time. As I said, I know that over the years there have been many examples when governments, I think both Liberal and Labor, have answered the question.

I think this is a further indication of one of the problems we see with not only the accountability of the current government but also the executive to parliament. This issue will be canvassed often, I guess, over the next three to four years, that is, the complaints in relation to freedom of information and questions on notice. I think you, Mr President, and your table staff will know that the number of questions remaining unanswered is in the hundreds. It is the largest number ever of unanswered questions in the history of the Legislative Council, and this government—the leader, the Treasurer and others—just ignore it. I guess they can do so comforted by the fact that, thus far, pressure has not been applied on the government by the media and others in relation to what is just a blatant snubbing of what has always been one of the accepted conventions of the parliament.

Having spoken to members who have preceded me in parliament—and certainly from my experience in the parliament—I can say that the convention generally in relation to questions (under Liberal and Labor governments) has been that, in the past, questions without notice were generally fair game. I think most oppositions (Liberal or Labor) accepted that ministers showed fancy footwork. Some answered questions without notice and some danced around them but, certainly, once you placed a question on notice, there was a convention that the government (of whatever persuasion) was then required to answer that question.

I think it is fair to say that, more often than not, most of those questions were generally answered by the government, whether Liberal or Labor. To be fair, I am sure some questions would have been ignored or not answered by both Liberal and Labor governments in the past, but there was much greater weight placed on questions on notice and estimates committee questions on the basis that there was a requirement to provide an answer. I know that, in the eight years that we were in government, questions on notice came through to cabinet as part of the process, and sometimes there was a lot of agonising in terms of how you would frame the response to whatever it was, but a lot of work went into trying to uphold the conventions.

As I said, no government is perfect. The former Liberal government had its sins, I am sure, in relation to not answer-

ing some questions on notice, but this new government, in terms of its accountability to the parliament, has taken the issue to unprecedented levels. I ask members to look at the unanswered questions on the current *Notice Paper*. As I said, there has been some fancy footwork, I am sure, but, again, when the parliament is prorogued, the convention has always been that ministers would write to opposition members with an answer and, on the first day of the following session, would seek leave to incorporate in *Hansard* without reading them answers to questions which had been provided to former members.

I am happy to pull out those particular references to educate or advise newer members of the council. I refer to responses I have received from this arrogant new government, including the Hon. Carmel Zollo, who is now adopting the position—I am sure on advice from house-smart ministerial advisers and others—that when the parliament is prorogued everything disappears, that has been the convention and, therefore, that is the end of it. I say to the Hon. Carmel Zollo that that has not been the longstanding convention of the Legislative Council.

Under Liberal and Labor governments, former ministers such as the Hon. Chris Sumner and the Hon. John Cornwall (for all of his sins and peccadilloes) assiduously respected the conventions and would write letters to opposition members indicating that they had promised to bring back answers. This is where a minister says in reply to a question, 'I promise to bring back an answer for the member'. They do not refuse, but they say, 'I will take that on notice and I will bring back an answer.' Those former Labor ministers would invariably respond, and former Liberal ministers would do the same thing.

Now we are getting the situation where ministers such as minister Holloway and minister Zollo stand up in the council and say, 'I will take that on notice and bring back an answer,' but, when the next session begins, I get letters from the Hon. Carmel Zollo stating, 'As the member would well know the conventions are that when the parliament is prorogued everything is removed from the *Notice Paper* and therefore we are not answering any more questions.' This government's arrogance is unbelievable. It just rips up the conventions as it suits them.

The only absolute truth is that things go in cycles. The cycle we are in at the moment is one which has a Labor government in power in South Australia and elsewhere at the state level and there is a federal Liberal government, but 10 years ago the cycle was almost completely reversed. The cycle will change again and the new chums on the government side, such as the Hon. Bernie Finnigan, the Hon. Mr Wortley and the Hon. Mr Hunter—it will not matter for the Hon. Paul Holloway or the Hon. Carmel Zollo because they may well have been long retired or gone—potentially, will reap the benefit (if you want to put it that way) of the arrogance of this particular government. I think that is a shame in terms of the way this Legislative Council has always operated.

We saw another example yesterday, Mr Chairman. With the greatest of respect I think you were ill advised or your information base was just wrong. In relation to the questions about the Auditor-General's Report, overnight my staff have been back through the past nine years of Auditor-General's Reports and there has been no example, under Liberal or Labor governments—

The Hon. P. Holloway: Yes, there was.

The Hon. R.I. LUCAS: No, there was not. There was no example—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: In 2003 there was one, was there? One in 10 years. Certainly under the Liberal government, when we agreed to the convention, almost invariably—with the possible excetion of one, if that is the case, but certainly we did not see it—the Liberal and Labor governments respected the convention. They respected the convention that the Auditor-General's question time was for non-government members. It was not there for padding out by ministers and government backbenchers—

The Hon. P. Holloway: You got your hour.

The Hon. R.I. LUCAS: The Hon. Paul Holloway says, 'You got your hour'. In the end, it was less because there were two questions and he had extended question time, anyway: it was probably about 12 minutes. That is not the point: it is the principle that we are talking about here. This government is drunk with power, and sadly ministers such as minister Holloway and minister Zollo, who perhaps on earlier reflection some might have thought were not as bad as the Deputy Premier, the Premier and the Attorney-General in relation to arrogance and being drunk with power, are flouting and abusing the conventions of this chamber. The answers to questions on the Appropriation Bill about the increase in the threshold is just another example of that. No-one can argue that that is not a reasonable question to be put by an opposition—and it has already been put by the leading business group in South Australia—yet we get this half-baked cute response from the Treasurer and the Leader of the Government which says, 'Refer to Budget Paper so and so, page whatever it is, and you can work it out', knowing full well that that is not the case, that there is no information there.

In terms of policy debate on the Appropriation Bill and looking at the policy options for the state, on the front page of today's paper is one particular group calling for payroll tax relief—and, prior to that, Business SA, the opposition and others have been calling for it. It is a genuine debate, yet we have this puerile response from the Treasurer and the Leader of the Government, saying, 'We will not give you the answer. We will not tell you. You are lazy. You can work it out, go off and do the work.' That is just untrue. The only way you can do that is to have access to the number of companies and their payrolls in relation to the thresholds under the existing payroll tax regime. It does not matter whether it is the opposition, Business SA or an academic think tank: unless you have access to that or similar information, you cannot do the calculations.

