PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Friday, 24 August 2018

(Extract from book 12)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

(from 16 October 2017)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier, Minister for Education and Minister for Emergency Services	The Hon. J. A. Merlino, MP
Treasurer and Minister for Resources	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Industry and Employment	The Hon. B. A. Carroll, MP
Minister for Trade and Investment, Minister for Innovation and the Digital Economy, and Minister for Small Business	The Hon. P. Dalidakis, MLC
Minister for Energy, Environment and Climate Change, and Minister for Suburban Development	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
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Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
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Special Minister of State	The Hon. G. Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Local Government	The Hon. M. Kairouz, MP
Minister for Families and Children, Minister for Early Childhood Education and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Police and Minister for Water	The Hon. L. M. Neville, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Training and Skills, and Minister for Corrections	The Hon. G. A. Tierney, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

Legislative Council committees

Privileges Committee — Mr Dalidakis, Mr Mulino, Mr O'Sullivan, Mr Purcell, Mr Rich-Phillips, Ms Springle, Ms Symes and Ms Wooldridge.

Procedure Committee — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Mr Bourman, #Mr Davis, Ms Dunn, Mr Eideh, Mr Finn, Mr Gepp, Mr Leane, #Mr Melhem, Mr Ondarchie, Mr O'Sullivan and #Mr Rich-Phillips.

Standing Committee on the Environment and Planning — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, #Ms Dunn, Mr Elasmar, Mr Melhem, Mr Mulino, #Mr Purcell, #Mr Ramsay, #Dr Ratnam, #Ms Symes, Ms Truong and Mr Young.

Standing Committee on Legal and Social Issues — #Ms Crozier, #Mr Elasmar, Ms Fitzherbert, Mr Morris, Ms Patten, Mrs Peulich, #Dr Ratnam, #Mr Rich-Phillips, Ms Shing, Mr Somyurek, Ms Springle and Ms Symes.

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

Fire Services Bill Select Committee — Ms Lovell, Mr Melhem, Mr Mulino, Mr O'Sullivan, Mr Rich Phillips, Ms Shing and Mr Young.

Joint committees

Accountability and Oversight Committee — (*Council*): Mr O'Sullivan, Mr Purcell and Ms Symes. (*Assembly*): Mr Angus, Mr Gidley, Mr Noonan and Ms Thomson.

Dispute Resolution Committee — (*Council*): Mr Bourman, Mr Dalidakis, Ms Dunn, Mr Jennings and Ms Wooldridge. (*Assembly*): Ms Allan, Mr Clark, Ms Hutchins, Mr Merlino, Mr M. O'Brien, Mr Pakula and Mr Walsh.

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Bourman, Mr Elasmar and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Ms Garrett and Ms Ryall.

Electoral Matters Committee — (*Council*): Ms Bath, Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon and Ms Spence.

Environment, Natural Resources and Regional Development Committee — (*Council*): Mr O'Sullivan, Mr Ramsay and Mr Young. (*Assembly*): Mr J. Bull, Ms Halfpenny, Mr Richardson and Mr Riordan.

Family and Community Development Committee — (*Council*): Dr Carling-Jenkins and Mr Finn. (*Assembly*): Ms Britnell, Ms Couzens, Mr Edbrooke, Ms Edwards and Ms McLeish.

House Committee — (*Council*): The President (*ex officio*), Mr Eideh, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O'Brien, Mr Richardson, Ms Thomson and Mr Wells.

Law Reform, Road and Community Safety Committee — (*Council*): Dr Carling-Jenkins and Mr Gepp. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

Public Accounts and Estimates Committee — (*Council*): Ms Patten, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

Scrutiny of Acts and Regulations Committee — (*Council*): Ms Bath and Mr Dalla-Riva. (*Assembly*): Ms Blandthorn, Mr J. Bull, Mr Dimopoulos, Ms Kilkenny and Mr Pesutto.

Heads of parliamentary departments

Assembly — Acting Clerk of the Legislative Assembly: Ms Bridget Noonan

Council — Acting Clerk of the Parliaments and Clerk of the Legislative Council: Mr A. Young

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President:
The Hon. B. N. ATKINSON

Deputy President:
Mr N. ELASMAR

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The Hon. J. L. PULFORD

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Deputy Leader of the Opposition:
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Leader of The Nationals:
Mr L. B. O'SULLIVAN

Leader of the Greens:
Dr S. RATNAM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John[1]	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina[2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David[8]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel[3]	Western Metropolitan	Ind	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	O'Sullivan, Mr Luke Bartholomew[9]	Northern Victoria	Nats
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Patten, Ms Fiona[10]	Northern Metropolitan	FPRP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin[4]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Ratnam, Dr Samantha Shantini[11]	Northern Metropolitan	Greens
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Gepp, Mr Mark[5]	Northern Victoria	ALP	Shing, Ms Harriet	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred[6]	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph[7]	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Truong, Ms Huong[12]	Western Metropolitan	Greens
Melhem, Mr Cesar	Western Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
			Young, Mr Daniel	Northern Victoria	SFFP

[1] Resigned 28 September 2017
[2] Appointed 15 April 2015
[3] DLP until 26 June 2017;
AC until 3 August 2018
[4] Resigned 27 May 2016
[5] Appointed 7 June 2017
[6] Resigned 9 February 2018
[7] Resigned 6 April 2017
[8] Resigned 25 February 2015
[9] Appointed 12 October 2016
[10] ASP until 16 January 2018;
RV until 14 August 2018
[11] Appointed 18 October 2017
[12] Appointed 21 February 2018

PARTY ABBREVIATIONS

AC — Australian Conservatives; ALP — Labor Party; ASP — Australian Sex Party; DLP — Democratic Labour Party; FPRP — Fiona Patten's Reason Party; Greens — Australian Greens; Ind — Independent; LP — Liberal Party; Nats — The Nationals; RV — Reason Victoria; SFFP — Shooters, Fishers and Farmers Party; V1LJ — Vote 1 Local Jobs

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FRIDAY, 24 AUGUST 2018

Friday, 24 August 2018

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Reporting date

The PRESIDENT (09:35) — Members, I just wish to mention a couple of things at the outset. The first is that I have received a note from Mr Geoff Howard in another place indicating that the Law Reform, Road and Community Safety Committee, of which he is the chair, now intends to table its report on the inquiry into the Crimes Amendment (Unlicensed Drivers) Bill 2018 on Tuesday, 18 September. It had been anticipated that that report would be tabled this week, but due to the committee finalising the report it will now be tabled in September.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION COMMITTEE

Reporting date

The PRESIDENT (09:36) — I have been advised by Sandy Cook, the executive officer of the Independent Broad-based Anti-corruption Commission Committee, on behalf of Kim Wells, the member for Rowville in the other place and chair of the committee, that that committee will be tabling its final report on its inquiry into the external oversight of police corruption and misconduct in Victoria on Tuesday, 4 September. Again, that report was scheduled to be tabled this week but will now be tabled in the next sitting week.

BUILDING AMENDMENT (REGISTRATION OF BUILDING TRADES AND OTHER MATTERS) BILL 2018

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), I make this Statement of Compatibility with respect to the Building Amendment (Registration of Building Trades and Other Matters) Bill 2018.

In my opinion, the Building Amendment (Registration of Building Trades and Other Matters) Bill 2018 (**Bill**), as introduced to the Legislative Council, is compatible with human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the *Building Act 1993* (**Principal Act**) to extend the registration scheme to specific trades, by providing for the provisional registration of builders and the licensing of building employees who perform certain building work. The Bill clarifies the grounds for certain disciplinary sanctions for building practitioners and provides further for the regulation of swimming pools and spas.

The Bill also amends the *Local Government Act 1989* to insert provisions that enable local Councils to enter into Cladding Rectification Agreements (**CRAs**) with owners or owners corporations, and lenders, in respect of rateable land. A CRA is a new type of agreement that allows for a lender to advance funds to owners or owners corporations to fund the rectification of non-compliant cladding, and allow the ongoing liability to transfer from owner to owner (allowing units to be sold and the cost of rectification to be spread over a number of years). The lender is then reimbursed via the Council rates system, with the Council able to levy a cladding rectification charge on relevant rateable land. This provides for more favourable loan rates and durations (of at least ten years) than direct private financing. Consistent with the current threshold requirements under the *Owners Corporations Act 2006*, owners corporations will be able to enter into CRAs on behalf of the owners, subject to having approval from 75% of those owners.

These provisions reflect some of the key recommendations of the Victorian Cladding Taskforce, with the intention of supporting owners and owners corporations to be able to afford the cost of rectifying cladding from their buildings, recognising that access to affordable finance and the high cost of repair, including the cost of litigation, will be a key barrier to rectification. The Bill further implements the recommendations of the Victorian Cladding Taskforce by enabling the Minister to declare that certain cladding products are prohibited from being used in building work, and providing for authorised persons to conduct destructive testing in certain circumstances to determine non-compliant use.

The Bill also makes minor and consequential amendments to other Acts.

Human rights issues

The human rights protected by the Charter that are relevant to the Bill are:

The right to privacy and reputation (section 13);

The right to freedom of expression (section 15);

Property rights (section 20);

The right to a fair hearing (section 24);

The right to be presumed innocent (section 25).

Right to privacy and reputation

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have their reputation unlawfully attacked. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought.

A number of clauses in the Bill provide for minor interferences with privacy; however, in my view none of these interferences are either unlawful or arbitrary and accordingly do not limit the right to privacy.

Obtaining the personal information of applicants

Clause 21 inserts new Part 11A into the Principal Act, which provides for the licensing of building employees. An application for a building employee licence must be in an approved form and accompanied by a recent photograph and any prescribed information. The Victorian Building Authority may, in considering an application, conduct inquiries and require the applicant to provide further information in relation to the application. The Authority may also ask the applicant to consent to the disclosure of information that the Authority requires to perform a check on the applicant. This may include information relating to the applicant's qualifications and experience. The applicant must notify the Authority of any material changes to the information provided before the application is determined.

The Bill also inserts a requirement that applications for registration as a building practitioner must be accompanied by a recent photograph of the applicant.

Although the right to privacy is relevant to the provisions governing licence and registration applications, applicants who are seeking to participate in a regulated industry have a diminished expectation of privacy. The information that will be initially sought by the Authority is only information that is necessary for or relevant to the determination of the application. Further, the applicant is required to provide consent before information is disclosed to the Authority to be checked or verified. As such, in my opinion there will be no limitation on the right to privacy or reputation where the relevant information is obtained, reviewed and shared within the confines of the relevant provisions.

Ongoing reporting obligations and inquiry powers

New sections 187L and 187O require licensed building employees to provide a statement to the Authority periodically, containing any information and documents required by the Authority and to produce their licence certificate for inspection if asked to do so by certain people. New section 187R provides that the Authority may make inquiries to determine whether a ground exists for taking disciplinary action against a licensed building employee under Division 2 of Part 11A. This mirrors the Authority's current powers of inquiry under the Principal Act in relation to registered building practitioners. Once the Authority believes that a ground for taking disciplinary action exists and proposes to take that action, the Authority must give the licensed building employee a show cause notice under new section 187S, inviting the employee to show why the proposed action should not be taken. This may require the employee to provide personal information.

The circumstances in which the mandatory reporting obligations and inquiry powers apply are clearly set out in the Bill, and are aimed at ensuring that the licensing scheme operates in both a responsive and proactive manner. To the extent that these provisions could be considered to interfere with a person's privacy, the interference would not constitute an unlawful or arbitrary interference. The power to make inquiries in relation to potential contraventions of the Bill is necessary for the Authority to be able to effectively monitor and enforce compliance with the scheme, which operates to ensure that building work is carried out by appropriate qualified persons in a safe and competent manner.

Clause 32 inserts new section 25AA, which provides that a person who becomes the owner of land that is subject to a building permit that has been suspended because the owner-builder on the permit no longer owns the land may notify the relevant building surveyor if the remaining building work is to be carried out by an owner-builder. Such notice must include the name and address of the new owner and any person issued with a certificate of consent to carry out the remaining building work under the permit. Further, where an owner or builder is required by a building order or emergency order to arrange for a building product or material to be subjected to destructive testing, they must provide the results to the municipal building surveyor or other authorised person within a specified time.

These notification requirements ensure that critical information is passed on to the relevant building surveyor. A change in ownership of land subject to a certificate of consent is highly relevant as the transfer of the land will trigger the expiry of the certificate of consent and the suspension of the related building permit, which are both linked to the specific owner-builder. The results of destructive testing of building products or materials are essential for authorities to be able to take appropriate action to administer and enforce the regulatory scheme. To the extent that the above notification obligations will interfere with privacy by requiring the disclosure of personal information, any such interference will be lawful and not arbitrary, and will therefore be compatible with the right to privacy.

Information sharing

Under new section 187Y, the Authority must give notice of a decision in relation to disciplinary action against a licensed building employee to any person who made a complaint

about the matter, and to the employer of the licensed building employee. This section will engage, but not limit, the right to privacy and reputation under section 13 of the Charter. Information to be provided by the Authority is limited to the Authority's decision, and may only be provided to specific persons or entities who may be reasonably expected to be informed of the outcome of the disciplinary process. For these reasons, and given the reduced expectation of privacy in the regulatory context, any interference with privacy and reputation occasioned by this provision will be lawful and not arbitrary.

Registers

New section 187N requires the Authority to keep a register of building employees that contains prescribed particulars, as well as the names and classes of licence of persons licensed under Part 11A. This register is similar to that which already exists under the Principal Act in relation to registered building practitioners. The purposes of the register include recording necessary information to monitor compliance with the licensing scheme and to allow the Authority to fulfil its obligations. The register will also make information about licence-holders available to the public, which serves the important purpose of promoting transparency and protecting consumers by enabling them to check whether a person is licensed and whether there is any relevant disciplinary history.

Not all of the information disclosed in the register will be of a private nature. Nevertheless, to the extent that the right to privacy is relevant to the information required to be listed on the register, I believe that any interference with that right is lawful and not arbitrary. The particulars which are to be listed on the register will be set out in regulations, and their listing is therefore a known condition of any person seeking to be licensed as a building employee. The collection and publication of information on the register is necessary for and tailored to ensuring compliance with the licensing scheme and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy.

Clause 28 inserts new section 216D, which requires each council to establish and maintain a register of swimming pools and spas located in the municipal district of the council. The register must contain prescribed information, and will include pools and spas that are registered with the council, as well as any pools and spas located in the municipal district of which the council is aware. The register may be inspected by owners or occupiers of land in the municipal district in which a swimming pool or spa is located; swimming pool and spa inspectors in relation to a barrier that the inspector has been engaged to inspect; authorised persons who are municipal building surveyors; and prescribed agencies or bodies if the inspection is necessary for the performance of their functions. Where information recorded in the register is necessary for the performance a function of the Authority or a prescribed agency or body, the council must submit that information to that entity on request in the prescribed manner. The Authority may publish information on its website about the number and types of swimming pools and spas in the municipal district in general terms but must not disclose details of any owner or specific location or a swimming pool or spa. Further, the council must ensure that no information in the register is published or made available to any other person, agency or body, other than in accordance with new section 216D.

The establishment and maintenance of a register of private swimming pools and spas is intended to facilitate inspections to ensure compliance with relevant safety requirements. Only limited personal information may be shared between regulators where necessary for the performance of their functions, and will not be made public. Further, occupiers and owners of land on which a swimming pool or spa is located will only be able to inspect the register in relation to information recorded in the register about that swimming pool or spa. To the extent that the right to privacy is relevant to the information required to be listed on the register and shared with authorised bodies, I believe that any interference with the right is lawful and not arbitrary. The collection and publication of information on the register is necessary for and tailored to ensuring compliance with safety requirements, and accordingly does not constitute an arbitrary interference with privacy.

Disclosure requirements prior to entering into CRAs

Clause 79 inserts new section 185K into the Local Government Act, to provide that before entering into a CRA, a relevant owners corporation must provide to the relevant Council the names and postal addresses of all the lot owners of the building and which of those lot owners have agreed to the owners corporation entering in to the CRA. This provision may interfere with the privacy of individual lot owners. However, it is the role of an owners corporation to manage the common property of certain buildings. It is to be expected by lot owners that in performing its management functions (including entering into contracts and other agreements) and discharging its relevant obligations, owners corporations will need to collect and in some circumstances disclose information about each lot owner. Any expectation of privacy on the part of lot owners must therefore be minimal. Further, in the context of this Bill, the Council needs this information in order to discharge the obligations imposed on Councils before entering into any CRAs (referred to below). In my view, the requirement on an owners corporation to provide this information to Councils is clear, foreseeable and reasonable, and therefore does not amount to a limit on the right to privacy.

The Bill also requires individual lot owners to disclose certain information prior to a CRA being entered into. New section 185J inserted into the Local Government Act provides that at least 28 days before entering into a CRA, the owner of the rateable land or owner of each separate lot (as the case may be) must notify any existing mortgagee of the intention to enter into the CRA and the details of all cladding rectification charges that are expected to be declared by the Council in respect of the land. Further, the Bill provides that a Council must not enter into a CRA unless the Council is satisfied that the total debts on any rateable property do not exceed the expected value of the property; to this end, new section 185J provides that the Council must give a notice to relevant owners or lot owners requiring them to provide to the Council details of all debts on the land. However, to the extent that these provisions require disclosure of personal information, in my view any interference with the right to privacy is lawful and not arbitrary. The requirements are clear and are designed to ensure that CRAs are only entered into where it is financially appropriate and feasible, and to promote transparency.

Freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression. Section 15(3) of the Charter provides that special duties and responsibilities are

attached to the right to freedom of expression and that the right may be subject to lawful restrictions reasonably necessary to respect the rights of other persons and for the protection of national security, public order, public health or public morality.

A number of the provisions discussed under the right to privacy above may also engage the right to freedom of expression, which may include a right not to impart information. Further, clause 9 inserts new subsection 169(2) into the Principal Act, which may interfere with the right to freedom of expression by prohibiting a person who is provisionally registered from representing or implying that they are fully registered.

I consider that these provisions enable appropriate oversight and monitoring of compliance with the Bill, and are reasonably necessary to protect members of the public from poor or unsafe building work and to uphold the integrity of the registration scheme. Therefore, to the extent that the freedom of expression may be relevant, these provisions fall within the exception to the right in section 15(3) of the Charter, as reasonably necessary to respect the rights of other persons and public health.

Right to property

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

The Bill permits destructive testing to be conducted on a building product or material in certain circumstances:

> Where an authorised person exercising a power of entry under existing sections 228D, 228E or 228J of the Principal Act believes on reasonable grounds that the use of the building product or material in or on the building or land is connected with a contravention of the Act or regulations, or has seized or sampled the building product or material from the building or land. Under the Principal Act, material may only be seized or sampled in limited circumstances, such as if it presents a risk to the life, safety or health of any person, or is connected with a contravention of the Act. The existing powers of entry are confined to circumstances where the entry is necessary for the purpose of determining whether the Act or regulations are being complied with, or in emergency cases where public safety is at risk.
>
> Where a warrant issued by a magistrate that enables an authorised person to enter or search a building or land (including that used for residential purposes) authorises the person to conduct or arrange destructive testing on a building product or material if they reasonably believe the use of the product or material is connected with a contravention of the Act or regulations.
>
> Where an authorised person, pursuant to section 228O, seizes or samples a building product or material that is not mentioned in a search warrant, they may conduct or arrange destructive testing on the material.
>
> Where it is required under an emergency order or a building order if the municipal building surveyor making the order believes on reasonable grounds that the use of the building product or material is connected with a contravention of the Act or regulations. The testing must be carried out by a prescribed testing body and is subject to the safeguards applicable to those orders, for example, that an emergency order may last for a maximum period of 48 hours and that any representations by the owner must be considered by the relevant building surveyor before making a building order.
>
> A court may also grant an injunction under section 234E of the Act enabling a person to carry out or arrange destructive testing.