As I have said, we have three more budgets to pursue, and I can only hope that saner heads will prevail, although one would doubt that. However, the capacity does exist for the Legislative Council on future occasions, whether it is a budget bill or whatever it might happen to be, to insist on bringing down (as we have in the past) officers to appear before the parliament. If the numbers are there, the Legislative Council can direct to have people come down here. If the numbers are there, Treasury officers can be directed to answer questions. We cannot direct the Treasurer, but Treasury officers can be called before this council or a committee and be required to answer questions. That power is well recognised. That is well known by you, Mr Chairman, the staff and others. No-one wants to go down that particular path.

As I said, it is puerile, juvenile, childish—whatever other word you want to use to describe the current Treasurer's approach to this issue. It is an important policy issue, important enough for the morning newspaper at least to be splashing it around, as have many others over the past few months in terms of the impact of payroll tax on the viability of small and medium size businesses in South Australia. Hopefully, when the Motor Traders Association (which was in the paper this morning), Business SA and others are provided with copies of the Treasurer's and the Premier's response on this issue, they might start placing some public pressure on the government and the Treasurer to be reasonable in relation to policy debate on these important issues.

I flag that the opposition will reserve its position in relation to future debates such as this. As I said, the Leader of the Government, the Premier and the Treasurer are adopting a stance which will result in an equal and opposite reaction from the opposition, if it is supported by other non-government members in this chamber. We respect that the opposition alone cannot do this and that we would need to convince a majority of members. I warn the Leader of the Government that other upper houses of parliament have used the powers of the Legislative Council and the parliament to their fullest on occasions to obtain information—and that has been both Liberal and Labor dominated upper houses. The approach from the Treasurer and the government on this issue and some others means that there is no other option. There is no other option for a parliament, unless it wants to just accept that it is happy to be neutered, ignored or treated with disdain by an arrogant executive and arrogant ministers in relation to the genuine pursuit of information on an important policy issue.

In relation to some of the other answers, I thank ministers through the Leader of the Government for the information that has been provided. I only heard part of the leader's response today which fills in some of the gaps from yesterday's response. He did give me a copy of the answers from yesterday and there were some gaps that I was going to pursue today, but I think he has provided further information in relation to some of those questions. On this occasion I am prepared to place it on notice and ask the minister to take up with the other ministers whether or not they are prepared to provide additional information. It may be in some cases there has been a misunderstanding of the question that has been asked, or it may be that the provided response is all that the opposition will get.

One of the questions I asked was about the issue of a cap. The Treasurer has indicated that he will be publicly announcing the cap at some later stage—and we accept that. One of the questions I asked was about the Treasury calculation. The answer by Treasury is that it will reflect the number of FTEs that could be employed with the available funding. I am talking about the actual head count at 30 June 2005 or 30 June 2006. I am asking exactly what existed. The Treasurer indicated that Treasury had done a head count to help them try to work out what the cap was. Perhaps I did not explain the question clearly enough. As a former minister, I know that a minister has funding approval, in essence. I accept that in the past agencies have been given total aggregate funding and they have not been approved for a number of funded positions.

Once you had the amount of money, as a minister you knew that with that money and the decisions you had taken you had approved a certain number of positions. I am happy to talk about those in terms of full-time equivalents, because a lot of them might be 0.6 or 0.8, or whatever it is. But they are full-time positions. So you might have approved, with the funding you have, 100 full-time equivalent positions. There might be 110 people but it is 100 full-time equivalent positions at 30 June. At any point in time, if you do a census or a survey, someone would have died, someone would have left to go to the private sector and someone would have gone to another agency; so you will have a vacant position at 30 June.

Whilst you might have 100 full-time equivalents, you might have four people who have left their positions at that particular time. They are vacant positions in the particular agency. As a former minister, I know that for the length of time they are vacant sometimes you can sometimes accrue savings to the budget during that period because you have not filled the position for six months, or three months. You know that you must fill other positions straight away because there is an essential requirement for the delivery of a service at a counter. But, in relation to a project position or a research position, there are always vacancies. For example, there might have been five full-time equivalent positions for which there is approval by the minister, but there happens to be vacancies. My question was: when Treasury did the survey of departments and agencies, did the number they came up with include the vacant positions or did it not include the vacant positions? For example, did that particular agency record 100 full-time equivalent staff or 95 full-time equivalent staff? Perhaps I did not explain the question clearly because the response is as follows:

> Generally speaking, the data reflects full-time equivalents rather than a head count.

I understand it reflects full-time equivalents—as it should—because there might be a 0.6, 0.2 or 0.4, or whatever. We are talking full-time equivalents. That is not the question. It may be that it is a case of not having understood the question. I am not sure much politics swings off this, other than trying to understand exactly what the numbers mean. It may be of interest to some ministers, as well, to know exactly what the numbers mean, when Treasury says that it has done the count and there were 70 000 full-time equivalents at this particular time and PIRSA had 540, as to exactly what the 540 means and refers to.

I asked the specific question: can I confirm with the Treasurer the government has not reached that stage (namely, the tendering stage) in relation to the South Road/Port Road/Grange Road project and that the government has not entered into final stage negotiations with a particular tenderer? My understanding is that they have not, but I am asking whether that could be confirmed. The response I received is as follows:

> The status of the South Road program has not changed since the time of the budget.

I accept it has not changed, but I want to know the status. I am assuming the status is that they have not got to the tendering process, but they have got to the tendering process in relation to the South Road/Anzac Highway project. Given this is minister Conlon and the Treasurer, it may be that has been a deliberately cued response and I will not get more than that. If it was a genuine misunderstanding, I am seeking from the ministers involved a confirmation of that. The next question relates to the Queen Elizabeth Hospital. I note that the answer is as follows:

> The estimated total cost of stage 2 published in the 2002-03 budget is $41.6 million.

I advise the minister that is not correct. The budget papers refer to estimated total costs of stages 2 and 3. It is a reinvention of history for the minister or his advisers to indicate that the budget papers refer to just stage 2: they did not. They referred to stages 2 and 3. The question which I asked has not been answered—and it may be because the government is too embarrassed to provide an answer. The response is that so far, according to the Treasurer, there has not been a blow-out: it has been significant scoping increases or reconfigurations of the project at the Queen Elizabeth Hospital, which has resulted in the $41.6 million eventually ending up being, at this stage, $317 million or higher. The government has not answered whether $317 million is the latest estimate. Ultimately, that is an issue we will have to pursue at another time. Given the Treasurer's claim that the reason for the increase has been scope changes and reconfigurations, we specifically asked the minister to provide a breakdown of the scope changes and increases and reconfigurations and their contribution to the increased cost.