Testing a material in a way that is likely to cause the destruction of that material engages the right to property under section 20 of the Charter. However, in my view, any deprivation of property occasioned by the carrying out of destructive testing will be in accordance with law and therefore compatible with the Charter. Destructive testing is often the only conclusive means of determining whether a cladding product is non-compliant and is therefore necessary for the effective administration and enforcement of the regulatory scheme, which has significant implications for public safety. The circumstances in which the power to conduct such testing may be exercised are clearly set out and confined to situations in which an authorised person has a reasonable belief that the testing is necessary to determine potential non-compliance with the Act or regulations. Accordingly, these provisions are compatible with the right to property under the Charter.

Fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

New section 187Z provides that a person is not liable for any loss, damage or injury suffered as a result of the person lodging a complaint with the Authority in relation to a licensed building employee or producing information or evidence to the Authority. This section provides complainants with a general immunity from liability. The limitation of that liability confines claims that might otherwise have existed under statute or general law. As such, it affects the substantive content of legal rights which may otherwise exist in limited circumstances, rather than limiting a person's access to the court to determine existing rights. For these reasons, I consider that this provision does not engage the right in section 24.

Presumption of innocence

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

Clause 23 of the Bill inserts new subsection 239(2), which provides that a certificate of the Registrar of the Authority specifying the class of licence of a person, whether a person is recorded on the Register of Building Employees or that a licence certificate has been issued in respect of a person is

evidence and, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

Clause 23 operates to treat matters that are certified by the Authority as evidence of the matters stated. As this requires an accused to raise evidence to demonstrate that they have not been issued with a licence certificate, for example, this provision may be viewed as engaging the right to be presumed innocent by placing a burden on the accused. However, this provision does not create a legal burden on an accused to disprove the matters certified so as to limit the right. The prosecution must still prove the essential elements of the offence to a legal standard. The purpose of the provision is to streamline prosecutions under the Bill, and to reduce cost and delay by avoiding the necessity for evidence to be led about certain non-controversial matters. Giving an accused an opportunity to challenge that evidence by introducing contradictory evidence is a beneficial provision. It will then be up to the Court to assess the probative value of the competing evidence. For the above reasons, I am satisfied that clause 23 does not limit the right to be presumed innocent in section 25(1) of the Charter.

The Hon. Philip Dalidakis, MLC
Minister for Trade and Investment
Minister for Innovation and the Digital Economy
Minister for Small Business

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (09:39) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Bill amends the *Building Act 1993* (Building Act), to further implement the government's commitment to improve the regulatory regime in the building and construction industry.

The main purposes of the Bill are to:

provide a framework to prescribe types of building work that can only be carried out by tradespeople who hold the requisite skills and experience, whether they be trade contractors or trade employees, subject to appropriate transitional arrangements;

amend some disciplinary provisions in the Building Act;

ensure that registered building practitioners are always fit and proper persons;

improve regulation of swimming pool and spa barriers;

provide capacity to require a continuing professional development scheme for plumbers;

give the Minister for Planning power to ban high risk cladding products;

provide regulators with destructive testing powers;

clarify that building notices can be issued after the issue of an occupancy permit;

provide that the Minister for Planning can specify a class of buildings for which the Victorian Building Authority (VBA) can act as a municipal building surveyor;

make amendments to the provisions for directions to municipal and private building surveyors;

amend the *Local Government Act 1989* to provide a low-cost financing option for individual lot owners and owners corporations to fund cladding works; and

make minor technical amendments.

Registration and licensing changes

The Bill introduces a new scheme for the registration of sub-contractors (also known as 'trade contractors') and the occupational licensing of employees. Registration or a licence will be required to perform restricted building work as prescribed by the regulations. The new scheme will apply in both the domestic and non-domestic (commercial) sectors of the industry.

The end goals of the new scheme are that:

All trade contractors are registered as building practitioners (as domestic building limited (DBL) or, where appropriate commercial building limited (CBL)) and this registration entitles them to carry out the restricted building work.

All employees who perform restricted building work hold a full employee licence (not just a provisional licence) and this licence entitles them to carry out the restricted building work.

The policy objectives are that:

There is greater accountability for non-compliant work through the application of appropriate disciplinary processes;

There is confidence that people who carry out or perform restricted work have adequate qualifications, skills and experience to do so;

Incentives for skills formation in the building industry are improved (including completion of apprenticeships);

There is relative consistency between the approach taken to trade contractors and building trade employees so as not to create incentives, for the replacement of employees by trade contractors, including the use of 'sham' contracting arrangements;

The incidence of non-compliant building work is reduced.

The new scheme will be delivered because offences under the Act will prohibit the carrying out building work of a prescribed class or type ('restricted building work') without the required trade contractor registration or employee licence.

The new scheme requires the transition of potentially large numbers of largely unregulated persons into regulation under the Act.

Because there are believed to be significant numbers of people working in the industry without formal qualifications, or formal recognition of prior learning, and to avoid creating or exacerbating a skills or labour shortage, provisional registration will be available to trade contractors and provisional licences will be available to employees.

A period of one year, after the commencement date, will be given to apply for provisional registration or a provisional licence ('the application period'). If a person applies during the application period they can continue working until their application is decided.

After the application period expires new entrants wishing to perform restricted building work will need to have full registration or a full employee licence-provisional registration or a provisional employee licence will not be available.

The detail of the requirements for provisional registration or licensing will be prescribed following consideration in a RIS. Applicants will be required to have knowledge or experience as prescribed by the regulations but this will not be the same level of formal qualifications or recognition of prior learning as required for full registration or a full employee licence. However, provisionally registered trade contractors and provisionally registered employees will be expected to upgrade to full registration or a full licence within 5 years. Accordingly, provisional registration or provisional licences will last for five years. This period can be referred to as the 'qualifying period'. After expiration of this qualifying period the appropriate full registration, or full licence in the case of employees, will be required to carry out the restricted building work.

The default commencement date for the new scheme is 1 September 2020. This is approximately two years from the estimated date of passage. This period is required for completion of a Regulatory Impact Assessment (RIS) process and the making of new regulations.

Priority areas for consideration of restricted building work are likely to include carpenters (and framers), plasterers, footing and foundation workers, bricklayers, and water proofers.

The RIS will be required to consider:

priority areas for the creation of restricted building work and the criteria for this;

exemptions from restricted building work which may be based upon financial thresholds and/ or class of building and/or class or person performing the work;

criteria for provisional registration or licensing;

means of attaining, or demonstrating, further qualifications or experience over time;

whether a plan, including steps required to transition from provisional registration or licensing to full registration or licence, should be required to be granted provisional registration or licensing, and if so, the contents of such plans;

the staging of introduction of different classes of restricted work categories or classes including consideration of the load this will impose on the Victorian Building Authority ('the Authority');

fees for provisional registration and employee licensing;

any transitional issues not included in the Bill.

There is an important distinction between registration as a building practitioner and an employee occupational licence.

Both registration and the employee occupational licence confer a right to physically perform the restricted work. But registration may also confer the right perform certain business functions, including for example, the right to enter into a major domestic building contract, or to be named as a builder on a building permit.

An employee occupational licence confers no business-related functions.

Provisional registration will not confer all the business-related functions of full registration. For example, a provisionally registered trade contractor will not be able to enter directly into a major domestic building contract with a consumer. Full registration is required for this.

Being named as the builder on a building permit results in an important duty. The builder named on the building permit is responsible for ensuring the compliance of building work, including building work carried out on that builder's behalf by sub-contractors, or by employees of the builder or the sub-contractor.

At common law the builder/head contractor is contractually liable to the principal for any defects but may have rights of recovery against trade sub-contractors. These common law arrangements will not be affected by any requirement on sub-contractors to be registered.

Further if a disciplinary charge is sustained against a builder named on the building permit, for failing to ensure the compliance of building work, there is no intention, arising from these amendments, that the disciplinary sanction should be diminished merely on the basis that a trade-contractor might also share some responsibility for that non-compliant building work.

What the government has accepted is that the fulfilment of the duty of the builder named on the building permit to ensure compliance, can be assisted if the trade-contractor can also be held accountable for non-compliant work through disciplinary processes.

The duty of the head builder may also be assisted if there is greater assurance that the sub-contractor has the requisite skill to satisfactorily perform the work in the first place.

The terminology under the Building Act is confusing. In the longer term, the Act needs to use more consistent terminology.

In the plumbing context, the licensing of a plumber confers business functions and responsibilities such as the certification of compliance of work over $750, supervision of registered plumbers and apprentices and the requirement to hold insurance.

Registered plumbers are generally employees but registration is required for them to perform regulated plumbing work. This is akin to an occupational licence.

In the building context registration as a building practitioner confers business functions. For example, appropriate registration and insurance is required to enter into a major domestic building contract.

There is no equivalent provision for an occupational licence in building as occurs with the requirement for an employee plumber to be registered to perform regulated plumbing work.

The amendments to the Act create the potential for prescribed types of building work to only be performed by employee tradespeople with the appropriate qualifications and experience.

New regulatory framework for swimming pools and spas

The Victorian Coroner has made several recommendations relating to the establishment of a register for pools or spas, most recently in May 2017.

To respond to the Coroner's recommendations and improve the regulation of swimming pools and spas, the Bill:

introduces amendments to require councils to keep and maintain a swimming pool register in accordance with regulations to be made under the Building Act;

creates a new category of registered swimming pool inspector; and

provides sufficient powers to make regulations requiring owners to undertake mandatory periodic self-assessment of pool barrier compliance and independent assessment of pool barrier compliance.

There are three pool barrier standards in Victoria which apply depending on the date of construction of the pool. However, information received from both councils and the private sector suggests that it is probable that the level of compliance with each of the required pool barrier standards is very low. Causes for non-compliance include fence boundary changes due to wear and tear, landscaping and house alterations, overgrown trees, worn out hinges and components, and ground movements causing connections, posts and latching components to move.

Analysis of data from the Coroner's Court indicates that, apart from the key issue of adult supervision of young children around pools, the greatest risk factor for drowning of toddlers is non-compliance with any of the existing three standards rather than whether the most recent standard is in place.

The regulations to be made after passage of the Bill, will be fundamental in establishing the new framework and will be subject to RIS analysis. However, the timing for making these regulations is uncertain at this time and dependent on the level of analysis required.

In the meantime, the government has requested that the VBA create a voluntary register and an online interactive pool and spa barrier self-assessment tool. This will enable pool owners to take voluntary action to achieve pool barrier compliance, ahead of the commencement of any new mandatory framework.

After the introduction of the new framework, there will be ample opportunity given to pool owners to bring pools into compliance before enforcement action is taken. The registration, inspection and self-assessment processes will also provide an opportunity to reinforce key messages about the importance of adult supervision of toddlers around swimming pools.

Breach of Dispute Resolution Orders (DRO)

Domestic Building Dispute Resolution Victoria (DBDRV) was established to resolve building disputes without the cost and time often associated with courts and tribunals. As part of the dispute resolution process, it has power to issue a dispute resolution order (DRO) that can require a builder to rectify defective building work. A DRO can also require payment to a builder or payment into trust pending rectification.

DRO's can be appealed by either party to VCAT. If a builder breaches a DRO, this can result in DBDRV issuing a breach of DRO notice to the builder. If a builder believes he or she has not breached a DRO, application for review of the DRO breach notice can be made to VCAT.

The Bill includes a new ground for discipline where a breach of DRO notice has been issued to a builder and the builder has failed to seek review of the notice in VCAT within the time required.

The amendment requires the VBA to take disciplinary action within 28 days and to suspend, or partially suspend, the building practitioner's registration. It can do this based solely upon the evidence of the breach of DRO notice, and must do so unless the builder demonstrates why review at VCAT was not sought within the time required.

The Bill provides that the VBA may not accept an undertaking from a builder to comply with a DRO during a disciplinary proceeding where notice of a breach of the DRO has been given. This is because, at this stage, the builder will already have had an opportunity to negotiate with the owner, comply with the DRO or challenge the DRO in VCAT, and to challenge the breach of DRO notice in VCAT.

However, the VBA will be able to accept an undertaking from a builder to seek an extension of time for applying to VCAT for review under the circumstances outlined in the Bill. It would then be up to VCAT to decide whether to grant the extension of time under section 126 of its enabling Act. The intention would be that the disciplinary proceeding by the VBA would cease if VCAT granted an extension but would resume if the application for the extension failed.

Partial suspension is justified where a builder does not seek review of a DRO breach notice at VCAT because the builder has been issued a DRO breach notice by DBDRV and has not sought review of that notice at VCAT. This poses an unacceptable risk to potential domestic building consumers. In this case, the builder has demonstrated that they have performed defective work and is not prepared to either rectify the work or challenge the finding that the work is defective in the appropriate forum.

If the breach notice is cancelled, the ground for discipline no longer exists and any suspension is automatically lifted. The partial suspension can also be lifted if the builder satisfies the VBA that the builder has rectified the work or arranged for rectification, paid compensation or has agreed to do so or has reimbursed an insurer or agreed to do so.

Immediate suspension of registered building practitioners on public interest grounds

The Bill provides for the VBA to be able to immediately suspend a registered building practitioner on public interest grounds including, for example, where a registered building practitioner who has repeatedly shown a disregard for public health and safety considerations or a lack of concern for potential damage to neighbouring properties.

Building practitioners who no longer meet the 'Fit and Proper Person' test

The Bill contains a provision that where a disciplinary body (which includes both VBA and the Victorian Civil and Administrative Tribunal (VCAT)) makes a finding that a registered building practitioner is not a fit and proper person it must cancel their registration, either in a specific category or class or all categories or classes.

The Bill overcomes VCAT and Supreme Court decisions that lead to the conclusion that suspension, rather than cancellation of registration, is a disciplinary sanction which is open even if a person has been found not to be a 'fit and proper person' to be registered.

If only suspended, a person can resume practising as a registered building practitioner upon the completion of suspension without having to reapply for re-registration. If registration is cancelled the person must reapply for registration, which means the person would have to satisfy the VBA that the person is now a fit and proper person for registration.

The government's intention is that the fit and proper person test is not a 'point in time' test that only applies at the time of registration. It is an ongoing requirement for registration. Accordingly, the Bill provides that if a disciplinary body makes a finding that a person is not a fit and proper person to be registered, it must cancel the registration.

Continuing Professional Development scheme for plumbers

As a part of the development of the new Plumbing Regulations, the government has identified a priority legislative reform to improve professional development for plumbers to be included in the Bill.

The reform will enable a continuing professional development (CPD) scheme for registered and licensed plumbers. This reform is a key mechanism to ensure practitioners' skills and training are keeping pace with changes to industry, and will allow the VBA to consider whether an applicant has complied with prescribed CPD requirements in assessing an application for renewal of registration. It will also provide for consistency in CPD schemes between plumbers and builders.

Following passage of the Bill, regulations will be required to operationalise the CPD scheme for registered and licensed plumbers. This will be subject to analysis through a comprehensive RIS process.

Power for the Minister to ban high risk cladding products

The Bill includes amendments to address the Victorian Cladding Taskforce's Interim Report recommendation to implement priority measures to prevent the use of aluminium composite panels (ACP) with a polyethylene core (as agreed at the Building Ministers' Forum) and expanded polystyrene (EPS) cladding, for class 2, 3, or 9 buildings of two or more storeys, and class 5, 6, 7 or 8 of three or more storeys.

The amendment will provide the Minister for Planning with the power to declare a ban on the use of a combustible external wall cladding product which would be published in the Government Gazette and the notice placed online.

The declaration will outline what products are the subject of the ban, which would need to fall within the definition in the Building Act of high-risk external cladding products. Once gazetted, the declaration would have the effect of law and would come into effect on the day specified by the Minister for Planning in the notice imposing the ban.

The Bill proposed a new definition be included in the Building Act that states what is meant by an external wall cladding building product to ensure the power is not applied to all building products. The Bill then defines what a high-risk external cladding product is — for example, a combustible building product that is or will provide a risk of death or serious injury arising from its use, whether it is to occupants of the building or neighbouring buildings, the public or any property.

Therefore, if the Minister for Planning believes a particular type of external wall cladding product presents a safety risk as per the definition then he can declare its ban. Any ban imposed can apply to specific uses, specified or classes of buildings, persons (builders, owners, architects, engineers, etc) who undertake building work, and be subject to conditions.

It is proposed that regulations could prescribe other circumstances in which a safety risk is posed by the use of such a product in a building.

These reforms will replace the existing interim Ministerial Guideline (MG-14) by providing a more permanent and robust ability for the government to prohibit the use of these types of products. The prohibition on the non-compliant use of these products will now be contained in the Building Act, which will also mandate compliance and provide consequences for not complying with the guideline.

The Minister for Planning would need to declare a ban by publishing it in the Government Gazette and by placing a notice online at least 48 hrs prior to the ban's effect, unless the nature of the risk is too serious to delay. Reasons for the ban will need to be outlined in the declaration.

The Minister for Planning has the discretion to seek submissions from the public on a particular cladding product by publishing a notice on the internet prior to issuing a ban. Consultation may be used to seek views as to whether the ban is warranted and the terms of the ban.

The Minister for Planning could also delegate this power to the VBA or to an officer of the Department of Environment, Energy, Land, Water and Planning. The Minister will also have power to revoke or issue new bans as new products or the state of knowledge improves about the products — it is flexible.

The VBA and the municipal building surveyor will have the powers to enforce compliance with the prohibition utilising existing offence and practitioner discipline provisions of the

Building Act, including fines of up to $400 000 or 5 years imprisonment.

Power for the Minister to issue directions to municipal building surveyors and private building surveyors

The Bill amends the Building Act to provide the Minister for Planning with the power to issue Ministerial Directions to municipal building surveyors or private building surveyors that relate to their functions under the Building Act or regulations made under that Act. Any direction must be published in the Government Gazette. A municipal building surveyor or private building surveyor must comply with the direction, provided it is not inconsistent with the Building Act or regulations.

Enhancing the powers of the VBA

The following Bill amendments are aimed at improving the ability of the VBA to act as an effective and efficient regulator for the purposes of rectifying the use of non-compliant combustible cladding in Victoria.

Destructive testing powers

Amendments to the Building Act related to information gathering came into effect on 31 January 2018, but they are silent on whether the new seizure and sampling powers allow for the VBA to conduct destructive testing which many modern regulators are able to undertake.

The Bill therefore contains an amendment to the Building Act to provide an explicit power to enable a municipal building surveyor, private building surveyor or an authorised person to take samples of building products and destructively test them, if necessary, to determine if their use is non-compliant with the Building Act or regulations.

The Bill provides that 'authorised persons' can destructively test any building product or material which has been examined, seized or sampled if the authorised person suspects on reasonable grounds that the building product or material is connected with a contravention of the Building Act or the regulations. However, the Bill provides safeguards by limiting the power to examine or test only where there is a reasonable belief that it is reasonably necessary. This will allow the VBA, municipal building surveyors or private building surveyors to determine whether the exact type of any cladding on a site or premises, as part of the state-wide audit, is a prohibited product where there is uncertainty.

Minister can specify a class of buildings for which the VBA can act as a municipal building surveyor

The Bill amends the Building Act to clarify the powers of the Minister for Planning to grant the VBA the functions of a municipal building surveyor. Currently, only a specified building or land can be gazetted, and it is unclear whether a class of buildings or land could be gazetted. The Bill will allow a class of buildings or land to be gazetted. This would reduce any legal risk of challenge to any gazettal which involves a class or type of building resulting from the state-wide audit, if necessary.

Reduced time limit for the VBA to notify of intention to issue a direction to a municipal building surveyor or private building surveyor

The Bill amends the Building Act to reduce the current 14-day requirement for the VBA to provide prior notice to a municipal building surveyor of its intention to issue a direction. The requirement to give 14 days notice prior to issuing a direction can result in unnecessary delays and may prevent a municipal building surveyor from exercising their regulatory compliance functions.

The Bill will address this issue by including the ability for the VBA to:

reduce the notice period required from 14 days to 7 days; and

provide that the suspected presence of a prescribed building cladding product will allow the VBA to reduce or remove the 14-day notice requirement.

This approach will be reinforced by having a clear operational escalation pathway providing guidance as to when the VBA should act to direct a municipal building surveyor, and if necessary, step into their role if the Minister for Planning grants the VBA the necessary powers. It will always remain the discretion of the Minister whether to provide the VBA with additional powers on a case by case basis.

Clarification that building notices can be issued after the issue of an occupancy permit

The Bill amends the Building Act to make it clear that a private building surveyor, when acting as a relevant building surveyor, can continue to issue buildings notices and orders after the issue of an occupancy permit.

It has generally been accepted by government and the VBA that, under Part 8 of the Building Act, a private building surveyor can continue to be able to issue building notices and orders after the issue of an occupancy permit. However, the Supreme Court decision in *LU Simon & Others v Victorian Building Authority* in December 2017 cast some doubt on this interpretation. Providing an express provision in the Building Act puts it beyond doubt that the regulatory functions and responsibilities of a relevant building surveyor for building work do not cease once they issue an occupancy permit or certificate of final inspection.

The VBA's ability to issue directions to a relevant building surveyor and a municipal building surveyor needs to be preserved for the VBA to be able to effectively address compliance in the cladding context. It is not feasible and will result in significant delays for the VBA to be appointed as the municipal building surveyor for each non-compliant building. Instead, municipal building surveyors and private building surveyors should be encouraged to work collaboratively with the VBA to address this state-wide issue.

Cladding Rectification Agreements

The Bill amends the *Local Government Act 1989* to provide for cladding rectification agreements (CRA) to allow building owners and owners corporations to access low-cost finance to fund cladding works and allow for any long-term costs to be borne over time.

The amendments will provide an enabling framework that would allow councils, owners/owners corporations and lenders to enter into voluntary cladding rectification agreements (CRA) and have loans for cladding rectification repaid through the council rates system.

A CRA would provide an outline of the rectification works required to be undertaken on the rateable land of the owner that the lending body will advance specified funds to ensure that work is conducted.

The amendments will provide owners corporations with the ability to enter into CRAs on behalf of the owners, subject to having approval from at least 75 per cent of those owners. If approval is met, the repayment charge would be applied to all members (owners) of the owners' corporation. This will allow owners corporations to fund the rectification of non-compliant cladding over a number of years (at least 10 years) to allow owners to pay the charge over a period of time. The proposal would also allow the ongoing liability to transfer from owner to owner as the units are sold over time.

In implementing the agreement, a council would levy a cladding rectification charge on the rateable land and use it to repay the lending body the principal amount initially advanced to the owner plus any agreed interest accrued since that advance. Councils would be able to include an administrative charge to recover costs.

The amendments will include controls over debt levels to ensure that the levying of a charge, which takes precedence over any existing mortgage, does not diminish the security of such a mortgage.

Under these amendments, a council will not be able to enter into a CRA unless the council is satisfied that, for each separately owned occupancy, the total amount of taxes, rates, charges and mortgages owing on the rateable land when added to the total value of the cladding rectification charge is an amount that will not exceed the estimated capital improved value of the land at the conclusion of the works.

Further, before entering into a cladding rectification agreement, the owner of the separate occupancy must notify any existing mortgagee of the intention to enter into the CRA.

The total amount of taxes, rates, charges and mortgages owing on the rateable land under the CRA must be apportioned based on the separate lot occupancies on the rateable land.

It is also intended that the spread of payments continue after any transfer of title (as a new owner would normally be required to pay out the charge at settlement). This is to ensure that a prospective purchaser is not required to pay the entire charge up front, which would be likely to prevent a sale in the event of an outstanding cladding rectification charge.

If the ownership of the land changes, the person acquiring land is liable to make all payments of the cladding rectification charge that fall due after the date on which they become the owner of the land.

The amendments allow an owner to pay cladding rectification charge instalments in advance of the due dates to reduce interest costs.

Consultation with councils will be ongoing as the CRA scheme becomes operational. To date, councils have indicated qualified support to the CRA proposal provided that some level of financial and administrative incentives/support is available by the State Government to encourage take-up by councils in entering into these agreements. An operational strategy will be developed in consultation with councils to address these concerns and to ensure there are incentives built into the scheme to encourage their take-up.

Other technical, minor and consequential amendments

The *Building Amendment (Enforcement and Other Measures) Act 2017* introduced the system of a builder named on a building permit. This Act provided for the relevant building surveyor to change the name of the builder named in the building permit to another building practitioner or insured architect engaged to carry out the building work. If the Engineers Registration Bill 2018 is passed by parliament, this will also include an endorsed building engineer.

Under the system of the builder named in the building permit, an owner of land can be named as an owner-builder in the building permit. The Bill amends the Building Act to suspend a building permit if the owner-builder ceases to own the building or land. The Bill will also provide for a certificate of consent issued to an owner-builder to expire if the land in relation to which the certificate of consent is issued is no longer held by the owner-builder. These changes will clarify that an owner-builder cannot continue to be responsible for carrying out building work as the builder named in the building permit if the owner-builder no longer owns the land.

The Bill amends the Building Act to clarify that the builder named in the building permit may be changed to another person who is entitled to be named as the builder on a building permit. The building permit will be unsuspended after a new builder is named on the building permit.

The Bill will improve the administration of the Building Act by providing for the Authority to issue registration cards that include a recent photograph of a registered building practitioner. The Bill will also enable registration cards issued by the Authority to be used as part of a photographic identification required by an authorised person exercising a power of entry under the Building Act.

I commend the Bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Friday, 31 August.

GAMBLING REGULATION AMENDMENT (WAGERING AND BETTING) BILL 2018

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the Charter), I make this statement of compatibility with respect to the Gambling Regulation Amendment (Wagering and Betting) Bill 2018.

In my opinion, the Gambling Regulation Amendment (Wagering and Betting) Bill 2018 (the Bill), as introduced to the Legislative Council, is compatible with the human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill implements a number of reforms to the gambling and wagering industry by making a number of amendments to the *Gambling Regulation Act 2003* and the *Taxation Administration Act 1997*.

Key features of the bill include:

amending the *Gambling Regulation Act 2003* (the **Principal Act**) to alter the tax arrangements in relation to wagering and betting by imposing a tax on wagering and betting providers' net wagering revenue during a return period, including prescribing the tax-free threshold and the rate of tax applying to net wagering revenue, who is liable for the tax, and providing that the Commissioner of State Revenue is to collect the tax. The Bill also amends the *Taxation Administration Act 1997* (the **Taxation Act**) to make the proposed Part 6A of Chapter 4 of the Principal Act that establishes the wagering and betting tax a taxation law for the purposes of that Act;

Human rights issues

The human rights protected by the Charter that are relevant to the Bill are:

freedom of movement, as protected under section 12 of the Charter;

privacy and reputation, as protected under section 13 of the Charter;

property rights, as protected under section 20 of the Charter;

the presumption of innocence, as protected under section 25(1) of the Charter;

protection from self-incrimination, as protected under section 25(2)(k) of the Charter; and

the right to a fair hearing, as protected under section 24 of the Charter.

For the reasons outlined below, in my opinion, the Bill is compatible with each of these rights.

Part 2 of the Bill alters the taxation arrangements relating to wagering and betting by introducing a new Part 6A into Chapter 4 of the Principal Act, which will impose a wagering and betting tax. The amendment to the Taxation Act in clause 8 of the Bill means that the Taxation Act will apply to Part 6A. It is therefore necessary to consider the human rights issues raised by the provisions of the Taxation Act to the extent that they apply to Part 2 of the Bill.

Property rights (section 20)

Imposition of tax

Section 20 of the Charter provides that a person must not be deprived of his or her property other than in accordance with law.

The introduction of the wagering and betting tax makes wagering and betting entities liable for tax in circumstances when previously no tax was payable. To the extent that the introduction of the wagering and betting tax is now payable by a natural person, the right to property is engaged.

However, the imposition of the wagering and betting tax is not arbitrary because it is precisely formulated and will be administered in accordance with the proposed Part 6A of the Principal Act, which will be a taxation law that is adequately accessible, clear and certain, and sufficiently precise to enable affected taxpayers to inform themselves of their legal obligations and to regulate their conduct accordingly. Furthermore, taxpayers will have the protections provided by the Taxation Act including rights of objection, review, appeal and recovery.

Grouping provisions — joint and several liability

Given the possibility that some wagering and betting entities may seek to exploit the tax-free threshold that will apply to the wagering and betting tax by setting up a number of entities, Division 4 of Part 2 of the Bill provides for grouping provisions to apply to the collection of the wagering and betting tax to prevent potential erosion of the tax base. The grouping provisions provide for the group to nominate a designated group entity which will register, lodge and pay wagering and betting tax on behalf of the group. The provisions also provide for the joint and several liability of members of a group in respect of the group's liability for tax; in other words, every member of a group (whether or not is a wagering and betting entity) is jointly and severally liable with the other members in respect of any period to pay the tax payable by the designated group entity of that group in respect of that period. Therefore, where a member of a group is a natural person, such as a sole trader or a partner, that person will be jointly and severally liable for tax that is payable by the designated group entity. The payment of tax on the basis of joint and several liability may therefore engage the right to property of a natural person group member.

The purpose of joint and several liability provisions is to ensure the recovery of unpaid wagering and betting tax in the event of a default by the designated group entity. In my view, the imposition of joint and several liability on all members of a group is a reasonable and justified limitation on a natural owner's property rights, because this action is likely to be the most effective method of ensuring payment of the wagering and betting tax in the event of a default. Furthermore, that person will not be deprived of his or her property other than in accordance with the law.

Again, any liabilities arising from these provisions will be assessed and administered in accordance with the Taxation Act, which establishes the Commissioner's powers and

obligations, taxpayers' rights of objection, review, appeal and recovery, and provides a framework to protect the confidentiality of tax related information. Therefore, a person will not be deprived of his or her property other than in accordance with the law.

In my view, the limitations on property rights under section 20 are reasonable and justified in accordance with section 7(2) of the Charter.

Amendments relating the application of the Taxation Act

Property rights (section 20)

Investigation powers of tax officers

As stated above, the Bill applies the Taxation Act to the new Part 6A, Chapter 4 of the Principal Act. Part 9 of the Taxation Act provides authorised tax officers with investigation powers to administer and enforce taxation laws, which will include Part 6A. The right in section 20 of the Charter is relevant to a number of powers which provide for tax officers to enter certain premises, and to seize or take items. These powers are discussed in detail below, in relation to the right to privacy.

I consider that the right in section 20 will not be limited by these powers, because any deprivation of property will occur in accordance with law. The circumstances in which inspectors or authorised persons are permitted to seize or take items or documents are provided for by clear legislative provisions, and the powers are strictly confined. The items that may be taken or seized will be relevant to and connected with enforcing compliance with Part 6A. For instance, a magistrate may only issue a search warrant if satisfied by evidence on oath or affidavit that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, a particular thing on the premises that may be relevant to the administration or execution of a taxation law. Further, under section 77 of the Taxation Act, a document or thing may only be searched for, seized or secured against interference if it is described in the warrant issued by a magistrate.

The powers of an authorised officer include, under section 76 of the Taxation Act, the power to seize a document or thing where the officer has reason to believe or suspect it is necessary to do so in order to prevent its concealment, loss, destruction or alteration. Similarly, section 83 of the Taxation Act provides that an authorised officer may seize a storage device and the equipment necessary to access information on the device if the officer believes, on reasonable grounds, that the storage device contains information relevant to the administration of a taxation law and it is not otherwise practicable to access the information on the device.

In my opinion, sections 76 and 83 of the Taxation Act, as they will apply to Part 6A, do not limit the right in section 20 of the Charter because they are sufficiently confined and structured, accessible and formulated precisely such that any deprivation occurs in accordance with the law. Further, these provisions guard against any permanent interference with property where no offence has been committed. For example, the Taxation Act provides that reasonable steps must be taken to return a document or thing that is seized if the reason for its seizure no longer exists (section 84), and the document or thing seized must be returned within the retention period of 60 days, unless the retention period is extended by an order of the Magistrates Court (section 85).

For the above reasons, in my opinion the provisions of the Bill are compatible with the right to property in section 20 of the Charter.

Privacy (section 13(a))

As noted above, an interference with privacy will limit the right in section 13(a) of the Charter if it is an unlawful or arbitrary interference.

Requirement to provide information in returns

Part 6A will require a person who is liable to pay the tax to periodically lodge a return with the Commissioner of State Revenue. Section 10 of the Taxation Act, as it will apply to Part 6A, provides that a taxpayer must provide in this return all information necessary for a proper assessment of tax liability, including any further information not otherwise required under a taxation law.

It is expected that most returns will be submitted by entities, rather than individuals, and not all of the information required to be provided in a return will be personal information. However, to the extent that the collection of personal information may result in interference with a person's privacy, any such interference will be lawful and not arbitrary. These provisions do not require that a person's personal information be published, and only require the provision of information necessary to achieve the purpose of the regime. Accordingly, in my view they do not limit the right to privacy.

Section 92(1)(e) of the Taxation Act permits a tax officer to disclose information obtained under or in relation to the administration of a taxation law to a listed 'authorised recipient'. Clause 10 of the Bill amends section 92(1)(e) of the Taxation Act to include the Victorian Commission for Gambling and Liquor Regulation (**VCGLR**) as an authorised recipient for the purpose of administering the Principal Act and any regulations made under the Principal Act. While the Commissioner of State Revenue will be solely responsible for administering the tax and exercising powers under the Taxation Act, the VCGLR is responsible for the Principal Act which will impose the tax. The Commissioner of State Revenue will need to provide information that is obtained under or in relation to the administration of the tax to the VCGLR for the purpose of assisting the VCGLR to administer the regime under the Principal Act. The type of information that may be disclosed includes, but is not limited to, information regarding registration, lodgements of returns and payments by taxpayers, taxation defaults by taxpayers, and applications for objection, appeal and review under Part 10 of the Taxation Act by registered taxpayers.

Likewise, clause 6 of the Bill amends the Principal Act to enable the VCGLR to disclose information to an authorised officer within the meaning of the Taxation Act for the purpose of administering Part 6A of Chapter 4 of the Principal Act and the Taxation Act as it applies to Part 6A.

To the extent that clauses 6 and 10 interfere with a natural person's right to privacy, I consider that interference to be neither arbitrary nor unlawful. These amendments ensure that the Commissioner of State Revenue and the VCGLR can exercise their respective regulatory and enforcement functions in accordance with legislation. I therefore consider that these clauses do not limit the right to privacy.

Investigation powers of tax officers

As noted above, Part 9 of the Taxation Act provides the Commissioner of State Revenue and authorised tax officers with investigation powers to administer and enforce taxation laws, which will include Part 6A of Chapter 4 of the Principal Act. The following investigation powers may interfere with the right to privacy, as well as the right not to impart information, which forms part of the right to freedom of expression under s 15 of the Charter:

section 73 of the Taxation Act provides that the Commissioner of State Revenue may, by written notice, require a person to provide the Commissioner with information, produce a document or thing in the person's possession, or to attend and give evidence under oath;

section 76 of the Taxation Act provides that an authorised officer may, at any reasonable time, enter and search any premises, and inspect, photograph or make copies of any document on the premises;

section 77 of the Taxation Act provides that an authorised officer may apply to a magistrate for a search warrant in relation to a premises, including a residence, if the authorised officer considers on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration or execution of a taxation law;

section 83 of the Taxation Act provides that an authorised officer may, or may require an employee of the occupier to, operate equipment on the premises to obtain information from a storage device that the authorised officer believes, on reasonable grounds, contains information relevant to the administration of a taxation law;

section 86 of the Taxation Act provides that an authorised officer may, to the extent it is reasonably necessary to do so for the administration or execution of a taxation law, require a person to give information, produce or provide documents and things, and give reasonable assistance, to the authorised officer.

In each provision that permits inspectors to exercise powers of entry and search, the powers of inspectors and other authorised persons are clearly set out in the Taxation Act and are strictly confined by reference to their purpose. They are also subject to appropriate legislative safeguards. In particular:

a warrantless search under section 76 of the Taxation Act cannot be conducted in respect of premises used for residential purposes except with the written consent of the occupier of the premises (section 76(6)). An authorised officer may not exercise a power under section 76 unless the officer produces, on request, his or her identity card (section 76(5));

a search warrant issued by a magistrate under section 73 of the Taxation Act must specify the premises to be searched, a description of the thing for which the search is made, any conditions to which the warrant is subject, whether entry is authorised to be made at any time or during specified hours, and must specify a day not later than seven days after its issue after which the warrant ceases to have effect (section 77(3)). Where entry under warrant or pursuant to court order occurs, an authorised officer must issue an announcement and give persons on the premises an opportunity to allow entry, unless the officer believes on reasonable grounds that immediate entry is necessary to ensure the safety of a person, or ensure the effective execution of the search warrant is not frustrated (section 78). The authorised officer is also required to identify himself or herself and must give a copy of the warrant to the occupier of the premises (section 79);

further, Division 3 of Part 9 of the Taxation Act includes broad confidentiality obligations that prohibit authorised tax officers from disclosing information obtained in relation to their functions, except as permitted under the Taxation Act.

The amendment in clause 8 of the Bill also applies section 92 of the Taxation Act, which permits the disclosure of information obtained in the administration of a taxation law, to proposed Part 6A the Principal Act. Specifically, section 92(1) permits the disclosure of such information for several different purposes, including in accordance with a statutory provision, in connection with the administration or execution of a statutory provision or a taxation law, to an authorised recipient such as the Ombudsman or a police officer of or above the rank of inspector, or in connection with the administration of a legal proceeding arising out of a recognised law. As with the search and seizure powers of authorised officers under this Part, these permitted disclosures are strictly confined to their legitimate purposes and are subject to considerable legislative safeguards. In particular, section 94 of the Taxation Act prohibits 'secondary disclosure', that is, disclosure of any information provided under section 92, unless it is for the purpose of enforcing a law or protecting public revenue. Further, section 95 provides that an authorised officer is not required to disclose or produce in court any such information unless it is necessary for the purposes of the administration of a taxation law, or to enable a person to exercise a function imposed on the person by law.

Accordingly, to the extent that these investigation powers could interfere with a person's privacy, any interference would not constitute an unlawful or arbitrary interference.

Freedom of movement (section 12)

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely within Victoria. As the wagering and betting tax will be administered under the Taxation Act, the administration of the wagering and betting tax may involve the exercise of the investigative powers provided in section 73 of the Taxation Act. These investigative powers may also be exercised in relation to the collection of reportable information under Part 9 of the Taxation Act.