As I said, I suspect that the reason we will not get an answer is that the minister cannot answer. He knows that the majority of the increase has been a blow-out and that only a small proportion is due to scope increases of the project at the Queen Elizabeth Hospital. Nevertheless, I put the question again and, if it remains unanswered, we can just assume that the minister knows that what the Treasurer said was wrong, and we will be able to pursue that in other forums.

Another issue (which is possibly a misunderstanding, but I am not sure) is that, under 'Highlights for 2005-06', the government states that one of its highlights in Treasury was the finalisation of the views on Treasurer's Instruction 17 and the guidelines on the evaluation of public sector initiatives in response to recommendations from the EDB. Treasurer's Instruction 17 is publicly available on the Treasurer's website. However, the guidelines which form part of the instruction are not publicly available. The Treasurer's response indicates that the guidelines are being amended and, until cabinet has amended them, they cannot send us the new guidelines. We understand and accept that if it is going through a cabinet process; however, that is not the case.

At the moment, there is an existing set of guidelines as they relate to Treasurer's Instruction 17, and they are the guidelines that govern the public sector in terms of the implementation of Treasurer's Instruction 17. So, what we are seeking from the Treasurer is a copy of those guidelines. We are not seeking a copy of the ones that are being amended and taken through cabinet (the new ones), as we accept that, until they are approved, we cannot have a copy of those. We are looking for a copy of the existing guidelines as they relate to Treasurer's Instruction 17. I assume that, in relation to this, there is a process we can go through of freedom of information and so on. Given that it is a public document, I cannot see that the government could claim that it cannot be provided because of parliamentary privilege or a variety of other excuses. This is a simple guideline that relates to the whole of the public sector, and all we are doing is seeking a copy.

I turn now to the responses provided today from the Minister for Education. I accept that the Leader of the Government did not have these yesterday and, clearly, I have only had a chance to listen to the replies and read them as he has provided them. First, in relation to the notion of super schools, we are now seeing in these responses a significant retreat by the Rann government, and minister Lomax-Smith in particular. As I said, we have been pursuing for a little time exactly what is so super about these super schools compared with any other new school being built of an equivalent size. Without going through all the details (we can do that on another occasion), the summary of the answers provided makes it clear that the minister could not and cannot provide details of what is so super about either the facilities or the curriculum offerings of these so-called 'super' schools compared with any new school of an equivalent size which has been built or which is being built. In relation to the super primary schools, the response was:

> We would describe these as 21st century learning facilities, with sustainable design and embedded technology, built under a public-private partnership arrangement. They will have new thinking in regard to early years services.

Sustainable design has been talked about for five or 10 years and, as it evolves, there will be new methods of sustainable design. It is nothing new in new schools. As to 'embedded technology', again, it evolves. The whole notion of being online in our new schools, with connections to workplaces and so on, again has been occurring in an evolving fashion for five years and, certainly in relation to IT, since the original DECS Tech strategy implemented by the former Liberal government, which was the first government—Labor or Liberal—to provide significant funding for the acquisition of IT services and facilities in our government schools in South Australia. As I said, I am sure that these issues will be pursued on another occasion by the shadow minister and others.

Another issue of interest is that certainly some concern has been expressed that the government is looking at the closure of schools other than the 17 involved in the super school concept. Two of the answers provided make it clear that the payment of $56 million over four years is an investment in upgrading schools that are not part of the PPP project. The question we asked was whether or not that would involve further closure of schools or preschools. As I said, some concern had been expressed that perhaps that money would be available only after other closures. The minister has indicated that that is not the case, and that is her commitment. She said that the expenditure is for upgrades to existing school infrastructure under Education Works. So, that makes it clear that that money is being spent on existing school infrastructure, and we have a commitment from the minister there that there will be no other closures outside those 17. Whether one believes the minister and this government, only time will tell, but certainly that is the commitment.

The final area in relation to educational issues that I want to canvas is in relation to speech pathology positions. I asked whether the minister could provide the number of full-time equivalent speech pathology positions within the department from 1996 to 2007. The answer that the minister provided indicates that the numbers from 1988-89 onwards to 2006-07 were broadly about 60 to 65. The minister has given a very curious response about 1996-97 and 1997-98 that this level of budget detail is not maintained by the department. That is, they cannot tell us how many speech pathologists existed at that time. I am not sure whether the minister will read these responses, but I am sure that her adviser will. I indicate in parliamentary language that that claim is just untrue.

I was the minister for education during the period 1993 to 1997 and, during that period, that information was available in relation to speech pathology positions. As minister, whilst we were taking the difficult decision of sorting out the State Bank debacle, and there were necessary reductions in education, the focus for the first Liberal government was on

early intervention in the early years of education, and additional resources were put in to assist students with learning difficulties, to provide professional development for teachers and a range of other initiatives in terms of early intervention.

In relation to speech pathology services, I know that (a) the numbers were available and kept, and (b) there was some increase during that particular period. I also know that at the 1997 election, which is the last year where it is claimed the information is not available, the policy document that I took to the election as minister committed to an increase of 17 full-time equivalent extra speech pathology positions in 1997-98. As I said, it is my recollection that it was also after more modest increases earlier in that four-year period. I was not the minister after 1998, but I recall what occurred. While I will need some time, it may well be that I still have some leaked copies of documents as relative to that period of 1993 to 1997 that might assist this debate and this claim from the minister that the level of budget detail on the number of speech pathologists did not exist in the department before 1998.

The Hon. P. Holloway: You've probably got the copy of it. That is probably where it is. They've probably been looking for the document and the document is in your briefcase.

The Hon. R.I. LUCAS: No; if I had something, it would only be a leaked copy. It would not be an original. I can assure the minister of that. As I said, it will take me some time to check to see whether I have that document/documents. I know that prior to the 1997 election, before making a commitment in relation to 17 extra speech pathologists, I took advice from the then chief executive of the department on how we would be able to fund it, how we would do it and the process we would go through.