Under section 73(5) the Commissioner of State Revenue or an authorised tax officer exercises their power to direct a natural person to attend and give evidence in relation to that matter, a person's right to move freely within Victoria may be engaged. Section 73(8) makes it an offence to refuse to comply with a direction made under section 73(5). However, a person required to attend and give evidence orally is to be paid expenses in accordance with prescribed scale. It is arguable that a person's right to move freely within Victoria may be engaged when the Commissioner of State Revenue or

an authorised tax officer exercises their power under section 73(5).

However, although the power to compel a person to attend a particular place at a particular time technically limits that person's freedom to choose to be elsewhere at that time, this differs qualitatively from the types of measures that Victorian courts have regarded as engaging the right to freedom of movement, such as restrictions placed on a person's place of residence, or ability to leave their residence, and police powers to conduct a traffic stop.

To the extent that section 73 of the Taxation Act is capable of being considered to limit the right of freedom of movement, I consider that any such limit is demonstrably justified under section 7(2) of the Charter, as the Commissioner of State Revenue's power to compel a person's attendance to give evidence will in certain circumstances be essential to obtain the information needed for the proper administration of the wagering and betting tax, and for the collection of reportable information.

Presumption of innocence (section 25(1))

Defences of reasonable excuse

The right to be presumed innocent may be considered relevant to a number of offences under the Taxation Act that place an evidential burden on the defendant, and which apply to the tax as a result of the amendment in clause 8 of the Bill.

As outlined above, section 73 of the Taxation Act empowers the Commissioner of State Revenue to issue a written notice requiring a person to provide information, produce a document or thing, or give evidence. Section 73A provides that the Commissioner of State Revenue may certify to the Supreme Court that a person has failed to comply with a requirement of a notice issued under section 73. The Supreme Court may inquire into the case and may order the person to comply with the requirement in the notice. Section 73A(4) provides that a person who, without reasonable excuse, fails to comply with an order of the Supreme Court under s 73A(2), is guilty of an offence.

Section 88 of the Taxation Act makes it an offence for a person, without reasonable excuse, to refuse or fail to comply with a requirement made or to answer a question of an authorised officer asked in accordance with sections 81 or 86 of the Taxation Act.

Section 90 establishes a defence of reasonable compliance for offences relating to the investigation powers of authorised tax officers under Part 9 of the Taxation Act. It provides that a person is not guilty of an offence if the court hearing the charge is satisfied that the person could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates, or that the person complied with the requirement to the extent that he or she was able to do so.

Although these provisions require a defendant to raise evidence of a matter in order to rely on a defence, I am satisfied that the provisions impose an evidential, rather than legal burden. Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence. The defences and excuses provided relate to matters within the knowledge of the defendant, which is appropriate in circumstances where placing the onus on the prosecution would involve the proof of a negative which would be very difficult.

For the above reasons, I am satisfied that these provisions of the Taxation Act, as applied to proposed Part 6A by virtue of clause 8 of the Bill, do not limit the right to be presumed innocent in section 25(1) of the Charter.

Self-incrimination (section 25(2)(k))

Section 25(2)(k) of the Charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. The Supreme Court has held that this right, as protected by the Charter, is at least as broad as the common law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid. The common law privilege includes immunity against both direct use and derivative use of compelled testimony.

As outlined above, section 86 of the Taxation Act, which will apply to the proposed Part 6A pursuant to the amendment included in clause 8 of the Bill, provides that an authorised taxation officer may, in the exercise of his or her investigative functions, require a person to give information, produce or provide documents and things, and give reasonable assistance, to the authorised officer. It is an offence to fail to comply with a requirement made or to answer a question under this section. Section 87(1) limits the right to protection against self-incrimination by providing that a person is not excused from answering a question, providing information or producing a document or thing on the ground that to do so might tend to incriminate the person or make the person liable to a penalty. Section 87(2) provides that, if a person objects to answering a question, providing information or producing a document or thing, the answer, information, document or thing is not admissible in any criminal proceeding other than proceedings for an offence against a taxation law, or proceedings for an offence in the nature of perjury.

In my view, section 87 of the Taxation Act is a reasonable limit on the right to protection against self-incrimination under section 7(2) of the Charter. The ability of an authorised officer to require a person to give information or answer questions is necessary for the proper administration of the proposed Part 6A. To this end, I note that the information, answers or documents obtained are only admissible in proceedings for an offence relating to the proper administration of Part 6A, and section 87(2) of the Taxation Act otherwise preserves both the direct use immunity and derivative use immunity.

Further, with respect to the power of an authorised officer to require the production of documents, I note that at common law, the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents brought into existence to comply with a request for information. This is particularly so in the context of regulated industry, where documents or records are required to be produced during the course of a person's participation in that industry and exist for the dominant purpose of demonstrating that person's compliance with his or her relevant duties and obligations. The duty to provide documents in this context is consistent with the

reasonable expectations of these individuals as persons who operate within a regulated scheme.

I am of the view that there are no less restrictive means available to achieve the purpose of enabling the proper administration of Part 6A, as providing an immunity that applies to the offence of perjury or an offence under the Bill or the Taxation Act would unreasonably obstruct the role of the authorised person to investigate compliance with Part 6A. Accordingly, I consider that this clause is compatible with the right not to be compelled to testify against oneself in section 25(2)(k) of the Charter.

Fair hearing (section 24(1))

Clause 12 of the Bill inserts a new subsection (8) into section 135 of the Taxation Act to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the Taxation Act, as those sections apply after the commencement of clause 12, to alter or vary section 85 of the *Constitution Act 1975*. These provisions preclude the Supreme Court from entertaining proceedings of a kind to which these sections apply, except as provided by those sections.

A central purpose of this Bill is to alter current taxing arrangements in relation to wagering and betting and to bring this tax under the Taxation Act. Section 5 of the Taxation Act defines the meaning of a non-reviewable decision in relation to the Taxation Act, which will apply to the wagering and betting tax imposed under proposed Part 6A. 'Non-reviewable' is referred to in sections 12(4) and 100(4) of the Taxation Act.

The reason for limiting the jurisdiction of the Supreme Court in relation to a compromise assessment under section 12 of the Taxation Act is that agreement has been reached between the Commissioner of State Revenue and the taxpayer on the taxpayer's liability, and the purpose of the section would not be achieved if the decision were reviewable. Section 18 of the Taxation Act establishes a procedure, the adherence to which is a condition precedent to taking any further action for recovering refunds. The purpose of the provisions is to give the Commissioner of State Revenue the opportunity to consider a refund application before any collateral legal action can be taken. The purpose of these provisions would not be achieved if the Commissioner of State Revenue's actions were subject to judicial review.

Division 1 of Part 10 of the Taxation Act establishes an exclusive code for dealing with objections, and this Division will also apply where the Commissioner of State Revenue issues an assessment in relation to the wagering and betting tax. This code establishes the rights of objectors in a statutory framework and precludes any collateral actions for judicial review of the Commissioner of State Revenue's assessment. The objections and appeals provisions of Part 10 of the Taxation Act establish that review of assessments is only to be undertaken in accordance with an exclusive code identified in that part. The purpose of these provisions would not be achieved if any question concerning an assessment was subject to judicial review except such judicial review as provided by Division 2, Part 10 of the Taxation Act.

A power is provided to the Commissioner of State Revenue under section 100 of the Taxation Act, which provides that Commissioner with discretion to allow an objection to be lodged even though out of time. This decision is non-reviewable to ensure the efficient administration of the Taxation Act and to enable outstanding issues relating to assessments to be concluded expeditiously.

In this context, I am satisfied that, to the extent that limiting the jurisdiction of the Supreme Court may limit a person's fair hearing rights as protected under section 24(1) of the Charter, any such limit would be demonstrably justified. The classification of certain decisions under the Taxation Act as 'non-reviewable' is directly related to the particular statutory purpose and context of those particular decisions, and the Taxation Act provides an alternative regime for dealing with objections, which is necessary for the efficient discharge of the Commissioner of State Revenue's functions under the Taxation Act, which will now include the administration of the wagering and betting tax.

Accordingly, I confirm that the Bill is, in my opinion, compatible with the right in section 24(1) of the Charter.

Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech, except for statement under section 85(5) of the Constitution Act 1975, be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (09:40) — I wish to make a statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by the Gambling Regulation Amendment (Wagering and Betting) Bill 2018 (the bill).

Section 85 of the Constitution Act 1975 vests the judicial power of Victoria in the Supreme Court and requires a statement to be made when legislation that directly or indirectly repeals, alters or varies the court's jurisdiction is introduced. Clause 12 of the bill inserts a new subsection (8) into section 135 of the Taxation Administration Act 1997 to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the Taxation Administration Act 1997, as those sections apply after the commencement of part 3 of the proposed Gambling Regulation Amendment (Wagering and Betting) Act 2018, to alter or vary section 85 of the Constitution Act 1975.

Part 2 of the bill amends the Gambling Regulation Act 2003 to provide for a new wagering and betting tax imposed on a wagering and betting entity's net wagering revenue that exceeds $1 000 000 in a financial year. The bill provides that the proposed part 6A of the Gambling Regulation Act 2003 and any regulations made under that act for the purposes of that part are a taxation law under the Taxation Administration Act 1997.

Part 3 of the bill makes consequential amendments to the Taxation Administration Act 1997 to enable the wagering and betting tax to be administered under the Taxation Administration Act 1997 and any regulations made under it. The Supreme Court's jurisdiction is altered to the extent that the Taxation Administration Act 1997 provides for certain non-reviewable decisions and establishes an exclusive code that prevents proceedings concerning an assessment or refund or recovery of tax being commenced except as provided by it. It is desirable that the legislative regime under the Taxation Administration Act 1997 applies to the wagering and betting tax in the same way as it does to other taxes administered under the Taxation Administration Act 1997. Accordingly, in order to ensure that the jurisdiction of the Supreme Court is limited in relation to the wagering and betting tax in the same way as it is in relation to other forms of Victorian taxes it is necessary to provide that it is the intention of this bill for the relevant provisions of the Taxation Administration Act 1997 to apply in the administration of the proposed wagering and betting tax and for the jurisdiction of the Supreme Court to be altered accordingly.

Section 5 of the Taxation Administration Act 1997 defines the meaning of 'non-reviewable decision' in relation to that act, which will also apply to the wagering and betting tax. No court, including the Supreme Court, has jurisdiction or power to entertain any question as to the validity or correctness of a non-reviewable decision.

Section 12(4) of the Taxation Administration Act 1997 provides that the making of a compromise assessment is a non-reviewable decision. Similarly, section 100(4) provides that a decision by the commissioner of state revenue not to permit an objection to be lodged out of time is a non-reviewable decision. Decisions may be made under section 12(4) or section 100(4) in relation to the collection of the wagering and betting tax.

Section 18(1) of the Taxation Administration Act 1997 prevents proceedings being commenced in the Supreme Court for the refund or recovery of a tax except as provided by part 4 of the Taxation Administration Act 1997. As the wagering and betting tax will be a tax for the purposes of section 18(1), proceedings for its refund or recovery will be similarly limited.

Section 96(2) of the Taxation Administration Act 1997 prevents a court (including the Supreme Court) considering any question concerning an assessment of a tax except as provided by part 10 of the Taxation Administration Act 1997. As the wagering and betting tax is a tax for the purposes of section 96(2), proceedings in relation to an assessment of wagering and betting tax would be similarly limited.

Accordingly, in order to ensure that the jurisdiction of the Supreme Court is limited in relation to the wagering and betting tax in the same way as it is in relation to other taxes, it is necessary to provide that it is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4) of the Taxation Administration Act 1997 to alter or vary section 85 of the Constitution Act 1975.

I move:

That the bill be now read a second time.

Incorporated speech as follows:

Introduction

It is with great pleasure that I rise to speak in support of this Bill, a Bill which will reform the wagering and betting taxation framework in Victoria.

This reform is about fairness; it's about making wagering and betting entities pay a fairer share of Victorian gambling taxes.

The key driver for this reform is the significant growth in online wagering and betting over the last few years, much of which has been outside of Victoria's wagering and betting taxation structures.

Currently, wagering and betting in Victoria is taxed on a place of supply basis. This means that operators pay wagering taxes based on where they are located, not where their services are actually used.

As it stands, only the Victorian wagering and betting licence holder, Tabcorp Wagering (Vic) Pty Ltd is paying Victorian wagering taxes, regardless of whether the customer is located in Victoria or in another state or territory.

Victorians spend approximately $1.2 billion annually on wagering and betting on horse and greyhound racing, sports and other events.

Increasingly, this wagering is with online corporate bookmakers licensed outside of Victoria, who are not captured under the current Victorian wagering and betting taxation framework.

This reform will align the Victorian wagering and betting taxation framework with the increasingly digital wagering and betting environment. It will level the playing field between all providers of betting services to people in Victoria.

The Bill will amend the *Gambling Regulation Act 2003* and the *Taxation Administration Act 1997* to replace the current 'place of supply' wagering and betting tax with a 'point of consumption' tax, where the tax liability will be determined by the location of the consumer rather than the operator.

This will ensure that all wagering and betting by Victorians, whether online or in person, will be captured by the Victorian wagering and betting taxation framework.

The net additional wagering and betting tax revenue retained by the State from the introduction of the Point of

Consumption Tax in 2019–20, the first full year of operation, is anticipated to be approximately $30 million.

Policy design

This Bill will introduce a Point of Consumption Tax (the Tax) to commence on 1 January 2019. The Tax will be payable by wagering and betting entities on the wagering revenue derived from customers in Victoria.

Many of these wagering and betting entities have been profiting from Victorian wagers and bets without paying Victorian gambling taxes.

The Bill provides that the rate of Tax will be 8 per cent of net wagering revenue derived from customers located in Victoria.

Net wagering revenue will be broadly calculated as gross bets and wagers taken less winnings paid for fixed odds betting, or commissions derived from facilitating wagers and bets for pari-mutuel.

The Tax will apply to all wagering and betting entities, including the Victorian wagering and betting licence holder.

The Bill establishes that an annual $1 million tax free threshold will apply equally to all wagering and betting entities, or entities grouped for the purposes of this Tax. In the 2018–19 financial year, the annual tax-free threshold applied will be $500 000 as the Tax will only apply in the second half of the 2018–19 financial year.

It is expected that the majority of smaller bookmakers who predominantly operate an on course business will fall under the tax-free threshold.

These small oncourse bookmakers do not materially compete with the big wagering and betting entities but are an integral part of the race day experience and are part of the rich and colourful history and tradition of racing in Victoria and Australia. This Government is committed to keep this tradition continuing, allowing this unique feature at all race meetings.

The Bill makes the Tax a taxation law under the *Taxation Administration Act 1997*, which will provide for the general administration and enforcement of the Tax.

Part 2 of the Bill provides that wagering and betting entities that become liable to pay the Tax must apply to register with the Commissioner of State Revenue before the end of the first month in which they become liable to pay the tax. It will be an offence to fail to apply for registration without a reasonable excuse.

Wagering and betting entities that will are registered, or are required to apply for registration, will be required to lodge a return and pay the Tax to the Commissioner of State Revenue within 30 days after the end of each month. Failure to comply with payment of the Tax will result in interest and penalty tax under the *Taxation Administration Act 1997* being applied.

The Bill introduces a number of grouping provisions for wagering and betting entities. This will provide for groups of wagering and betting entities to be liable for their aggregate net wagering revenue for the purposes of applying the tax free threshold. This will limit liabilities being split amongst corporate group entities to minimise their taxation liability.

Wagering and betting entities will be required to determine the location of their customers at the time of placing a wager or bet to calculate their tax liability.

The Government recognises that it may be difficult for wagering and betting entities to determine the physical location of customers in some circumstances. Wagering and betting entities will have the option to use alternative information to determine customer location.

The Bill enables the Commissioner of State Revenue to publish guidelines for determining the location of a person who makes a bet with a wagering and betting entity.

The Victorian Racing Industry

The Government has undertaken extensive consultation with key industry stakeholders on design considerations and potential industry impacts since the tax was first announced in the *Victorian Budget 2017–18*.

In August 2017, the Victorian Government released a consultation paper seeking views on policy design considerations and potential industry and customer impacts of a Point of Consumption Tax.

A considerable number of submissions were received in response to the consultation paper, and have informed the Tax design.

The Government also undertook extensive consultations with the three peak bodies representing the Victorian Racing Industry: Racing Victoria, Harness Racing Victoria and Greyhound Racing Victoria.

The Government is committed to the principle that the racing industry, collectively and individually as Codes, will be no worse off as a result of the introduction of a Victorian Point of Consumption Tax.

The Victorian Racing Industry is a major part of Victoria's sporting and cultural landscape, and contributes $2.8 billion annually to the Victorian economy while supporting over 140 000 jobs and participants. The Government is committed to Victoria remaining the pre-eminent racing state.

The Tax has been designed to reduce potential adverse impacts on the Victorian Racing Industry.

The Bill provides that the Government will contribute a proportion of the amount of wagering and betting tax received to the Victorian Racing Industry, at a rate determined by the Treasurer after consulting with the Minister for Racing.

This will represent a new source of funding for the Victorian Racing Industry, and at the commencement of the Tax this new Victorian Racing Industry Point of Consumption Tax Payment is intended to equal 1.5 per cent of taxable net wagering revenue.

The Bill provides that an amount equal to the balance of taxation revenue raised though the Tax — equal to the 8 per cent of the taxable net wagering revenue less the contribution to the Victorian Racing Industry — will be paid out of the Consolidated Fund into the Hospitals and Charities Fund.

The Government will continue to work with the Victorian Racing Industry to monitor any potential impacts of the Tax on the industry.

The Government will undertake a review of the Tax as soon as sufficient data is available. The Government has committed to the review being completed no later than 18 months after its commencement, and the Bill requires that the outcomes of the review be laid before each House of Parliament on or before 1 December 2020.

The review will include an analysis of the key policy parameters including the tax rate, the tax-free threshold and any impact on the Victorian Racing Industry arising from the introduction of the Victorian Point of Consumption Tax. The review will look at the total impact of the Tax on the Victorian Racing Industry collectively, and also of the impact individually on the three racing codes which make up the Victorian Racing Industry. In light of the Government's commitment to maintaining the pre-eminence of the Victorian Racing Industry, the review will also consider the interstate competitiveness of the Victorian Racing Industry.

Based on the outcomes of the review, and consideration of the impact on the racing codes, the Government will determine whether any adjustment to the new Victorian Racing Industry Point of Consumption Tax Payment is required.

The Government will continue to work with other states and territories to extend a common Tax model to other jurisdictions. It is in everyone's interest to harmonise the key elements of the tax across all jurisdictions as much as possible.

The Bill will enable the Treasurer to enter into agreements with Treasurers of other states and territories to facilitate the collection of and compliance with the requirement to pay the Tax.

Administrative powers

The Bill provides that the State Revenue Office will be responsible for the administration and collection of the Tax, as well as other functions such as ensuring compliance.

This differs from the current arrangements where Victorian wagering and betting taxes are administered and collected by the Victorian Commission for Gambling and Liquor Regulation.

I draw the members' attention specifically to clause 12 of the Bill. This clause of the Bill proposes to limit the jurisdiction of the Supreme Court to ensure that the legislative regime under the *Taxation Administration Act 1997* applies to the Tax in the same way as it does in relation to any other taxation law. Accordingly, I provide a statement under section 85(5) of the *Constitution Act 1975* of the reasons for altering or varying that section by this Bill.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Friday, 31 August.

OWNER DRIVERS AND FORESTRY CONTRACTORS AMENDMENT BILL 2018

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the **Charter of Human Rights and Responsibilities Act 2006**, (the 'Charter'), I make this Statement of Compatibility with respect to the Owner Drivers and Forestry Contractors Amendment Bill 2018 (the **Bill**).

In my opinion, the Bill, as introduced to the Legislative Council, is compatible with human rights as set out in the Charter. I base my opinion on the reasons outlined in this statement.

Overview

The Bill makes various miscellaneous amendments to the **Owner Drivers and Forestry Contracts Act 2005** (the **ODFC Act**), including providing for:

a. powers of authorised officers to monitor compliance and investigate contraventions of the ODFC Act or regulations; and

b. accessorial liability of officers of bodies corporate and imputing conduct to bodies corporate and partners.

Human Rights Issues

Powers of authorised officers

Clause 28 inserts new Part 7A in to the ODFC Act to provide for new powers of authorised officers, including powers of entry to premises and inspection, and the power to require information or documents. These powers are relevant to the right to privacy (s 13) and the right not to be compelled to testify against himself or herself or to confess guilt (s 25(2)(k)) in the Charter.

Right to privacy (s 13)

Section 13 of the Charter provides that every person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

New section 60E provides for the power of authorised officers to issue a written notice requiring a person, within a reasonable period, to give any information the officer requires or to produce a document in the custody or control of the person. A failure to comply without reasonable excuse is an offence.

New section 60F permits an authorised officer to enter premises with the consent of the occupier, inspect anything on the premises, interview any person on the premises and require production of documents. Although these powers are primarily concerned with business premises and information of a commercial nature, the powers have the potential to interfere into the private and home spheres of a person, and may involve the production of personal information. However, it is my view that any such interferences will not be arbitrary, for the following reasons.

The prohibition on arbitrariness requires that any interference with privacy must be reasonable or proportionate to a legitimate purpose. The Government's review into the ODFC Act found widespread non-compliance with the mandatory requirements of the scheme. These new powers of authorised officers are necessary to monitor conduct in the industry and undertake investigations to ensure non-compliance is detected and deterred.

The powers are also subject to a number of limits to ensure their proportionality. New section 60D limits the exercise of these powers, so that the powers may only be exercised to the extent that it is reasonably necessary to achieve the specified purposes, including monitoring compliance with the ODFC Act and investigating possible contraventions. An authorised officer is only provided with power to enter premises by written consent, and before obtaining written consent, must produce their identity card and inform the occupier of the purpose of entry and the occupier's right to refuse to give consent.

Further, an authorised officer entering premises must not remain on the premises any longer than is reasonably necessary to perform functions or exercise powers under the ODFC Act. Finally, any information acquired by an authorised officer is subject to confidentiality requirements which places limits on the use and disclosure of such information.

Accordingly, I am satisfied that these powers are compatible with the right to privacy.

Right not to be compelled to confess guilt (section 25(2)(k))

Section 25(2)(k) of the Charter provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt.

This right has been interpreted broadly as encompassing the common law privilege against self-incrimination, which entitles a person to refuse to answer any question, or produce any document, if the answer or the production would tend to incriminate that person. The privilege is principally concerned with preventing testimonial admissions extracted through oppressive conduct or the inducement of confessions of dubious reliability.

New section 60E is relevant to this right as it provides an authorised officer with power to compel a person to give information and produce documents. However, new section 60I of the Bill makes it clear that the protection against self-incrimination applies, providing that it is a reasonable excuse for a person to refuse or fail to give information or produce a document if doing so would tend to incriminate that person. New section 60E provides that an authorised officer must, when issuing a notice to a person to require information, inform that person of their right to rely on the privilege against self-incrimination. It follows that the s 25(2)(k) of the Charter is not limited by the Bill.

Accessorial liability of officers of a body corporate and imputing conduct to partners

Clause 28 of the Bill inserts new section 60P into the ODFC Act to provide that, in certain circumstances, if a body corporate commits an offence against specified provisions in the Bill, an officer of the body corporate also commits an offence. New section 60Q (which re-enacts and adds to an existing provision in s 62 of the ODFC Act) provides that any conduct engaged by a partner on behalf of a partnership is taken to have been engaged in by each partner to the partnership. These provisions are relevant to the right of a person charged with a criminal offence to be presumed innocent in s 25(1) of the Charter.

Right to be presumed innocent (s 25(1))

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The above provisions are relevant to the presumption of innocence as they may operate to deem as 'fact' that an individual has committed an offence based on the actions of another person or body based on their association with that body. However, it is my view that the right is not limited in this context.

Both provisions provide that the relevant person (the officer or partner) is only deemed to commit the offence committed by the other body or partner if the person authorised or permitted the commission of the offence or was knowingly concerned in any way (whether by act or omission) in the commission of the offence. In my view, these provisions do not limit the presumption of innocence as the prosecution is still required to prove the accessorial elements of the offence — that is, that the relevant person authorised or was knowingly concerned with the commission of the offence, or failed to exercise the necessary due diligence to prevent the offending.

In the event that this provision is considered a limit, I am of the view that any limitation is reasonably justified. As stated above, the Government's review into the ODFC Act found widespread non-compliance in the industry and a need to ensure there was adequate deterrence of regulatory offences that may cause harm to industry participants. Courts in other jurisdictions have held that the presumption of innocence may be subject to reasonable limits in the context of regulatory compliance. These provisions only target persons who have elected to undertake a position as an officer of a body corporate or have become a partner in a partnership, which includes assuming the responsibilities and duties that apply to these roles, and who have the capacity to influence the conduct of the body corporate or partnership.

The provisions ensure such persons are appropriately held responsible for all breaches that occur by or on behalf of the entity in which they have responsibility for, enabling offences to be successfully prosecuted and operate as an effective deterrent. Affected persons should be well aware of the regulatory requirements and, as such, should have the necessary processes and systems in place to effectively meet these requirements and not incur accessorial liability. Finally, while the nature of sanctions that apply to ODFC Act offences are criminal, the applicable sanctions are penalty

units only and do not involve any sentence of imprisonment. In my view, there is no less restrictive way of ensuring accountability of officers of bodies corporate or partners in partnerships for breaches of the ODFC Act, and it follows that these provisions are compatible with the Charter.

The Hon. Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (09:46) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Background

The Bill amends the *Owner Drivers and Forestry Contractors Act 2005* (the Act) to improve the protections available to small businesses, namely, owner drivers in the transport industry and harvesting and haulage contractors in the forestry industry.

The amendments address changes that have occurred in the industry since 2005, and seek to improve the position of owner drivers and forestry contractors, by removing barriers that restrain these small businesses from achieving a fair and reasonable return for their labour and business investment.

The Bill will also deliver on a government commitment arising from the Government Response to the Victorian Inquiry into Labour Hire and insecure Work (Labour Hire Inquiry).

Owner Drivers and Forestry Contractors Act

The Act seeks to improve the financial and social position of owner drivers and forestry contractors, and to reduce the risk of business failure, financial hardship and insolvency. It does this by removing the market conditions and barriers that restrain small businesses from achieving a fair and reasonable return for their labour and business investment.

One of the key market failures the Act seeks to address is the lack of information for small business owner drivers and forestry contractors to understand their operating costs and the commercial relationship they are entering. Contractors entering the transport and forestry industries have large overhead costs and liabilities and often a limited understanding of their potential income as well as their legal rights and obligations.

The Act establishes a framework for the regulation of contractual dealings between owner drivers and forestry contractors and their hirers. The Act does not apply to employee drivers.

The Act sets out legal requirements relating to the provision of information to assist owner drivers and forestry contractors improve their business skills and better understand their cost structures and contracts. Having this information before entering a contract helps contractors assess whether they should accept the rates being offered, and will also allow better informed negotiations. It also provides a framework for resolving disputes in a timely and cost-effective manner, through the Small Business Commission.

Two of the key information requirements are for hirers to provide owner drivers and forestry contractors with a copy of the applicable rates and costs schedule for their vehicle class and an information booklet, three days before entering into a contract. This requirement also applies to tender processes and to freight brokers.

The rates and costs schedules do not set minimum rates of pay that must be paid. They provide owner drivers, forestry contractors and hirers with information about typical operating costs applying to the kind of vehicle or equipment provided under the contract.

The rates and costs schedules also provide a base hourly rate that would apply for the driver's own labour if they worked as an employee. The information booklet provides a comprehensive and convenient source of information to assist contractors to understand, how to operate a small business and sets out their legal rights and obligations to ensure they can operate their business safely and commercially.

The Act requires that ongoing engagements must be in writing, and the contract must specify the minimum level of income or number of hours of work the rates to be paid. Requirements for contracts, and the provision of the information booklet and rates and costs schedule do not apply to 'one off' or short terms engagements.

The Act also establishes the Transport and Forestry Industry Councils, which are made up of members from industry and employee associations and government, and are responsible for making recommendations to the Minister for Industrial Relations on commercial practices affecting owner drivers and forestry contractors.

Review of the Act and Regulations

On 16 November 2016, I announced a review of the Act and the Owner Drivers and Forestry Contractors Regulations 2006. The review sought to identify whether any changes were needed to the Act and Regulations to improve the position of owner drivers and forestry contractors, while ensuring a competitive and fair operating environment for small businesses in Victoria.

The Review was undertaken on the basis that contractors operate as small businesses within a framework of commercial laws.

The Review also considered recommendations 30 and 31 of the Labour Hire Inquiry, which recommended changes to the Act to improve the position of tip truck owner drivers operating in the building and construction sector.

Twenty-five confidential submissions were received, which proposed a range of legislative and non-legislative changes. Throughout the review process, consultation was undertaken with industry associations, unions, owner drivers and affected government bodies.

The suite of proposals in this Bill are based on these discussions and the submissions received.

Proposed reforms

The Bill proposes the following reforms:

Purpose of the Act

It is proposed that the purpose of the Act be amended to include the promotion of industry best practice, education and training. An associated amendment is proposed to the functions of the Transport and Forestry Industry Councils to specify that they can provide advice and make recommendations to the Minister on promoting industry best practice, education and training for owner drivers and forestry contractors.

Definition of freight broker

The Bill clarifies the definition of 'freight broker' to ensure contractors employed through third-party contracting platforms like Uber Freight which did not exist when the Act commenced operation are covered. This clarification seeks to ensure that the development of these types of modern business models does not result in contractors being denied the protections of the ODFC Act.

Provision of information tools

The Bill amends the Act to clarify that hirers can provide owner drivers and forestry contractors with information in an electronic form, including an Internet link.

Rates and costs schedules

The Bill amends the Act to require a hirer or freight broker to provide the rates and costs schedule annually if a contractor is engaged under more than one contract during the 12-month period. The Act already requires hirers and freight brokers to provide owner drivers and forestry contractors with a revised schedule as soon as practicable after the revision is published.

Payment of invoices

The Bill amends the contracting requirements of the Act to require the payment of invoices within 30 days of receipt of a correct invoice from the contractor, unless there is a dispute over the amount payable. The parties will also be able to agree on alternative arrangements that are fair to both parties.

Joint negotiations

The Bill amends the Act to include a provision that clarifies contractors have the option of being covered by the same terms and conditions of an existing regulated contract that has been jointly negotiated. This amendment ensures that contractors can benefit from jointly negotiated contracts, while at the same time retain the opportunity to negotiate their own contractual arrangements.

Disputes Resolution

The Bill amends the disputes resolution procedure to specify that the Small Business Commission can arrange arbitration where the parties to the dispute agree. This provides scope for the parties to try and resolve the dispute through mediation, and if the matter cannot be resolved, the parties can agree they can proceed to arbitration at the Small Business Commission. This amendment aims to introduce a fast, low cost and confidential binding dispute resolution process for parties in dispute.

The parties can still access the Victorian Civil and Administrative Tribunal (VCAT) if the Small Business Commission has certified in writing that alternative dispute resolution has failed, or is unlikely, to resolve the dispute.

The Bill provides that the *Commercial Arbitration Act 2011* does not apply to arbitration conducted under the Act.

Tip Truck Contractors

The Bill amends the Act to include a provision that will trigger the requirement for hirers to provide tip truck contractors with the information booklet and the applicable rates and costs schedules regardless of the period of time they are engaged.

The Act currently applies where the owner driver or forestry contractors is engaged for a minimum of 30 days or 30 days within a three-month period.

Tip truck owner drivers often do not meet this threshold requirements specified in the Act to receive these information tools.

This amendment is limited to contractors who drive tip trucks in connection with excavation work in the building and construction industry. It is not intended to capture to tip truck contractors operating in the rural road transport sector.

The change will deliver on recommendation 31 of the Labour Hire Inquiry, which was accepted by this government.

Compliance and enforcement mechanism

The Bill proposes the establishment of a compliance and enforcement framework, and the introduction of penalties for non-compliance with the mandatory requirements of the Act. There are currently no penalties for non-compliance with the mandatory provision of the Act.

The review of the Act found non-compliance, particularly in the transport sector, with the mandatory provisions of the Act. Therefore, the Bill proposes penalties for non-compliance with the following mandatory provisions of the Act:

failure to provide the Information Booklet;

failure to provide the relevant rate and cost schedule;

failure to provide a written contract; and

failure to provide notice of termination or payment in lieu of notice.

The establishment of a compliance and enforcement framework and the introduction of penalties is considered a necessary and proportionate response to the evidence of limited compliance with these requirements of the Act within the transport sector. It will provide an economic and punitive incentive for hirers to comply with the requirements of the Act.

The Bill provides for the Infringement Notices to be prescribed in the Regulations, with court imposed penalties set out in the Bill.

The Bill empowers authorised officers to require that hirers produce documents relevant to an investigation. It also includes a power for authorised officers to enter premises

with consent of the occupier. The Bill does not introduce of a coercive power to enter premises.

Benefits of the reforms

The key benefit that will result from these amendments is that they will increase compliance with the mandatory provisions of the Act. This will help ensure owner drivers and forestry contractors can accurately assess the overhead costs of operating their businesses which will mean they are better placed to determine whether an offer will fully cover their operating costs, provide a return for their own labour and a return on business investment.

If owner drivers and forestry contractors can cover their operating costs and maintain their vehicles, this will result in greater safety for all road users. Drivers will not need to work additional hours to try and cover their operating costs. Tip truck owner drivers will also for the first time, benefit from the protections of the Act.

I commend the Bill to the house.

Debate adjourned on motion of Mr ONDARCHIE (Northern Metropolitan).

Debate adjourned until Friday, 31 August.

RESIDENTIAL TENANCIES AMENDMENT BILL 2018

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the 'Charter'), I make this Statement of Compatibility with respect to the **Residential Tenancies Amendment Bill 2018**.

In my opinion, the Residential Tenancies Amendment Bill 2018 (Bill), as introduced to the Legislative Council, is compatible with human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the Residential Tenancies Act 1997 (Principal Act) to implement a comprehensive set of reforms relating to residential tenancies, including the modification of premises, the regulation of pets in rented premises, compensation, notices to vacate and protections for renters against unlawful discrimination. The Bill strengthens existing penalties for non-compliance (including the introduction of a pecuniary penalty scheme), and contains measures to implement recommendations of the Royal Commission into Family Violence. These measures include enabling victims of family violence to leave a tenancy where a co-resident is a perpetrator of that violence and to reasonably modify the rental property in order to improve security. The Bill also provides a mechanism for the apportionment of liability so that victims of family violence are not held liable for debts attributable to perpetrators of the violence.

Human rights issues

The human rights protected by the Charter that are relevant to the Bill are:

The right to recognition and equality before the law (section 8);

The right to privacy and reputation (section 13);

The right to freedom of expression (section 15);

The right to family (section 17);

Property rights (section 20);

The right to a fair hearing (section 24);

The right not to be punished more than once (section 26).

Right to equality

Section 8(3) of the Charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. 'Discrimination' under the Charter means discrimination within the meaning of the *Equal Opportunity Act 2010*. Under section 8 of that Act, direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

Clause 49 of the Bill amends section 64 of the Principal Act to provide that a residential rental provider must not unreasonably refuse consent to modifications made by the renter that are reasonable alterations within the meaning of section 55 of the *Equal Opportunity Act 2010* (that is, that are required by a person with a disability to meet their special needs) and that are assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner. Equivalent provisions also apply in relation to other types of tenure. Renters may also modify properties for other reasons, for example, to obtain access to telecommunications services or take security measures, without an external assessment that the modifications are necessary. By imposing an additional requirement that people who require modifications due to disability obtain an external assessment that the modifications are necessary, clause 49 engages the right to equality under the Charter. To the extent that this could be viewed as unfavourable treatment and therefore a limit on the right to equality, in my view any limitation will be reasonable and demonstrably justified. It is reasonable for a residential renter provider to require some evidence that the proposed alterations are required and undergoing an assessment by a relevant practitioner will not be an onerous threshold to meet as it is the usual procedure for people with disabilities to undertake in order to ensure that the modifications to their home are appropriate for their particular needs. Further, if a residential rental provider has refused the request of a renter with a disability to make

reasonable alterations, the renter is entitled under new section 91ZB to terminate the residential rental agreement early and will not be liable to pay any form of lease break fee.

Accordingly, I consider that clause 49 is compatible with the right to equality under the Charter.

Right to privacy and reputation

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) provides that a person has the right not to have their reputation unlawfully attacked. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought.

Entry of rented premises

Clause 75 amends the current grounds for entry of rented premises in section 86 to include a right of entry to conduct an open inspection of the premises for prospective renters or buyers. The right of entry to conduct inspections for prospective renters may only be exercised after a notice to vacate or a notice of intention to vacate has been given and within 21 days before the termination date specified in that notice. The right of entry to conduct inspections for prospective buyers may only be exercised 14 days after the renter has been given a notice of intention to sell, and the residential rental provider must make all reasonable efforts to agree with the renter on days and times for the property to be available for inspection. The amendments to section 86 provide that open inspections may take place up to twice a week and for a period of no longer than one hour unless agreed with the renter. A protected person under an intervention order or safety notice residing at the premises may require that any inspections be by appointment. The Bill substitutes section 89 to enable a renter to apply to VCAT for an order specifying or limiting when entry to the premises may occur.

Clause 75 also introduces a right of a residential rental provider or their agent to enter rented premises to produce advertising images and video of the property in certain circumstances. New section 89A, which reflects the recommendations of the Victorian Law Reform Commission report on this subject, provides that the residential rental provider must give the renter seven days notice and must make a reasonable attempt to agree with the renter on a suitable time for entry to the premises. A number of safeguards apply to protect the privacy of persons residing at the property. The residential rental provider must not take or produce images or videos if the renter gives a written objection on the basis that the image may identify a person residing at the premises who is at risk of family or personal violence, or shows a possession that directly identifies or reveals sensitive information about an occupant, would increase the risk of theft at the premises, or would be unreasonable to expect the renter to remove or conceal. The renter may further request that they review the images or video before they are advertised, in which case the images or video may not be advertised without the renter's written consent. The residential rental provider must also obtain written consent from the renter to use an advertising image or video that displays a possession of the renter more than 12 months after the image or video was produced, or if the image or video was produced for a purpose other than advertising.

In my view, while the exercise of these powers of entry may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. The purpose of these entry powers is to enable residential rental providers and their agents to showcase their properties to prospective renters and buyers through inspections and advertising, provided that doing so does not place any occupants at risk. I consider that the safeguards described above strike an appropriate balance between enabling a residential rental provider to effectively advertise their property while protecting renters' right to privacy. Accordingly, these provisions are lawful and not arbitrary, and are compatible with the right to privacy.