In the past five or six years, when I have occasionally run into members of the education department or schools, they say few positive things about me, because I generally run into people whose schools were closed during my period or those who suffered budget reductions that we had to implement as a result of the State Bank debacle. However, one of the few positive nods I have got over recent years has been from people who have said, 'We work in the area of special education and speech pathology, and the significant increase we received over the past 10 years or so occurred during your period as minister for education'. So, I think the minister is being too cute by half by claiming that speech pathology services numbers are not available in the period prior to 1998.

I am not sure what the minister takes us for: whether she thinks we are fools or incapable of rational thought or logic. To suggest that the education department would not know and did not keep records on the numbers of speech pathologists who were employed in the education department prior to 1998 is ridiculous, frankly. Again, I come back to what I started with which was a theme of the arrogance of this government and this minister. This minister thinks that, by giving a response like that, everyone will just accept it and there will be no criticism in pursuit of that issue.

I indicate that I intend to pursue this issue because I think that the honesty and integrity of ministers is important and it ought to be important. When ministers are dishonest, make untruthful statements or break commitments, they ought to be criticised. Former governments, Liberal and Labor, have broken promises and they have been understandably criticised. When this government and these ministers commit the same sins of broken promises, untruthful statements or dishonest statements they should be criticised, and not just by the opposition but by the media and the community and all of those who are interested in particular subjects and topics.

With that, I thank the leader for the work his officers did in chasing up some of the answers. I accept that the answers have been provided by officers from other ministers, that his staff have chased those down with other ministers, and I thank them for their best endeavours. Equally, we have attempted to be accommodating in the way we have handled this by outlining the questions as soon as we could during the second reading debate so as not to unduly delay the debate in the committee stage. As I said, the arrogance of some of this government's ministers—the Treasurer and the Premier, in particular—is going to lead to an inevitable day of reckoning for the government if this sort of arrogance continues.

The Hon. P. HOLLOWAY: I do not wish to prolong this debate at all but I think that I should at least place on the record a very brief response to the comments that the Leader of the Opposition made about accountability. The question about which he was essentially complaining—because he did not get the detail—had nothing whatsoever to do with the Appropriation Bill. Essentially, what we are discussing here is the Appropriation Bill, which is the 2006-07 budget. What the leader was trying to get the government officers to do was do a whole lot of sums and calculations about some course of action that really has nothing whatsoever to do with the Appropriation Bill.

The Hon. R.I. LUCAS: Payroll tax has nothing to do with the Appropriation Bill!

The Hon. P. HOLLOWAY: Payroll tax has everything to do with the budget, but what the Leader of the Opposition wanted the government to do was to go and do some calculations; in other words, to do its election policy for it. I think that needs to be put on the record. The leader was also suggesting that this government was arrogant in relation to a number of questions. I again remind this council, and perhaps those newer members, that the number of questions that the opposition gets to ask during the course of this parliament in this place is unprecedented. The days of long-winded dorothy dixers that we used to get in the previous government have gone. I think that, if anyone goes back and looks over the past four and a half years of this government and compares it with any relevant period of the previous government, one would see that the opposition has been given more questions than at any other time. Also, this parliament has been sitting more days, which provides a lot more opportunities for the opposition to ask questions. So I think at least that part of the record should be corrected.

The Leader of the Opposition raised a number of matters where he sought clarification; all I can do is refer those questions back to the appropriate minister and see what extra information can be provided in writing to the leader in relation to those. Apart from that, I thank all members for their contribution to the debate and their assistance in getting this important bill through.

Clause passed.

Remaining clauses (2 to 8), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

The Hon. B.V. FINNIGAN: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

GENETICALLY MODIFIED CROPS MANAGEMENT (EXTENSION OF REVIEW PERIOD AND CONTROLS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 934.)

The Hon. SANDRA KANCK: The South Australian agricultural community fought very hard to win a ban in the first instance on the commercial growing of GM crops, but it was only a temporary ban, which the act made clear. That ban is due to expire in April 2007. My former colleague, Ian Gilfillan, was instrumental in the fight to get this ban in place, and it is an issue that is dear to the hearts of Democrat members. Back in 1996, I introduced a bill for the labelling of genetically modified foods. It was voted down because, I was told, 'the states need to move together on this'. A decade later we still do not have that labelling. We as a parliament are very slow to act on what consumers want. The extension that this bill gives will, again, be temporary, taking us through to April 2008. The theory is that in the next 12 months a review will take place. I hope that such a review will be undertaken with loud fanfare and wide public consultation.

I was interviewed about this bill on *Stateline* in September, and I will quote from what the Minister for Agriculture had to say in that same program. He stated:

> You must not put markets at risk, and that is very important that Australia continue to build a clean, green image. It might be the differentiation we need in a global marketplace that gives us the extra returns. There might be significant market benefits by being the odd one out.

Well, in fact, he is right—there are significant market benefits. John Lush, who is a former president of the South Australian Farmers Federation and who was recently appointed by the federal government to the Australian Biotechnology Advisory Council, was also interviewed for that program. He argued that we need genetically modified crops and if we have them now farmers would be able to plant drought-resistant, salt-tolerant crops which would make their farms more viable, and he claimed if we had those crops in place this year we would have three times the crops that are currently available, that is, in this particular drought year. There has recently been a series of meetings held in rural South Australia by the proponents of GM crops and at one of the meetings, I think it was the meeting at Jamestown, the proponents admitted that a drought-resistant GM variety was at least five to 10 years away, so a lot of this is blue sky mining and hopes by farmers and, to some extent, by consumers, for quick fixes, and quick fixes are never a good idea.

Farmers, through selective breeding, have been able to produce drought-resistant and salt-tolerant crops—it is simply a matter of accessing the particular seeds—but GM interference is not necessary for that to happen. John Lush is quoted in the current edition of the newsletter of the Molecular Plant Breeding Cooperative Research Centre as saying, 'You have to be a risk taker to be a farmer. If you don't take a risk, you won't get a reward.' Perhaps he should heed the old proverb, 'Look before you leap.' From that perspective, it was certainly heartening to hear—

The Hon. Nick Xenophon: Look before you reap.

The Hon. SANDRA KANCK: Look before you reap—okay, I will pay that one. But, in the light of Mr Lush's suggestion that we have to take those risks, I am rather heartened by the comments that were made by the Minister for Agriculture on *Stateline* indicating that those risks ought not to be taken. There are certainly a lot of farmers who disagree with John Lush. In the past a survey of Farmers Federation members (and it may have occurred when John Lush was president of SAFF) found that 80 per cent of its members did not want the introduction of GM crops in South Australia.

The minister in the *Stateline* program indicated that there might be significant market benefits for being the odd one out and he referred to our clean, green image. We certainly should take on board that some of our major trading partners, such as the Japanese, will not accept food that has been contaminated by GMOs. We should also recognise that there are Australian farmers, and I believe South Australian farmers, who are getting a $65 per tonne advantage in world markets by selling GM-free grain.

My party (the South Australian Democrats) made an election promise that we would move to extend the current ban, so I am delighted the government is doing it for us. However, the election promise we made was to extend the ban to 2010, and I will move an amendment in the committee stage to achieve this. In the minister's summing up I would appreciate being informed—and, I guess, his informing the chamber as well—how the review that is planned once this bill is passed will be conducted, including the level of public consultation. I am particularly interested in knowing how the GM crop advisory committee will make the determination about whether or not we should maintain a ban on GM crops in this state. But, apart from that, and the amendment that will be forthcoming in the committee stage, I indicate support for the second reading.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill, and I indicate at the outset my support for the Hon. Sandra Kanck's amendment to extend the ban in relation to GM crops. These are the words of the Hon. Mike Rann during the 2002 state election campaign in the news release headed 'Labor's plan to ensure safe food', and these are some of the words in that release:

> Labor will ban the growing of genetically engineered food crops in three of the state's prime agricultural belts and launch a full-scale public inquiry into the safety of GE foods.

The Hon. Mr Rann said:

> We have to be absolutely sure that tonight's dinner doesn't turn into tomorrow's disease.

He also said in his news release:

> . . . genetic engineering is a science still in its developmental infancy and there are no compelling reasons to rush the release of genetically engineered organisms into the general environment.

In a document attached to the news release under the names of the Hon. Mike Rann, the Hon. John Hill, Annette Hurley (the then deputy leader) and Lea Stevens (the shadow health minister at the time), reference was made to the words of Professor Fran Baum, the head of the public health department at the Flinders University, who made the following point about genetically engineered food:

> The precautionary principle should be applied in developing GE food, as it is not certain whether there are serious risks to the environment or to human health involved in producing or consuming GE foods or their products.

That is why it is so important and compelling that we should extend this ban on genetically modified crops in this state. The government, during the 2002 election campaign, also

said that South Australia's clean and green image was important, and the attachment to the news release stated:

> To put it in its simplest terms, a multi-billion dollar food export industry which has been carefully built on a 'clean and green' image is potentially being placed at risk for an annual 'gain' which is a mere 1.5 per cent of the total value.

Reference was made there that official government figures indicated back then that South Australia's food industry is likely to be a $15 billion business by 2010, yet the claimed economic benefits from GM food production in 2010 amount to only $200 million. That is why it is so important that we extend this ban. We simply do not know what the potential effects are and that, if there is contamination, it will be irrevocable. Once you have contaminated crops, I believe there is long-term irrevocable damage. That is another reason why we must be cautious.

I also raise the practices of companies such as Monsanto, and I have mentioned this previously. One of the key proponents, or one of the key companies that has been pushing for GM crops, is Monsanto, which has a less than stellar record when it comes to the environment. When we last debated this matter in the previous parliament I referred to a case in the United States where there were findings made by a court about Monsanto's conduct. Monsanto was found to have had a blatant disregard, in effect, for the safety of its citizens. It did not involve GM crops but CFCs, and Monsanto's conduct in covering that up. This is a corporate citizen that we should be very wary of and one that has a key role in GM crops.

I also should acknowledge the work of community groups such as the Gene Ethics Network that Bob Phelps has been a key player in over the years, and also locally here in South Australia, GE Free Australia and Sandra Russo—someone who I know well and regard as a good friend—who has been doing her bit to keep the issue alive. There is widespread community concern in relation to GM crops, and I believe that an extension of the moratorium is more than appropriate.

There are questions I would like to put on notice to the government but, at this stage, I would like to acknowledge the very considerable hard work that the Hon. Ian Gilfillan did in his time in parliament. He really led the debate for those concerned about GM crops in this state. He moved a number of amendments at the time with respect to strict liability so that if an adjoining crop was contaminated it would effectively be much easier for someone to bring a civil damages claim, rather than be up against it in expensive and protracted litigation.

The first question that I wish to put on notice to the government relates to the review, and the Hon. Sandra Kanck has touched on that. What is the extent of this review? When it was in opposition Labor promised an extensive review of GM crops and their impact and a full-scale public inquiry. I do not believe that the government undertook anything that could be remotely seen as a full-scale public inquiry into genetically modified crops and foods. I would like to know whether the government will now honour its commitment of 4½ years ago—it is better late than never—with respect to a full-scale public inquiry, and what the extent of that inquiry will be. What is the extent of public involvement, as promised in the 2002 election campaign? To what extent is there scientific involvement and community involvement about concerns; and also from farmers who want to ensure that their crops are kept clean and green?

The other issue relates to the government and, in a sense, it follows on from the government's undertakings. It relates to issues of contamination. To what extent has there been a survey? Have there been studies? Has there been an independent review to determine the extent of any contamination into non-GM crop areas where there have been GM crop trials? To what extent has there been any contamination? To what extent do we know that there are mechanisms and protocols in place to ensure that there is not an escape of GM organisms or GM crops into adjoining farms that are not part of the GM trial? I also ask the government: how many GM trial crops have there been since this bill was passed; what are their locations; and has there been a monitoring of adjoining properties to determine whether there has been any contamination from those crops and, if so, what were the consequences that flowed from that? I think that is a fair inquiry to make, if this moratorium is to have substance and give comfort to those who want to ensure that there is not contamination of our farms that want to be GM free.

I echo the remarks of the Hon. Sandra Kanck about the importance of our markets. For instance, the Japanese market does not want GM foods. It is important that we maintain that integrity. It is important that we continue to maintain this ban, but I think it is also vital that the government provide details of where the trials are taking place and ensure the integrity of the process, that is, that there has not been contamination either when the crops have been grown or when they reach silos so that they are not in any way contaminating other non-GM crops. I look forward to the debate on this, and again I indicate my support for the Hon. Sandra Kanck's amendment to extend this moratorium.