Disclosure of personal information

Clause 292 inserts new section 420C into the Principal Act, which provides that VCAT may order the Residential Tenancies Bond Authority to disclose a renter's email address, residential address and facsimile number to a residential rental provider, rooming house operator, caravan owner, caravan park owner or site owner (as the case may be). Such a disclosure is only permitted for the purpose of facilitating the service of documents on the person. Further, new section 481, inserted by clause 315, provides that in any proceeding, VCAT may make an order requiring an agent of a residential rental provider to provide the residential rental provider's full name and address for the purposes of the proceeding. Compliance with this provision is mandatory. New sections 420C and 481 engage the right to privacy in section 13 of the Charter. However, in my view, any interference with the right will not be unlawful or arbitrary as only limited information may be disclosed in clearly confined circumstances. Further, an individual would have a limited expectation of privacy in the context of residential rental providers or VCAT having access to contact information, and a penalty applies in relation to section 420C if information is disclosed for a purpose other than serving documents. Accordingly, I consider that these provisions are compatible with the right to privacy.

The Bill amends section 331 of the Principal Act to provide that when considering an application for a possession order on the basis of non-payment of rent, VCAT may refer the renter to a financial counselling service or other prescribed service and require the service to assess and report on the ability of the renter to comply with a payment plan in relation to any outstanding arrears of rent. A referral may only be made for the purpose of VCAT determining whether satisfactory arrangements can be made to avoid financial loss to the residential rental provider, in which case VCAT may adjourn the application and make an order that the renter comply with a payment plan. While requiring an investigation into a renter's financial position may engage the right to privacy, in my view, it will be neither unlawful nor arbitrary. Any assessment will be carried out by a specialised financial counselling service and may assist the renter by ultimately leading to the dismissal or adjournment of the application for a possession order.

Non-compliance register and public warning statements

New section 439P requires the Director of Consumer Affairs Victoria to establish and maintain a register of certain residential rental providers, to be known as the Rental

Non-compliance Register. Providers to be listed on the Register are those who have committed an offence under the Act, or who VCAT has ordered to remedy a breach, pay compensation or refrain from committing a breach. The Register must include certain information, including the provider's name, address of the premises in respect of which the order was made or the offence was committed, the provision of the Act that the person breached and any other information the Director determines is relevant. The Register will be publicly accessible and may be published in any manner or form that the Director considers appropriate.

Under new section 510K, the Minister or Director may publish a public warning statement identifying and giving information about premises offered for residential occupation, or persons who have engaged in conduct contrary to the Act if satisfied that it is in the public interest to do so.

To the extent that natural persons are named in the Register or a public warning statement, the right to privacy and reputation will be engaged. However, any interference with the right to privacy and reputation occasioned by these provisions will be lawful and not arbitrary. Publicising information about providers who have contravened the Act or who are subject to a compliance or compensation order from VCAT serves the important purpose of enabling renters to identify providers who have breached their obligations under the Act, and also deters future offending. Further, a number of safeguards apply to the listing of personal information on the Register. If satisfied that it would be unfair in all the circumstances to list the making of a compensation or compliance order on the Register, VCAT may order the Director not to list the order on the Register. A person's personal information may not be listed on the Register unless the Director has given the person a copy of the information and at least 14 days to review the information and make submissions objecting to its entry on the Register or about its accuracy or completeness (unless the person cannot be located after making reasonable enquiries or the information is contained in publicly available court or Tribunal records). Finally, a listing on the Register expires after three years, and a person may apply to VCAT for an order requiring the Director to remove or amend information about that person in the Register in certain circumstances. For these reasons, I consider that these provisions are compatible with the right to privacy and reputation.

Right to non-interference with a person's home

Section 13(a) of the Charter provides a right to protection from arbitrary or unlawful interference with a person's home. The Bill provides for renters, residents of rooming houses and caravan parks, and site tenants to be issued with notices to vacate the relevant premises in particular circumstances, which may have the effect of interfering with a person's home.

Under various relevant provisions a notice to vacate may be issued to a renter, resident or site tenant prior to the end of a fixed term agreement in a number of circumstances which may involve no wrongdoing on the part of the renter. For example, a notice to vacate may be issued if a visitor of the renter intentionally or recklessly causes serious damage to the premises, or has endangered the safety or seriously threatened or intimidated certain persons, or if the renter has permitted the use of the rented premises for an illegal purpose. If a person has been given a notice to vacate the rented premises, the residential rental provider, rooming house operator, caravan owner, caravan park owner or site owner (as the case may be) may apply to VCAT for a possession order.

A renter, resident or site tenant issued with a notice to vacate on any of the above grounds may, on or before the hearing of an application for a possession order, challenge the notice in VCAT on the basis that the relevant act or breach for which the notice was given was caused by the act of a person who has committed family violence or personal violence. If VCAT is satisfied that the applicant has been, or is being, subjected to family violence or personal violence, and that the relevant act or breach was caused by the person who subjected the applicant to violence, VCAT must make an order that the notice to vacate is invalid. Further, in making a possession order under section 330 of the Act, VCAT must be satisfied that it is reasonable and proportionate to make a possession order in the circumstances, taking into account the interests of, and the impact on, the residential rental provider, renter, any co-tenants and any neighbours or other persons who may be affected in making the possession order.

The circumstances in which renters may be issued with notices to vacate are clearly set out in the Bill and are appropriately circumscribed. The provisions are necessary for the proper operation of the residential tenancies scheme, and seek to balance the competing objectives of respecting an individual renter's rights to occupy a rental property, and the broader protection of residential rental providers, contractors and neighbours. For these reasons, and given the safeguards described above which protect victims of family or personal violence from being evicted on the basis of acts of the perpetrator and the factors VCAT must consider, I am of the opinion that these provisions are compatible with the right in section 13(a) of the Charter. Further, to the extent that a notice to vacate or possession order may constitute a deprivation of property pursuant to section 20 of the Charter, any such deprivation will be in accordance with law and therefore compatible with the right to property.

Freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression. Section 15(3) of the Charter provides that special duties and responsibilities are attached to the right to freedom of expression and that the right may be subject to lawful restrictions reasonably necessary to respect the rights of other persons and for the protection of national security, public order, public health or public morality.

New sections 30E and 30G may interfere with the right to freedom of expression by prohibiting a residential rental provider or their agent from inducing a person to enter into a residential rental agreement by making a false or misleading representation about certain facts (such as the location and characteristics of the premises), and from making a false or misleading representation in relation to rent when advertising rented the premises. New section 30F also prohibits a residential rental provider or their agent from advertising premises unless the rent is offered as a fixed amount.

I consider that these provisions are necessary to protect members of the public and to ensure that they can reasonably rely on the truthfulness of information provided to them. Therefore, to the extent that the freedom of expression is engaged, these provisions fall within the exception in section 15(3) of the Charter, as reasonably necessary to respect the rights of other persons.

Protection of families

Section 17 of the Charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the State.

Clause 248 inserts new section 332A into the Principal Act, which enables VCAT to dismiss an application for a possession order in certain circumstances and make a compliance order instead. The effect of such an order will be that the person will not be at risk of being subjected to a possession order requiring them to vacate the premises, but instead may be required to remedy the breach of duty or to refrain from committing a further or similar breach. If VCAT finds that the breach of duty to which the application for the possession order related was caused by a person other than the renter, VCAT may order that the renter does not permit the person who caused the breach to enter or remain in the rented premises.

Where an order of the Tribunal under new section 332A compels the exclusion of a family member from the renter's premises, this provision may interfere with the right to the protection of families. It may also interfere with the excluded person's right to non-interference with their home. However, it may also promote these rights (for example, where the person is a perpetrator of family violence). Further, a number of safeguards apply to the making of such an order, including that VCAT must have regard to whether it is reasonable and proportionate to make the order, and whether it is appropriate to do so. Further, section 332A will only apply in circumstances where a notice to vacate has been issued on the basis that the person has intentionally or recklessly caused serious damage to the premises or endangered the safety of certain persons. Accordingly, the provision serves an important protective purpose and any limitation on the right to family will be reasonably justifiable. In my view, new section 332A is compatible with the right to family.

Right to property

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

New section 386, inserted by clause 268, clarifies that when dealing with goods left behind by a former renter, resident or site tenant, the owner of the premises may remove the goods from the premises and store them in a safe place. New section 391 also allows the owner of the premises to sell or dispose of the stored goods if the person entitled to possession of the goods has not reclaimed them within 14 days, or a longer period by agreement or by order of VCAT. These amendments extend the time period for collection and permit the owner of the goods to apply to VCAT for an order requiring the owner of the premises to store the goods for a longer period. To the extent that any of these provisions may result in deprivations of property, I consider that any such deprivations will be in accordance with law and compatible with the right to property under the Charter. The owner of the premises must take reasonable steps to notify the former renter that the goods have been left behind and must store them in a safe place for 14 days. The goods may only be sold or disposed of if not collected and the rightful owner may request the proceeds of sale (minus the relevant fees) if the goods are sold. The provisions are clear and confined.

Fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The Bill inserts a new scheme whereby a person who is a party to an existing residential rental agreement or is residing in rented premises as their principal place of residence has been or is being subjected to family violence by another party to an existing residential rental agreement, or who is a protected person under a personal safety intervention order made against a party to an existing agreement, may apply to VCAT for an order terminating the current residential rental agreement and requiring the relevant provider to enter a new agreement with the applicant (and any other persons specified in the application) on the same terms. This scheme also applies in respect of fixed term rooming house agreements, agreements under section 144, and Part 4A site agreements. In such a proceeding, the person who subjected the applicant to family violence or against whom the personal safety intervention order was made may not cross-examine the person subjected to violence unless VCAT gives leave. If leave is granted, the person may only cross-examine the person subjected to violence in relation to certain matters, such as the hardship they would suffer if compelled to leave the premises and their ability to comply with the duties of a renter. This reflects clause 73A of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* which provides that in a proceeding under the Principal Act, a respondent to a family violence intervention order may not personally cross-examine the protected person unless VCAT gives leave to do so. The Bill also amends this provision to extend it to personal safety intervention orders.

These provisions may interfere with the right to a fair hearing by limiting the opportunity of the alleged perpetrator of violence to cross-examine another person. Consequences of such a proceeding may include the termination of the alleged perpetrator's rental agreement and being found liable for outstanding charges in relation to the property. However, in my view, the right to a fair hearing is not limited by these provisions. The purpose of the prohibition on direct cross-examination is to protect victims of violence from being subjected to further trauma, and reflects current practice in intervention order matters. The person will still be able to conduct a cross-examination through a representative or if VCAT gives leave, can introduce contrary evidence and make relevant submissions, and will not be at risk of a finding of guilt or significant penalties. Accordingly, I consider that these provisions strike an appropriate balance between the right to a fair hearing and the protection of victims of violence, and are compatible with the right in section 24 of the Charter.

Right not to be punished more than once

Section 26 of the Charter provides that a person has the right not to be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law.

The Bill introduces a pecuniary penalty regime, providing for a graduated series of sanctions under the Act. Under new

section 498AH, the Director may commence a proceeding in the Magistrates' Court for the recovery of a pecuniary penalty on behalf of the State where a person has been involved in the contravention of a pecuniary penalty provision. These proceedings will be civil proceedings, to be determined on the civil standard of proof.

Criminal offences may also apply to the same conduct. However, I do not consider that the parallel operation of civil and criminal penalties limits the right not to be punished more than once for the same offence. New section 498AE of the Bill provides that the Court must not make a pecuniary penalty order against a person who has been convicted of an offence constituted by the same conduct. If a criminal proceeding commences against the person for an offence constituted by the same conduct as that alleged to constitute the residential rights contravention, the proceeding relating to the pecuniary penalty is stayed. Therefore, in my view, the pecuniary penalty scheme is compatible with the right in section 26.

Philip Dalidakis, MP
Minister for Trade and Investment
Minister for Innovation and the Digital Economy
Minister for Small Business

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (09:48) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Residential Tenancies Amendment Bill is the culmination of a four-year, broad-based review of the Residential Tenancies Act 1997 (RTA).

The review represented a once-in-a-generation opportunity to revisit the regulatory settings that have been in place since 1997, and to ensure they meet the needs of participants in today's modern rental housing market.

The review delivers on the Andrews Labor Government's commitment to ensure Victorians who rent have access to "fairer, safer housing".

The Bill is a watershed moment in Victoria's regulation of the residential rental market. It implements a package of over 130 reforms to ensure that the RTA meets the existing needs of residential rental market participants while remaining adaptable to future change.

The Bill overhauls the RTA to better deal with the range of issues that arise during a rental relationship. In keeping with this forward-looking approach, the Bill adopts explicit purposes and up-to-date terminology befitting of a modern regulatory framework. Gone is the feudal language of landlords and tenants, to be replaced by 'residential rental providers' and 'renters'.

More broadly, the reforms are framed around the reality that a growing proportion of Victorians are priced out of home ownership and likely to rent for longer periods of time. There is, consequently, a need to rebalance the market through additional protections for a highly diverse population of renters.

A number of the reforms were foreshadowed as part of the Andrews Labor Government's 'Rent Fair' campaign in October 2017. These include:

allowing animals to be kept in rented premises;

allowing renters to make prescribed minor modifications to a rental property;

bolstering security of tenure by ending 'no fault' evictions by removing the 'no specified reason' notice to vacate and restricting the use of 'end of the fixed term' notices to vacate to the end of an initial fixed term agreement;

establishing a non-compliance register 'blacklisting' residential rental providers and agents who fail to meet their obligations;

providing for the early release of bonds with the consent of both parties to the tenancy agreement;

restricting solicitation of rental bids by residential rental providers and agents;

providing for yearly, instead of six-monthly, rent increases;

providing for faster reimbursement where tenants have paid for urgent repairs;

increasing the number of properties to which the statutory maximum cap of four weeks for bond and rent in advance applies;

enabling automatic bond repayments, which will be available to a renter within 14 days where the parties are not in dispute over the apportionment of the bond;

requiring mandatory pre-contractual disclosure of material facts, such as an intention to sell the rental property, or the known presences of asbestos; and

prohibiting misleading or deceptive conduct inducing a person into renting a property.

These protections are rounded out with other important changes aimed at improving the state of rented premises and ensuring that renters have a safe and sustainable living environment:

mandatory condition reporting to ensure the state of rented premises is accurately recorded at the beginning and end of a rental relationship;

mandatory safety-related obligations, notably electrical and gas appliance servicing every two years, and compliance with smoke alarm and pool fence regulations; and

the power to prescribe in regulations minimum standards for residential rental properties.

Minimum standards that would be prescribed include basic, yet critical requirements which no reasonable person could object to, such as:

a vermin proof rubbish bin;

a functioning toilet;

adequate hot and cold water connections in the kitchen, bathroom and laundry;

external windows that have functioning latches to secure against external entry;

a functioning cooktop, oven, sink and food preparation area;

a functioning single action deadlock on external entry doors;

functioning heating in the property's main living area; and

window coverings to ensure privacy in any room the owner knows is likely to be a bedroom or main living area.

This power to prescribe minimum standards has been flexibly designed, so that it can incorporate standards imposed under other Victorian legislation, such as energy and water efficiency requirements. A failure to comply with the standards will trigger a variety of responses, including a fine, urgent repairs to the premises, or termination of the parties' agreement before a renter has even moved in.

Importantly, the Bill implements each component of recommendation 116 of the Royal Commission into Family Violence to better protect and support family violence victims living in residential rental housing. Consideration of family violence has also been interwoven with relevant provisions of the Act to avoid further victimisation of vulnerable renters while ensuring continuity of housing.

Specialised reforms have also been included for alternate tenure types such as rooming houses, caravan parks and residential parks.

The Bill allows for a new, tailored rooming house agreement to be developed for operators and residents wishing to enter into an agreement with a defined occupancy period. Parties who do not wish to enter into the new agreement will be subject to the ongoing residency right currently conferred by the Act. Use of tenancy agreements in rooming houses will only be allowed in respect of residents living in self-contained apartments that form part of the rooming house.

Importantly, the Bill responds to ongoing concerns about the procedural rigour, and impacts, surrounding park closures. Residents affected by the closure of a park will now have access to compensation in particular circumstances, and park owners will need to comply with stricter notification and permission processes before they can proceed with closing down a park.

While the main focus of the Bill is improving protections for vulnerable renters, and greater security of tenure, these reforms are offset, in a number of instances, by increasing clarity around renter responsibilities.

Residential rental providers will now be able to terminate a tenancy if a renter or any other person occupying or jointly occupying the rented premises has seriously threatened or intimidated the residential rental provider, their agent, or a contractor or employee of either.

Existing termination grounds have been fine-tuned to ensure they provide residential rental providers with effective tools for managing risks arising during a tenancy. For example, renters who intentionally or recklessly damage premises will no longer be able to avoid eviction on the basis of a prediction by VCAT that the conduct will not recur.

Termination for repeated non-payment of rent will now be underpinned by a more structured process. Tenants who receive four notices to vacate for being 14 days or more in arrears in any 12-month period risk being evicted the next time they receive another notice to vacate, unless they can pay the arrears, satisfy the terms of a payment plan (where such a plan is imposed by VCAT), or demonstrate that it would not otherwise be reasonable or proportionate to end the rental relationship.

This 'reasonableness and proportionality' test would also apply to other applications for a possession order to ensure that renters are not evicted for trivial or easily remediable reasons.

Tenants will need to comply with new safety-related duties to ensure they play their part in ensuring the safety of the premises. This also includes a prohibition on tampering with any safety devices, such as smoke alarms, unless it is reasonable to do so in the circumstances.

Rights of entry have been significantly clarified to ensure that inspections can be conducted in an orderly manner, while avoiding undue interference with renters' daily lives. For example, residential rental providers will have a clear right to conduct at least two opens for inspection per week when re-letting or selling a property. Renters would have the right to refuse further inspections, and would be compensated for any inconvenience, as well as loss of property that might occur during an inspection.

The Bill also modernises the process for dealing with goods left behind by a renter, and empowers the Director of Consumer Affairs to issue guidelines clarifying the operation of the RTA.

The Bill implements the Victorian Law Reform Commission's recommendations about photography of premises, allowing residential rental providers to do what is necessary to re-let or sell their premises, while balancing the need for renters to impose restrictions on the types of photographs or videos that may be taken.

The Bill also includes a number of changes that will benefit both sides of the market by targeting inefficient or outdated processes, and strengthening incentives for compliance with the Act. These include:

increasing existing penalties for non-compliance, and introducing a civil penalty regime for certain offences;

a power for the Minister of Consumer Affairs, or the Director of Consumer Affairs, to issue a public warning statement about premises, rental housing providers or persons who have breached the Act, if it is in the public interest to do so;

updating provisions relating to the provision of keys so as to cover devices that enable entry into secure buildings;

enabling digital delivery of information and forms to bring the RTA into the 21st Century;

enabling payment of rent via fee-free methods, as well as Centrepay; and

facilitating free access to tenancy databases, and introducing restrictions on listings relating to family violence.

I note that the Bill is the first step towards the Andrews Labor Government's broader vision for the RTA. Work will continue next year to ensure that the suite of reforms in the Bill is supported by complementary, easily accessible and effective dispute resolution through VCAT, encouraging the parties to assert their rights in a non-adversarial manner.

As part of those reforms, the Victorian Government will work with VCAT and relevant stakeholders to significantly improve dispute resolution processes within VCAT for residential tenancy matters, by making greater use of informal methods of dispute resolution and introducing internal review for residential tenancy decisions.

The process will conclude with a re-write of the RTA to ensure its structure and language are as easily accessible as possible for the variety of audiences that rely on it to run their homes or their businesses.