The Hon. M. PARNELL: I, too, support the second reading of this bill, the purpose of which is to extend the moratorium on the growing of genetically modified crops in South Australia for one additional year, so that the moratorium expires in 2008, instead of 2007. The bill also extends the time frame for the review of the act to be undertaken from the third anniversary of the act to the fourth anniversary of the act. I acknowledge the amendments foreshadowed by the Hon. Sandra Kanck. In fact, I have tabled my own amendments, which are very similar. The Hon. Sandra Kanck proposes an additional two years to be added to the moratorium. My amendment proposes an additional one year, so I am more than happy to support the Hon. Sandra Kanck's amendment, but perhaps as a fall-back position I will rely on my own.

I was pleased to present a petition to this parliament today signed by several hundred residents of South Australia. The petitioners make three requests to the Legislative Council, one of which is that the moratorium be extended to the year 2009. I have a feeling that I would probably disagree with the Hon. Caroline Schaefer in relation to genetically modified organisms, but I will line up with Caroline Schaefer absolutely and support one of the calls that she has made. In her contribution on 1 November she asked the minister to provide some details on when the Western Australian moratorium was to end. The Hon. Caroline Schaefer said, 'because I believe it is most important that all states that currently have such legislation are in concert when it comes to any future changes'. The Western Australian moratorium finishes in the year 2009, and so my amendments are clearly in accord with the concert for which the Hon. Caroline Schaefer has called.

Clearly there are problems with the current legislation. One of those problems is again highlighted in the petition to this parliament which calls for an end to the exemptions from the act, particularly in relation to the production of genetically

modified canola seed. In his second reading speech in another place minister McEwen said that 'at present, genetically modified food crops cannot be grown commercially anywhere in South Australia by virtue of the genetically modified crops management designation of areas regulations 2004'. However, I beg to disagree with the minister, because my advice is that the genetically modified canola so-called trials in South Australia have largely been seed bulking exercises, with these seeds being exported to the Canada and the United States for commercial use.

The trials have not tested the safety or performance of the crops but have, in fact, been commercial plantings, and I agree with the call to prohibit such exemptions. Most of us scoff when we hear of the Japanese and their scientific whaling; we all say, 'That is not really scientific, it is a guise for commercial operations.' I think the so-called trials under these laws fall into the same category. They are a sham; they are commercial operations, not trials.

The contamination of adjoining properties by genetically modified crops needs to be prevented and GM crops need to be adequately contained. That is not the case under the present arrangements. The existing moratorium has allowed for fairly large open-air trials of genetically modified crops, and these pose a serious risk of contamination; in fact, my understanding is that the GM canola trials in South Australia have led to contamination of the Grace canola seed. There does not appear to have been any attempt to have these trials held in contained facilities such as glasshouses to prevent pollen dispersal, yet the Office of the Gene Technology Regulator has guidelines in relation to this which could have been implemented in South Australian trials.

As the Hon. Nick Xenophon indicated, there is also a need for protection of farmers who choose not to use genetically modified seeds. Questions of liability have not yet been properly determined, and it is important to do so both for the benefit of the environment and also for the benefit of those farmers who choose not to grow the genetically modified crops. It is also important that we establish effective legal liability legislation so that, in the event of harm or contamination by genetically modified crops, the biotechnology companies behind the seeds and the growers who plant the seeds are liable to rectify damage caused. This is no different from our existing laws governing chemical trespass; if your chemicals trespass onto someone else's land you can be liable for that, and it should be no different when it comes to genetically modified crops spreading beyond where they were planted.

The environmental impacts of genetically modified crops are well known. One of the so-called benefits of these crops is that they can be developed to include herbicide resistance, and the effect of that is to encourage the use of herbicides. That has clear implications for soil health as well as for the problem of chemical spray drift. These herbicides are toxic to soil micro-organisms, fish, frogs, invertebrates and, of course, people. Herbicide-resistant crops can cross-pollinate between varieties and related weeds, leading to multiply-resistant weeds and the need for more toxic herbicides such as 2 4-D. Some lobbyists for the genetically modified crop industry extol the virtues and benefits of new varieties of GM crops currently being developed which, they claim, will be salt and drought tolerant. These advocates express a concern that we may be left behind and miss the opportunity to take advantage of these developments; however, so far these crops are not available to South Australian farmers and they are unlikely to be available for some time—in fact, the Hon. Sandra Kanck referred, I think, to five to 10 years.

There are alternatives to genetically modified crops to achieve these ends, such as the new drought-tolerant canola lines which have recently been developed in Victoria and which are not genetically modified. On 11 October the Victorian minister for innovation, John Brumby, a former opposition leader, announced that Victorian scientists had developed a new species of drought-tolerant canola that could make up to 1.5 million hectares of drought-prone farmland in Australia more productive and profitable. They are planning to release commercial quantities of that seed to farmers next year. We do not have to wait five to 10 years for genetically modified drought resistant canola to be developed. We have got the product just around the corner, with releases planned for next near.

The Genethics Network has been referred to already. An article in its last newsletter refers to the pro-GM roadshow, which is the one to which the Hon. Sandra Kanck referred. A series of six meetings was held in rural South Australia. The roadshow consisted of a panel of five pro-genetically modified panellists or lobbyists for the industry, organised by Heather Baldock. The newsletter article acknowledges that even those pro-GM panellists recognise concerns expressed by farmers if genetically modified plants contaminate crops. The legal liability issues and the legal ramifications are not clear, whether the contaminations be accidental, negligent or even deliberate. At the Jamestown meeting the industry speakers admitted that the drought resistant crops were at least five to 10 years away.

The lessons from North America have been alluded to already by the Hon. Nick Xenophon. We need to take those lessons seriously. There have been legal actions in Canada and the United States in relation to the escape of genetically modified crops, and we need to ensure that we do not have a repeat of those lessons here, in particular, ones where the victims are the ones who end up footing the bill for the GM crops having escaped onto their lands.

The market benefit alleged to flow from genetically modified crops is one of the furphies that is peddled by the industry. It has been said that there is no evidence of any premium being paid for non-GM grain, but the situation in Canada is that the provincial government of Alberta this year has had to provide $261 million to help farmers deal with falling canola prices. That is in spite of the fact, as the Hon. Caroline Schaefer said, that since Canada began trading genetically modified canola its sales have increased by 25 per cent. So, sales might have gone up but the provincial government still had to bail out the industry to the tune of $261 million—which is hardly a panacea for the economic woes of that agricultural region.