In the interim, the Bill will modernise the RTA to cater for the contemporary Victorian residential rental market.

I commend the Bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Friday, 31 August.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I move:

That the Council, at its rising, adjourn until Tuesday, 4 September 2018, at 12.00 p.m.

Motion agreed to.

LONG SERVICE BENEFITS PORTABILITY BILL 2018

Second reading

Debate resumed from 9 May; motion of Ms TIERNEY (Minister for Training and Skills).

Mr ONDARCHIE (Northern Metropolitan) (09:50) — I rise this morning to speak on the Long Service Benefits Portability Bill 2018. It is an interesting bill that is before the house today, because there is a great range of confusion that comes from various sectors who as it turns out may not be affected by the introduction of this bill. I do note at the outset that government amendments to this bill were furnished to the opposition 4 minutes before the sitting of the Parliament this morning, offering us a briefing. I am not quite sure how it is physically possible, when the government amendments were furnished 4 minutes before the start of today's proceeding, for a briefing to happen. So we have not yet had the chance to examine the government amendments and have not yet had the chance to examine how that fits in with our decision-making process today, which is going to cause us some difficulty in our capacity to deal with that today given I do not quite know when the briefing is going to happen.

The purpose of this bill is to create a portable long service leave regime to apply initially to the cleaning, security and community services sectors. The community services sector is one that I will talk about a little bit in my contribution today and one that we will examine further in the committee stage, and I foreshadow that the opposition will be providing some amendments to this bill in relation to particularly the community services sector.

The bill establishes a Portable Long Service Benefits Authority to administer the scheme, with a board of up to nine persons appointed by the minister and a registrar as the CEO. It applies initially to the contract cleaning, security and community services sectors, with the capacity for the scheme to be extended to other sectors in future. It applies to contract workers in the security and contract cleaning industry, with provision to be extended by regulation to contract workers in other industries. It does not initially apply to independent contractors and for-profit organisations within the community services sector except for for-profit organisations in the disability services sector. It requires employers to pay a levy of up to 3 per cent of employees' ordinary pay to the authority, with the actual levy rate to be set by the authority. It requires employers in a covered industry to register themselves, their employees and their contract workers. It allows workers in the contract cleaning or security industries with at least seven years service to request their employer for long service leave, with a right of appeal to the authority if this is refused.

It goes on to provide for workers granted long service leave to be paid for their leave by the authority at their

rate of pay at the time that leave commences. It recognises service in the contract cleaning and security industries of up to 12 months prior to the commencement of the legislation. It allows for the cashing out of entitlements by employees in the contract cleaning and security industries only on leaving the industry. It allows an employee to not work in the industry for up to four years before losing continuity of service. It provides for the scheme to make payments in lieu of long service leave to workers in the community services sector, and it provides for proceedings in relation to the scheme to be brought in the industrial division of the Magistrates Court.

The Liberal-National coalition have sought views widely on this bill, and I have to say there is a variety of responses we have had to it, particularly from those in the disability services sector and the community services sector about how it may affect them. We have spoken to the Australian Industry Group, to the Victorian Chamber of Commerce and Industry, to the Victorian Farmers Federation, to the Independent Contractors of Australia, to the Australian Retailers Association, to the Trades Hall Council, to the HR Nicholls Society, to the Recruitment, Consulting and Staffing Association Australia & New Zealand, to National Disability Services, to the Victorian Healthcare Association, to the Victorian Council of Social Service, to Women's Health Victoria, to Berry Street, to Merri Health and to a range of other community services stakeholders. There are things that concern us and things we will seek to pursue in the committee stage of this bill. As I indicated already, I have not yet had the opportunity to examine the amendments that were provided by the government 4 minutes shy of the house sitting this morning.

The bill undermines the concept of long service leave being a reward for long service with the one employer. Unlike the building industry, the contract cleaning, security and community services sectors are not sectors where workers inherently move around from project to project and employer to employer. The scheme is likely to be very expensive for employers, with indirect costs and administrative costs as well. The levy can be up to 3 per cent of the wages. The government is talking about a levy of 1.5 per cent, which is far higher than the current cost of long service leave to employers. Long service leave is equal to about one month for every 60 months worked. This would equal 1.66 per cent of wages if every employee qualified for long service leave, but in these sectors only a small proportion of employees currently qualify, meaning the proposed 1.5 per cent levy is far higher than the current cost of long service leave to employers.

The scheme as presented to the Parliament today only applies to frontline cleaners and security personnel, not the other staff of the employer. The government has been unable to answer questions about how the scheme applies to staff who move between frontline and back office duties and on what basis the employer is entitled to obtain reimbursement from the scheme. As well, allowing four years absence from a sector is far wider than current enterprise bargaining agreements. These things may well be answered in the amendments that have been put to us today by the government, but as I indicated, with 4 minutes notice before the sitting of the house we have hardly had time to examine them nor have we been able to avail ourselves of the briefing that has been offered to us some time during this sitting day.

The coverage within the community services sector is complex, and it will create uncertainties and the potential for double-charging and penalties for non-compliance. Coverage of the current building industry scheme, CoINVEST, has been highly contentious, with many employers believing they have been falsely classified as being in the building industry and forced to pay the levy improperly.

This bill is strongly opposed by disability sector employers, who are already under severe pressure due to the introduction of and move to the national disability insurance scheme (NDIS), where they operate with fixed national fee rates. The levy will wipe out most disability providers' surpluses and risk sending many of them broke. As I have indicated already in my contribution today, we have consulted very widely on this and the evidence has been overwhelming about how this sector will be disadvantaged. The government have given no commitments of additional funding to community services organisations to meet the additional costs of this scheme. Even organisations that support the state have called for additional state and/or commonwealth funding to meet its costs.

This bill creates an expensive, centralised and bureaucratic regime that will impose higher costs on employers. A portable long service regime undermines the rationale of long service leave being a reward for continued service with the one employer. We should not forget that the majority of members on the parliamentary committee inquiry considered that the case for portable long service leave has not been made out. The scheme will have particularly damaging effects in the disability sector, which has already been badly squeezed by the move to the NDIS. The bill will potentially catch up many healthcare organisations whose services include disability services. There has been inadequate research or data to establish the benefits or costs of the scheme. The scheme will be

expensive for employers in both direct costs and costs associated with the administration of the scheme.

There are numerous anomalies and unanswered questions about how the scheme will apply to employees who move between covered and uncovered roles with their employers. The scheme's coverage within the community services sector is complex and has the potential for both double charging and double dipping and to create penalties for non-compliance. There is some uncertainty about whether the scheme coverage creates the risk of scope creep and costly coverage disputes, as currently occur within the building industry scheme, CoINVEST.

We are concerned that this scheme will badly hurt disability service providers that are already struggling with national disability insurance scheme implementation. The sector opposes being covered and fears many providers will be forced to close. The scheme will apply to not-for-profit early learning centres but not to for-profit centres, placing many of those not-for-profit centres at a significant disadvantage.

Many of those affected and those in those affected sectors, particularly within the community services area, have been given no or very little notice of the bill and have had had no opportunity for consultation about it or consideration of their concerns by the government, but we have listened and we have heard. Also the details of this bill and the scheme appear to be rushed, with very little thought having being given to how the scheme would actually operate in practice and what its practical impacts would be. There can be additional costs. Community services organisations may need to cut staff to manage those costs, and there has been no offer of funding or assistance from the government. We have spoken quite widely and we have had enormous feedback.

As the bill covers three sectors — community services, contract cleaning and security — it looks to be the government's intention that this will commence on 1 April 2019. The bill requires an all-in-scope community services sector to pay a levy for the new authority to be established. Employers will be within scope if they are a not-for-profit organisation that employs one or more persons to perform community service work, including for persons with a disability or other persons who are vulnerable, disadvantaged or in crisis; a licensed children's service under the Children's Services Act 1996; an approved provider under the Education and Care Services National Law Act 2010; or a for-profit organisation that employs one or more persons to perform community service work for persons with a disability.

As I have outlined briefly already in my contribution today, there is a great deal of uncertainty, to the extent of which class of workers will be covered by the bill — for example, community health workers and also clinical mental health professionals working in the disability services sector. It is just not clear. All employees across all levels of employer organisations, whether they are part-time, full-time or casual employees, are potentially in scope here. However, aged-care workers are not included as employees. It is unclear how this impacts on employers who have employees who work in the aged-care and other community service areas, such as the disability sector.

The levy will be set by the new authority and is expected to be about 1.5 per cent, according to this bill, although it cannot exceed 3 per cent of an employee's ordinary pay, and it is to be paid quarterly by employers to the authority. The bill offers employers no guarantees as to what the levy may be, other than that it cannot exceed 3 per cent of an employee's ordinary pay. I am not sure the government has fully considered what impact this is going to have on this sector. Where a provision for long service leave is currently made as an accrual on the balance sheet, this is going to require a cash payment every single quarter — every quarter by these employers — into this centralised fund to be administered by an agency. This could hurt business, and I am not sure that the government has, A, consulted, or B, considered the impact on this sector.

In the community service sector the scheme will provide a cash benefit rather than a leave benefit, as is provided for contract cleaners and security guards, with workers being able to access it after seven years of service. An employee must apply for leave without pay in order to use the benefit of leave. The value of the benefit will be one-sixtieth of service to an employee's ordinary pay — that is, six weeks pay for seven years of continuous employment. The levy will be prospective from the date of the employee's registration under the scheme.

The scheme also does not displace the existing long service benefits from federal industrial instruments. Employers will need to maintain adherence to long service leave requirements under existing industrial arrangements and track leave and payments under both their current industrial arrangements and those prescribed by this bill.

We note that the other industrial arrangements may have different provisions in terms of leave accrued over

years of employment. The bill also says that employees will be able to be absent from that industry for up to four years without affecting their previously accrued long service leave.

The levy paid to the authority by employers and contract workers may be used for the payment of long service leave benefits, the payment of staff, the payment of governing board members of the authority and administrative expenses as well as the investment of that money by the authority. If the workers leave the sector within seven years of the commencement, the funds paid by employers on their behalf will remain with the authority and not be returned to the employer. That just does not make sense. As I indicated, we have consulted very, very widely. I want to touch on some of that feedback that we have before us today, much of which we will examine in the committee stage of the bill when we eventually get to it.

One of the things that we really need to recognise is the disability services sector is moving to NDIS funding. People in the sector — such as, for example, National Disability Services — do not support the imposition of additional state-based costs for services transitioning to the NDIS, which is a federally run scheme. The NDIS prices are based on the federal social, community, home care and disability services award and do not take into account state-specific additional costs. The long service leave benefits scheme will impose significant costs on every Victorian disability service provider, plus there will be additional administrative costs and, as I have already indicated to the house, there is going to be some pressure on cash flow as well.

Already the disability service providers are under extreme pressure with the transition to the NDIS, and imposing an additional cost impost is simply not sustainable. If you look at the NDIS pricings, some of the pricing is very lean. It does not allow for the sort of pressures that this bill will put on employers. As McKinsey said in its recent NDIS *Independent Pricing Review*:

> … many traditional providers are struggling to operate profitably at current price points.

As I indicated already, this scheme is going to have a major impact on these organisations' cash flow. They are currently under pressure from the transition from state block funding paid up-front to NDIS payments that are made in arrears. Due to the significant problems with the NDIS payment processes, the National Disability Insurance Agency (NDIA) has already moved to establish a new payments team to address the huge volume of outstanding moneys owed to the sector. The problem is that the disability services sector providers in a sense have become the bank here, because they are carrying the cost of this while they are waiting for payment through the NDIS scheme, and this is going to add another burden to them as well. We are worried that this pressure, particularly with its cash flow implications, could contribute to the withdrawal of some services from the market, thereby exacerbating this extremely thin market for people with disabilities in some parts of Victoria.

Those additional costs will also put some pressure on the capacity of providers to provide adequate supervision and training across the sector which, as I indicated, is already under some pressure from NDIS pricing, as was noted by the Victorian government's own submission to the Productivity Commission. Many disability services will have ongoing long service leave commitments through enterprise bargaining agreements and federal awards which will need to be maintained, requiring the allocation of internal funds as well as those to the new authority. The complex tracking of employee leave and benefits entitlements just adds another burden to these providers, and the government are yet to talk about any solution to support those employers.

What is interesting about the disability workforce is that it comprises a majority of part-time or casual workers, often working for more than one employer simultaneously and often with fluctuating hours. The National Disability Insurance Agency is happy to see almost one-third of NDIS participants self-managing their NDIS packages in the future, so we are going to see a significant rise of sole practitioners and the allocation of work to the gig economy. The workforce will be extremely complex to track in terms of the hours and the years worked.

The scheme before us today also excludes community aged care, yet many workers work with both older people and people with disabilities. We fail to understand how the eligible hours for the scheme will be accurately tracked. The government have not talked about that at all. There are questions as to whether supported employees are covered by the scheme and how the scheme requirements would dovetail into their existing long service leave provisions. There are so many unanswered questions here.

I think that disability services should be exempted from the bill, and we will talk a bit more about that in our amendments today. At the very least, it should be almost mandatory for this complex bill before us, which has so many unanswered questions, to be referred to a parliamentary committee for further consideration. The government should really fund an independent

assessment to understand how this is going to impact the sector. But they have failed to do that because this smacks of a rushed scheme that has been put up without thought.

There is no greater example of that than in how, after many weeks of this bill sitting on the notice paper, after it having been an agenda item for many sitting weeks that never came to fruition, at 4 minutes before the house sat this morning we were furnished with the government amendments with no opportunity to examine those amendments, no opportunity to review them, and the offer of a briefing. I am not quite sure when in that 4-minute interval between 9.26 a.m. and 9.30 a.m. when the bells rang that briefing was going to occur. How was that possible?

Ms Pulford — Let's not filibuster away.

Mr ONDARCHIE — But how was that possible? It has been sitting on the government notice paper for a period of time, and 4 minutes shy of the siren sounding for the start of the Parliament today, they said, 'Here are some amendments, and if you'd like a briefing we'll give you one'. When are you going to do that when the siren is going to sound in 4 minutes time? This smacks of an amateur government trying to rush things through, and already the evidence is overwhelming — they have not consulted with anybody. This bullying government is just pushing stuff through. They are just pushing things through.

Ms Pulford — That is such a lie.

Mr ONDARCHIE — I will pick up the interjection, Ms Pulford. Why would you supply amendments with 4 minutes to go before the Parliament sits? Why would you do it?

Ms Pulford interjected.

Mr ONDARCHIE — But why would you do it? Between 9.26 a.m. and 9.30 a.m. when were you hoping to provide a briefing to the opposition on this matter? You know why you did that? Because you do not want to hear what anybody has to say about this. You just want to push it through without consultation. And that is not me saying that. That is the sector saying that it had no consultation on this at all, none whatsoever. This is just symptomatic of this government. Who knows, they may well sign time sheets for people they never met today. Who knows?

I had a meeting as part of the consultation with many providers, and one of them said to me this: they are really concerned about the lack of consultation around this. The government have not fully considered what the impact on the workforce is. They have a workforce that is comprised of some a.m. and then p.m. employees — they are casuals, they are part-timers. They do breakfast and morning support for some people in the disability sector, then they do some evening and dinner support at the other end of the day. Employees work for different organisations. They are often funded through either a state, a federal or a client scheme. How does that long service leave portability provision apply to that, when for part of their time they are employed by the state scheme, for part of their time they are employed under the NDIS and for part of their time they are employed directly by a client? How does that fit together? Another unanswered question.

I have talked about the impact on the balance sheet here and the cash impost on these employers every quarter. Often in the community services sector employees are part-time or casual. Some of them are studying higher education courses such as nursing, physio, occupational therapy et cetera, and they do not often stay in a job for seven years. Yet the funds will be paid into a centralised fund to be administered by the agency, and should they — as in the main — not stay the whole seven years, the employer cannot get their money back. How does that make sense here?

It is also felt by the sector — if the government had ever chosen to ask them — that it is really bad timing. It is bad timing in terms of the introduction of a national disability insurance scheme, which has complexities and issues associated with its implementation that everybody in the sector is still trying to work out, including the NDIA. The clients are starting to get their head around how they self-select who provides the services to them, so it is complex for them as well. Then on top of that the state government of Victoria want to impose a long service leave portability on the sector as well. It is really bad timing.

Some of the people in the sector have sought a briefing from the Department of Health and Human Services (DHHS) on this, and to quote one of the people I talked to, when they fed this back to the department some people who had been briefed by the department acknowledged this was badly constructed legislation. They could not get answers to a number of their questions, but one of the things that was told to them in the process regarding why this scheme had to be introduced at all, was this: 'We need the dollars to fund the authority'. It is gobsmacking that in the department's briefing to providers in this sector the answer to why we need to have this scheme is that we need the money to fund the authority. Is that right? Is the government just creating another funded quango just to get something done here? Is that the reason? Are

they just about creating another monolith here that will be funded by the sector — because they are yet to answer these questions from the sector and, rightly so, this sector is very concerned about this.

The legislation may have some unintended consequences for the continued delivery of critical services without providing any additional conditions for the staff. Community health service employees already have access to long service leave provisions through industrial agreements. The bill has some contradictory statements about coverage. Whilst schedule 1 clause 4 provides for an exemption where an employer is a community health service, the same clause appears to extend the bill's application to those undertaking community service work. Advice has been received that community health sector employees will come under the latter definition. There are already there are some contradictory statements in this bill.

The financial implications for this sector will be substantial — between $200 000 and half a million dollars per annum depending on the scheme's application. It does not include the additional administrative costs arising from administrating two separate long service schemes or the loss of interest income, as the government seems to add another impost on these providers. Government subsidies may well be required to offset the considerable establishment and recurrent costs to the community health sector, but there is no provision for these in this current year's budget. Conversations that have been had with DHHS have resulted in proposals that regulations could be written to prevent employees double dipping. Conversations about possible regulations have indicated they would be convoluted; they would be technical. The Victorian Hospitals Industrial Association also shares concerns that the scheme may not be capable of operating as intended. They have identified the risks of either double dipping or placing employees in a position where they may have to choose to get a lesser entitlement sooner due to the interaction between the provisions of the Fair Work instruments and this bill.

In briefing the sector DHHS have been unable to answer the fundamental questions that have been posed by the community services sector, being: why, given these issues, have community health sector employees been captured by the bill? They have also been unable to define who these workers are that are considered. Ideally this legislation should look to exclude community health service employees. I have not had a chance to see the government amendments, but I would hope that would be in there today. Maybe the right thing to do here, because this is such an ad hoc and rushed approach by the government, is to send it to a committee for proper examination before its introduction. Then the bill could come back to the Legislative Council with the recommendations of that committee.

We will see a number of amendments introduced by the Liberal-Nationals coalition in the committee stage of this bill. Those amendments were sent to the government well in advance of today's sitting.

Ms Mikakos — Yesterday. 'Well in advance' — it was yesterday.

Mr ONDARCHIE — I will pick up Ms Mikakos's interjection. She said they were sent yesterday. Yesterday is a long way ahead of 4 minutes before the sitting of the Parliament today, which is when we got the government's amendments — with 4 minutes to go.

Ms Mikakos — Yesterday is not a long time ago.

Mr ONDARCHIE — Now one could suspect that you held back until the very last moment to prevent us having a proper examination of the amendments. One would suspect that, otherwise, given this has been sitting on the notice paper for so long, why would you not have sent them to us before now? You would not send them before now because you are trying to bully this through. That is the thing. This is just shy of signing time sheets for people you have never met. You are just sending them through and saying, 'That's what we're going to do' and we may use the phrase 'We acted in good faith'.