In Western Australia the Minister for Agriculture and Food (Kim Chance) posed a question in a media release about whether taxpayers should have to pay millions of dollars to help our farmers with the costs and price penalties that are involved in the production of genetically modified crops. The Australian canola crops that have been grown without genetic modification have received price premiums of up to $65 per tonne; and the Western Australia minister Kim Chance believes that the Australian non-GM premium is $50 per tonne more than the Canadian farmers are receiving. These are not figures I have come up with but, rather, the Western Australia minister. While the Canadians have been unable to sell all their crops, Australian farmers have had no trouble selling their entire non-GM crops.

The safety of GM crops is still not determined and, as a consequence, by applying the precautionary principle, we should not be growing them until they have been proved safe for human consumption. It will take many more years to establish that safety, hence the need for this bill and my amendments—or the Hon. Sandra Kanck's amendments—to further the moratorium. The review of the act, which is referred to in the bill, needs to be thorough and transparent. It is most important that the review be chaired by a person with scientific, health and consumer experience, who is independent of industry affiliations.

The third request of the petitioners who have prayed that this parliament take action in relation to genetically modified crops is that we have been called upon to commission state-funded scientific research into genetically modified organisms' health in the environment, in close consultation with the South Australian public and other governments. In March 2006, as part of the election campaign, the Rann government promised to support state-funded scientific research on the health and environmental safety of genetically engineered foods and crops, but nothing appears to have happened in fulfilment of that promise. This research is vital to enable us, as legislators and consumers, to be able to make decisions about the risks and benefits associated with allowing genetically modified crops to be grown in South Australia. I support and commend the second reading of this bill.

The Hon. D.G.E. HOOD: I rise to indicate the support of Family First for this bill. In 2004 my colleague the Hon. Andrew Evans, spoke about the primary act and expressed his concerns at that time regarding aspects of genetically modified crops and food. The 2004 act regulated the cultivation of GM crops to prevent adverse market outcomes that may occur due to unregulated introduction. Other states and territories have implemented similar legislation, with the exception of Queensland and the Northern Territory. At present, GM crops cannot be grown in South Australia by virtue of the Genetically Modified Crops Management (Designation of Areas) Regulations of 2004. Without this bill, that prohibition will expire on 29 April 2007. The 2004 act was originally to have been reviewed in April 2007. However, Victoria and New South Wales are reviewing their similar legislation in March 2008, and the Hon. Caroline Schaefer has said that Western Australia will also need to review its legislation soon.

From a federal perspective, in April the commonwealth announced its funding of eight separate studies to determine the future role of genetically modified crops in Australia. It is unlikely that those commonwealth government studies will be completed by April next year. However, they are likely to contain very valuable and important information. As you are well aware, Mr President, other jurisdictions are investigating whether the market and trade issues that resulted in the original acts are still valid, and a national consensus is desirable on this very important issue, from Family First's perspective. We believe that the government's proposal to adjourn our 2007 review until 29 April 2008 is sensible, so that a shared position can be reached by all participating states. We do not think that taking an extra year to consider such an important issue as GM crops is time wasted. I understand that the GM Crop Advisory Committee and the SA Farmers Federation, through the Gene Technology Task Force, also support the 12-month extension, which was important for us in reaching our decision on this matter.

The South Australian legislation does not deal with the health and safety aspects of GM crops. The responsibilities for these aspects are dealt with on a commonwealth basis under the Gene Technology Act 2000 by the Gene Technology Regulator. Nevertheless, we are still entitled to debate the ramifications of GM crops. I note the Hon. Rob Kerin's comments in another place, as follows:

> If leaders in the past had taken the same attitude to GM as some people have, I do not think we would have either motor cars or electricity.

I certainly appreciate the honourable member's position. I note that he also supports the delay and, in that regard, we are certainly in agreement. However, our technologies have not all been as successful as motor cars and electricity.

The Hon. R.I. Lucas: Motor cars have killed millions.

The Hon. D.G.E. HOOD: That is true. There have also been some disastrous failures, and perhaps rushing into new technologies, especially when they deal with things that we eat and drink, is a very dangerous concept, indeed. In fact, a brief examination of history reveals that some of the disasters that were at one time thought to be terrific advancements were, in fact, terrible developments. One example is the radiation fad of the early 1900s. Just over a century ago, radiation was in the spotlight and considered something that was healthy and revitalising. Of course, to the modern ear this sounds unbelievable. There was radon water, which was meant to improve vigour, along with thorium-laced medicine for digestion and uranium-lined water coolers, which were meant to ensure that your water always had that 'healthy glow'. I note that members of the chamber are laughing, but it was quite serious at the time, although, of course, it is very laughable today.

In the early years, even the scientific community were behind the idea that radiation was healthy. It is often said that for years people had been going to hot springs that often bubbled up with radon gas. Many of these springs had revitalising properties, which were attributed to the radon. We know today that their science was wrong. One American figure, Eben Byers, drank three bottles a day of prescription radium dissolved in water, and it was only when he died in an absolutely gruesome way in 1932 from radiation poisoning that the US Food and Drug Administration intervened. That is not to say that GM crops are the same as radiation—far from it—but, when it comes to the things we eat and drink, we should be very careful indeed.

I realise that the review will deal primarily with the marketing aspects of GM crops, with the commonwealth dealing with those associated with health; nevertheless, we should give the minister as much time as is needed for the appropriate deliberations in order to make what is a very important decision. I do not believe that there is any rush in such important matters. Canada has begun exporting GM canola (Roundup Ready canola) in competition with our farmers. However, at this stage, I do not think that our exports are suffering, or certainly that is what was indicated to us in our consultations. A one-year delay is not too much to help ensure that our call on this important topic is the right one. Accordingly, I indicate Family First's support for the bill.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank all honourable members for their considered contribution to this legislation to extend the period for review of the moratorium on the growing of genetically modified food crops in South Australia from 29 April 2007

to 29 April 2008 so that our state can better establish a cooperative model with Victoria and New South Wales. In this chamber in particular we have had a history of enormous interest in this legislation, and I almost feel as though I need to welcome the Hon. Mark Parnell to the debate, and I acknowledge his petition, which has been tabled. I also acknowledge the contribution of the Hon. Ian Gilfillan, and he is probably here in spirit today.

The Hon. Sandra Kanck: He's probably in the library!

The Hon. CARMEL ZOLLO: Yes—listening to us. I also acknowledge the Hon. Mr Hood's contribution. A question was asked by the Hon. Caroline Schaefer in relation to Western Australia, where there is no sunset clause. I am advised that, in Western Australia, the act is subject to review after December 2008. As to a review, my advice (if it has not already been placed on the record) is that section 29(1) of the Genetically Modified Crops Management Act 2004 requires the minister to cause a review of the act to be undertaken, and such review should explore whether the conditions that resulted in the act are still valid and, if so, whether there are alternatives to legislation to achieve the desired outcomes.

A review of the act in advance of a multijurisdictional consideration of market and trade issues has the potential to pre-empt efforts to achieve national consensus on these issues. Consequently, the South Australian government has initiated action to enable South Australia to work with Victoria and New South Wales, which must complete reviews of their respective regulatory arrangements by the end of March 2008, to develop a shared position on the regulation of GM food crops. The outcome of this process will inform the advice of the Primary Industries Ministerial Council to the Gene Technology Ministerial Council on the development of a consistent and transparent framework for the coexistence of non-GM and GM food crops. Such a framework will be available for adoption by states and territories, as appropriate. I note that two honourable members (Hon. Sandra Kanck and Hon. Mark Parnell) have tabled some amendments, and we will obviously go through those in the committee stage. Again, I thank all honourable members for their contribution.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. NICK XENOPHON: Further to my second reading contribution, could I get an undertaking from the minister which I can accept, so that it does not slow down the passage of this bill? I raised a number of questions about the number of trials and locations and issues of contamination. I would be quite happy with an undertaking to get a response in relation to those matters in due course, if that is possible.

The Hon. CARMEL ZOLLO: I understand that they are fairly complex questions. I undertake to ensure that the honourable member does receive a response.

The Hon. NICK XENOPHON: In a reasonable time?

The Hon. CARMEL ZOLLO: In a reasonable time frame.

The Hon. NICK XENOPHON: What is reasonable for one person may be unreasonable for another.

Members interjecting:

The Hon. NICK XENOPHON: I know the opposition is very cynical.

The Hon. CARMEL ZOLLO: My advice is that we can probably get answers to some of those questions off the website, and some we probably need to do a little bit of work on. We suggest possibly two to three weeks.

The Hon. SANDRA KANCK: The minister was not in the chamber when I made my second reading speech. Some of the questions I asked may, in fact, be covered in some of what the Hon. Nick Xenophon has just referred to. What I want to know is how this review will be conducted. Will it involve public consultation; will there be a discussion paper; and will there be some sort of a road show?

The Hon. CARMEL ZOLLO: My advice is that the department has drafted terms of reference, and the minister has sought advice from the GM Crop Advisory Committee. If the amendment is approved, the minister would seek cabinet approval for a review process. A discussion paper and the process have been discussed, but the fine detail has yet to be determined.

The Hon. SANDRA KANCK: Does that mean that we would be able to see the terms of reference, or is that something we will have to wait for cabinet to decide on?

The Hon. CARMEL ZOLLO: Terms of reference are normally a cabinet process. As that is the normal procedure, they would have to go to cabinet first for approval.

The Hon. SANDRA KANCK: Whatever the terms of reference, how is the public going to know about this?

The Hon. CARMEL ZOLLO: Subject to cabinet approval, the discussion paper will be released for a period of several months enabling stakeholders to respond. It will be well publicised through the media. I am aware that when the original bill was passed there was a series of public forums across the state. I am not certain whether that will be the case on this occasion, but certainly it will be well publicised through the media.

Clause passed.

Clause 5.

The Hon. SANDRA KANCK: I move:

Page 2, line 17—
Delete 'fourth' and substitute:
sixth

This extends the moratorium. The bill we have before us will extend it by one year to the end of April 2008. This amendment extends it to the end of April 2010; in other words, it makes it two years longer than this bill anticipates. I think it is important that South Australia takes the lead in this. As minister McEwen said in that *Stateline* interview, perhaps being the odd man out is not a bad idea in this circumstance. We have heard from the minister, when she was summing up, about the Western Australian act and the expiry date of its moratorium. I also point out that the ACT has an open-ended one. Mine is a little more conservative in its approach than that of the ACT. I am not saying I want an open-ended moratorium but I believe that, with the state of knowledge about GM technology, to extend this moratorium to the end of April 2010 is a very reasonable thing to do.

The Hon. M. PARNELL: I move:

Page 2, line 17—
Delete 'fourth' and substitute:
fifth

I will support the Hon. Sandra Kanck's amendment first and, if that amendment is unsuccessful, I will urge the committee to support my amendment. My reasons are primarily the same as those outlined by the Hon. Sandra Kanck. The difference in the two amendments is that I am looking for a further one-year extension to the moratorium whereas the Hon. Sandra Kanck's amendment calls for an extra two-year extension, but the reasons are primarily the same. The one-year extension will bring us closer to the Western Australian moratorium. We share a border with Western Australia, and that is a good

reason for us to try to be in concert (to use the Hon. Caroline Schaefer's words) with our adjoining state. I urge the committee to support the extension of the moratorium.

The Hon. CARMEL ZOLLO: Both amendments are very similar, and I indicate that the government will not be accepting them. We believe that our extension allows us to participate in a more timely debate in collaboration with Victoria and New South Wales. The extension sought by the two members will put us out of sync. Our extension, we think, will work best. It allows for further work on the important federal studies commissioned by the Department of Agriculture, Fisheries and Forests, which is looking at a range of issues associated with the impact of GM technology. Also, we believe that it will send a clear signal to the market and the scientific community of the importance we are placing on this issue for South Australia. As I said, we cannot accept the amendments. We believe that the government's amendment will work the best.

The committee divided on the amendments:

AYES (14)

Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Hood, D. G. E.
Holloway, P.	Hunter, I.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Schaefer, C. V.
Stephens, T. J.	Wade, S. G.
Wortley, R.	Zollo, C. (teller)

NOES (4)

Bressington, A.	Kanck, S. M.
Parnell, M.	Xenophon, N.

Majority of 10 for the ayes.

Amendments thus negatived; clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CHILD SEX OFFENDERS REGISTRATION BILL

The House of Assembly agreed to amendments Nos 1 to 4 and Nos 6 to 10 made by the Legislative Council without any amendment and disagreed to amendment No. 5.

EVIDENCE (SUPPRESSION ORDERS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT (EXTENSION OF PERIOD OF SCHEME) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 5.50 p.m. the council adjourned until Monday 20 November at 2.15 p.m.