Honourable members interjecting.

Mr ONDARCHIE — They 'acted in good faith' by sending them to us 4 minutes before the house was due to sit today, and at the same time as sending them through with 4 minutes to go before the start of today's proceedings they said, 'Would you like a briefing on this as well?'. When were you going to do it? In the corridor while the bells were ringing? Is that when you were going to do it? Why don't you do that?

Ms Pulford — How about breakfast on Good Friday?

Mr ONDARCHIE — Let us pick up your interjection, Ms Pulford. If you want to talk about convention, let us talk about convention. No Westminster Parliament ever in history has sat on Good Friday except for your government. So if you want to come in here throwing your hands in the air and talking about breaking of convention, you did it when you chose to sit on Good Friday, so do not come in here claiming about breaking with convention and about not

doing the right thing when you did that. History will show that only one Westminster Parliament has ever sat on Good Friday and that was the one led by the Andrews Labor government.

Honourable members interjecting.

The PRESIDENT — Thank you. Mr Ondarchie, I know you picked up on an interjection but I think that you have more than dealt with it. It is not relevant to the bill. Please return to the bill. And please cease the interjections.

Mr ONDARCHIE — This Long Service Leave Benefits Portability Bill is a mess, and the government knows it is a mess; hence they have shuffled through their amendments at the last minute.

When it comes to other parts of the sector let me talk about early learning, something that those opposite may be interested in. We have had some consultation with the Early Learning Association Australia (ELAA) in Victoria, and on behalf of their 1300 Victorian members and the numerous large-scale Victorian early childhood education and care providers they have deep concerns with this proposal to extend the portability of long service leave scheme to the community sector, including not-for-profit providers of the early childhood education and care (ECEC) sector. They want, and they have asked for us to, on their behalf, put a position to the government that says that ECEC services should be excluded from the operation of the bill under clause 2(2) of schedule 1 to provide an opportunity for further analysis and consultation about the costs and the benefits of an equitable extension to the sector to be considered.

Similarly, ELAA have also asked that there should be a meeting — because we have not had appropriate consultation — with members of Parliament and early childhood providers to allow the sector to present its concerns to the government. That will allow the government to hear — to do something unusual perhaps even, to take some consultation with the sector — about what the effect of this bill would be.

Ms Mikakos — You are making things up.

Mr ONDARCHIE — I have to say, as I pick up Ms Mikakos's interjection, I do wonder if she has even met with this association about this matter because I have a letter from them. Now either I am making it up or they are, and if you accusing the sector of lying, come out and say it. Come out and say if you think the sector is lying about this. Come out and say if you think the sector is making this up, because I have a letter from them, and if you want to stand up and claim they are making it up, then you do that.

This bill raises a number of concerns for many people in many parts of the sector. They have said to us by way of conversations and also in writing that they are concerned about the lack of consultation. In a letter to us we have been told that 'The move to table this legislation has not been adequately communicated to the sector'. Whilst those opposite are getting excited and all energetic about what I am saying, I am just repeating the words of the sector, and it is my role and the role of all members of Parliament to represent them. This is what they are saying, and their concerns fall into three main areas: the inequity of the application of this bill, the increase in the costs of long service leave provisions for not-for-profit providers and the issues associated with the implementation.

I want to refer to those who have a view about this, and I am talking about Early Learning Association Australia, Bestchance Child Family Care, Goodstart Early Learning, Early Childhood Management Services, UnitingCare Victoria and Tasmania and Try Australia, all of whom are signatories to this letter that was written to the state opposition outlining their concerns about this bill.

Honourable members interjecting.

Mr ONDARCHIE — I will take up the interjection. The interjection was that every MP got that. Well, it seems that there is only one who is talking about it, because the government are absolutely silent about the sector's concerns. Why are they silent about the sector's concern?

Ms Mikakos — On a point of order, President, Mr Ondarchie is continuing to put out misinformation about this. I actually sat in my office with ELAA and had a discussion about their concerns.

The PRESIDENT — Order! Minister, what is the point of order?

Ms Mikakos — Mr Ondarchie continues to make —

The PRESIDENT — Minister, rather than keeping on talking, tell me what standing order this point of order is under.

Ms Mikakos — The member is misleading the house in that he is continuing to assert something which is not true.

The PRESIDENT — Which standing order?

Ms Mikakos — I would have to look at up.

The PRESIDENT — Yes. Essentially you are debating. Your side will have an opportunity to participate in the debate and to rebut what Mr Ondarchie is saying if you believe it is incorrect. We do not need members suggesting that they have points of order when in fact all they want to do is contradict a debating point.

Mr ONDARCHIE — Thank you, President, and I would encourage those who have considerations —

The PRESIDENT — Mr Ondarchie, I do not want a commentary to support what I have said. I want you to return to the bill.

Mr ONDARCHIE — Thank you, President. The organisations that I have talked about already in my contribution today all share a common desire to provide fair, equitable and sustainable working conditions for their staff. We know that. However, because the bill only applies to not-for-profit providers it creates a division of employee benefits between the profit and the not-for-profit sectors, as well as increasing direct employee costs for not-for-profit providers. Not-for-profit providers employ just 35 per cent of the workforce in this particular sector in Victoria.

This inequity in application means that not-for-profit providers will face higher compliance and employment costs related to long service leave that are not faced by for-profit or government providers, whilst employers in the sector will not achieve true portability of leave because most of the sector will not be covered by the scheme anyway. The prospect of considerable chunks of service being lost as a result of this is quite high.

The Australian Capital Territory is the only jurisdiction in Australia to include the early childhood education sector in its portable long service leave community sector scheme. That scheme provides for both for-profit and not-for-profit providers. Similarly, the people who have made these approaches, who I have just referred to, are concerned that the provisions of this bill will go well beyond the current portable long service leave arrangement in the community kindergarten sector.

The changes will considerably increase the provisioning costs for long service leave for providers in this sector that are covered by this scheme. That then detracts from the underlying objective of long service leave, which is to provide a benefit for actual long service. Current provisions for long service leave have regard for the probability of employees claiming leave, with the employer retaining the provision if an employee leaves. Under the new scheme the levy is going to be applied to all employees and the authority will retain any amounts on claim. Does that make sense? They start paying into a scheme quarterly — a cash commitment into the scheme every quarter — and should that employee leave the service of that sector in under the seven-year period, the authority says, 'Tough luck, you're not getting your money back'. The provider says, 'But hang on a minute, I paid into your scheme under the government legislation to make sure the employee benefits were captured here. Well, the employee's left the sector now within the seven-year period. Can I have my contributions back, please?', and the answer is, 'No, you can't'. I will be looking to the government to address that in their contribution today.

But the answer could well be found within the commentary that was made by elements of the sector when they inquired about the need for this agency to be created and this scheme to be adopted. And the answer was, 'We need that money to fund the agency'. That is what this is about: 'We just need the money to fund the agency'. It is another government quango. Who would expect that this government, this Labor government, would just create another authority to employ more public servants? Who would ever think that?

Mr Morris — Jobs for their mates.

Mr ONDARCHIE — I will pick up Mr Morris's interjection. It is about jobs for their mates. They say, 'It's all right. You need a job? We'll just create another authority and give you a job. That'll sort it out. And we'll get the providers to pay for it. And if they pay for it, and it turns out they don't need that money to pay their employees' long service leave, we'll keep the money anyway'.

Ms Pulford interjected.

Mr ONDARCHIE — You will have your opportunity to speak to this, Ms Pulford, I am sure. The people we have consulted with, who say to us they have had a lack of consultation with the government, have some legitimate concerns. They have absolutely legitimate concerns. The Victorian Chamber of Commerce and Industry have argued that, should the government decide to proceed with such a scheme, it should focus on minimising the costs of the scheme and minimising the administrative burden it is about to place on employers by designing a scheme — and I know it is still in design — to keep financial administrative costs as low as possible, providing, so the chamber said to us, some funding for the scheme start-up and ongoing administrative costs rather than forcing the employers to fund these costs through levy payments. These are levy payments, I remind the

house, they will never get back if an employee leaves within that seven-year window. The chamber also argue that the government should ensure that the conditions and benefits of workers do not exceed those available under the current Victorian Long Service Leave Act 1992, and rightly so. They say that the government should implement a robust governance model where any scheme is administered by a statutory authority overseen by an independent board.

I pick up Mr Morris's earlier interjection. I wonder how independent that board will be. I wonder how independent the selection by the government of the people on that board will be. We had a debate last night in this place where the virtues of an independent board were extolled to this house — that the board of this organisation they were talking about last night would be independent, but the minister will choose who the CEO is going to be. I fail to understand how this will necessarily be an independent board and, to pick up your quote, Mr Morris, how it will not be simply jobs for people's mates.

We have had a number of approaches from this sector, as I outlined today. Overwhelmingly people are telling us that this new bill undermines the longstanding understanding, the longstanding principle, that long service leave, which I understand was originally designed way, way, way back when to allow people to travel home to England after some long service in Australia — way, way back that was the original intention, as I understand it — is a recognition of and a reward for long service with one employer. That was its original intention. No-one from the government has provided the appropriate research or the data to establish the benefits or costs of the scheme. I remind the house that the majority of members on the parliamentary committee that examined this, and on whose report the government claims the scheme is based, in fact did not support the introduction of the scheme.

It is going to be a very expensive scheme for employers in both direct costs and in administrative costs. If we take that 1.5 per cent levy that the scheme is proposing, it is far higher than the current cost of long service leave to employees and far higher than any likely level of long service leave benefits that will be paid to those employees who qualify.

Mr Morris — More burden on employers.

Mr ONDARCHIE — You are right, Mr Morris. Through the Chair, there is much more burden on employers with this. Those who claim they care more about the workers are going to put more downward pressure on employers, and if employers have those pressures and are looking to reduce costs, what do you think might come of that? What do you think might come of employers who are under pressure to reduce their costs? They will look completely through to the cost line. They will look at the cost line for materials. They will look at the growing cost line for energy. They will look at the growing loss of productivity through the traffic mismanagement in this state and they may get to employees as well. They may look at the cost of employees and they may reduce jobs as well. The government has not thought that through.

There is a risk of scope creep. There is a risk of costly coverage disputes like those that currently occur under the building industry scheme called CoINVEST. VCAT gets filled up with those sorts of issues. This scheme will badly hurt disability service providers that are already struggling with NDIS implementation.

In the main, the sector opposes this bill, as does the Liberal-Nationals coalition today. We have some amendments that we will introduce in the committee stage of the bill, and we will talk through those when we get the opportunity. Those amendments have been furnished to the crossbenchers, to the Greens and to the government.

Mr Morris — They've got all of them.

Mr ONDARCHIE — They have had them.

Mr Morris — Four minutes before the vote?

Mr ONDARCHIE — Well, no, a bit further in advance than 4 minutes before the bells ring, Mr Morris, through the Chair, just a little bit further in advance. This smacks of Daniel Andrews's 'Do it my way or not at all' approach. There is a range of people — individuals and organisations — who have been bullied by this government. The government are seeking to bully this house as well by forcing through amendments with 4 minutes to go.

Many of the affected sectors, particularly if we look at the community services sector, have been given little or in fact no notice about the introduction of this bill. They have had no opportunity for consultation, they have had no opportunity for their consideration or concerns to be heard; they have just been told, 'This is going to happen, and bad luck for you'.

Honourable members interjecting.

Mr ONDARCHIE — I am looking forward to contributions from those on the government benches today that talk about all the anomalies and all the

mistakes in this bill. I want to hear if they are going to give a commitment to the community services sector to help fund the additional costs of the scheme. I want to hear if we will see that. We want to hear how they are going to deal with the suggestion that community services organisations may need to cut staff or services to pay for the scheme and how they are going to deal with the fact that the implementation of the scheme will hurt those disadvantaged Victorians who already rely on those service providers for help. We will just wait and see.

If we get one thing out of this government, Mr Morris, through the Chair, it is consistency. They do not understand that it is not their money. They do not understand that having made the audacious claim, 'We're going to cancel a contract for a vital piece of infrastructure for Victoria that will not cost Victorians a cent', it cost them $1.4 billion. They do not accept that at all, because they do not care. It is not their money. This is the same government that created the new Victorian logo, an upside-down triangle with the word 'VIC' in the middle, and paid 20 million bucks for it — $20 million for an upside-down logo, an upside-down triangle with the word 'VIC' in it. They think that is okay.

Ms Pulford — On a point of order, Acting President, we have sat through some pretty mindless filibustering this week. On Tuesday there was a lot of it, on Thursday there was a lot of it and there is more of it right now. I would ask you to bring the member back to the subject at hand.

The ACTING PRESIDENT (**Mr Gepp**) — Thank you, Minister Pulford. I am sure Mr Ondarchie will return to the content of the bill in the time that he has left.

Mr ONDARCHIE — I will, thank you, Acting President. I do remark that my comments were related to the interjections that I was receiving, but I will ignore those, following your guidance. What the government has ignored throughout this whole process is that there have been significant warnings from Victoria's disability service providers that these changes they are looking to force through today, these changes to long service leave, could force many out of the sector.

I take my mind back to the Public Accounts and Estimates Committee (PAEC) hearing when the Minister for Housing, Disability and Ageing, Minister Foley, said National Disability Service (NDS), an organisation, had given, and I quote, 'in-principle support' for Labor's proposed portable long service leave scheme. Well, I have to say that if that is true, why did NDS write to us with all their concerns about the bill and all the things that were wrong with the bill? When the minister said at PAEC that they had in-principle support from NDS he could not have been more wrong, because in fact that is not what they said. NDS, the peak body for non-government disability service organisations, has serious concerns about including disability service providers in the 'costly' and 'complex' scheme that they say is likely to significantly impact the financial sustainability of disability services.

That does not sound like in-principle support to me. Let me say that again for you, Acting President. NDS say that it is likely to significantly impact the financial sustainability of disability services. There is a comprehension problem in the government, because Minister Foley reads that as, 'You've given me support'. He could not be more incorrect on that.

NDS also found that the scheme:

> … will undermine the financial viability of organisations.

And it:

> … could contribute to withdrawal of some services from the market, exacerbating the emerging thin markets for people with disabilities in some parts of Victoria.

NDS specifically requested disability services be exempt from the bill, and the minister stands up in PAEC and says, 'They've given me in-principle support'.

Mr Morris interjected.

Mr ONDARCHIE — I will take up your interjection, Mr Morris — did he actually talk to anybody? One could surmise that, no, he did not talk to anybody, or his comprehension of these concerns is that they are providing in-principle support of this bill. If we were really to get the Google translator out and translate what he is actually saying, when the minister says 'in-principle support' he really means, 'I don't care what they say; I'm doing it anyway'.

Mr Morris — It's like how Mr Somyurek has in-principle support for Mr Andrews!

Mr ONDARCHIE — It's like how Premier Andrews has in-principle support for Ms Garrett in the Assembly!

Ballooning wage costs would push many services which provide critical support to Victorians with a disability to close. That is what the sector is saying, and our amendments today go to protecting those elements of the sector. You will see more of that in the

committee stage. We are moving specific amendments to protect those affected by this and to protect those organisations and their employees from this. But the government do not want to hear this. The government do not want to hear what anybody's concerns are, and we know they do not want to hear them because they have not talked to them.

Mr Leane — You're lying again.

Mr ONDARCHIE — I will pick up your interjection, Mr Leane. It is not me saying this; it is the sector saying this. Mr Leane is saying in this place by way of interjection that the sector is lying. Well, let him say that in his contribution to the debate today — that the sector is lying — because I am representing to this house today what the sector is saying.

Many Victorian disability service providers are already operating on a thin budget and struggling to keep their heads above water. Daniel Andrews's plan to push up wage costs threatens the future viability of disability service providers that give critical support to our many, many Victorians in need. One thing that is clear today is that Premier Daniel Andrews and Minister Martin Foley owe a very clear explanation to all of those disability service providers that play such an important role in our communities. What are you doing to protect these people? Based on what we have got today, it looks like not much.

The state Liberal-Nationals coalition will be introducing some amendments in the committee stage of this bill to try and protect those who need to be protected. The community health services sector are very vulnerable through this. We will be looking to move amendments today to deal with that.

Now, to be fair and to be conciliatory about this, the government may well be looking to make amendments of a similar nature today following the lead of the Liberal-Nationals coalition — they could be. They could be going, 'Matthew Guy got it right again; we'd better just do that', just like with the issues in crime and particularly around the ramming of police vehicles. They could well be saying, 'Actually, Matthew Guy has got it right again; we'd better just copy this and cut and paste our name onto the top and look like we're the ones who are doing this'. They could well be doing that with their amendments that they are going to introduce today. But I have to say, to be fair, I have not seen them yet, because they arrived 4 minutes before the bell rang this morning with the very generous offer of, 'Would you like a briefing?'. They said, 'Here it is; we're going to shuffle it in at the last minute'. It smacks of another level of bullying — 'We're going to bully our way through this'. This is a bullying government that is insipid and that is rorting. We know that, and this is another example of that today.

That is why the Liberal-Nationals coalition will move to protect those who need to be protected. We do that. We protect the protectors. We say that in many aspects of Victorian life we protect the protectors. This government tries to tear them down and bully them. There are some great, great people working in this sector. Why should they be disadvantaged by this bullying, rorting government — why should they be? Our amendments today will be looking to protect those people.

I will be interested to see the government's amendments, if they ever arrive. At some point, I suspect, we will halt proceedings on this matter to give everybody a chance to have a look at those amendments, because we have not seen them or had any time to examine them at all today. But we will see what happens. At this point we will deal with that in the committee stage, and right now the Liberal-Nationals oppose the bill.

Ms SYMES (Northern Victoria) (10:48) — Congratulations, Mr Ondarchie, on nearly meeting the key performance indicator that was set for you to filibuster for an hour to start today's proceedings. That was absolutely painful. I would not say I am feeling 100 per cent today. I was thinking, 'It's all right, just come to the house; you'll be all right. Get some energy; have some juice'. You have just zapped it out of me. But what gets me on my feet is this bill. This bill is about people, this bill is about fairness and this bill is about the Labor government actually wanting to deliver for people. That is what we want to do.

I want to really congratulate those people that work in the community sector in particular. They do really difficult work, often for the most vulnerable of Victorians, and for this most of them receive relatively low pay and conditions. Crucially we understand that the funding they do receive for the work they do is often precarious, leading them to frequently change employers, and more often than not when they do this they lose all of their rights and entitlements — something many others in the workforce do not experience.

So this is really about trying to look after those people who do a fantastic job. And when I am talking about people, this bill is fundamentally about individuals and what we can do to ensure that their rights are protected. There are some case studies that I have been provided with. Some of these I think people will be familiar with,

but I think it is important to remind the house that this is about individuals, and their stories are important.

There is the story of Sam Ismaili. He spent almost four decades cleaning the Premier's office at 1 Treasury Place. He has outlasted nine different Victorian premiers, and in Victoria that is actually a slightly longer time than in Canberra, so we are talking about quite a long period of time. Sam arrived from Albania in the early 1970s. He started in his role a few years after that, when Dick Hamer was Premier. Then came Lindsay Thompson, John Cain, Joan Kirner, Jeff Kennett, Steve Bracks, John Brumby, Ted Baillieu, Ted Napthine and Daniel Andrews. Despite working for almost four decades in the same building, Mr Ismaili has never been able to take long service leave. Each time he was close to qualifying, his entitlements would be erased with the arrival of a new contractor. Once again, he is currently on the cusp of reaching the seven years needed to qualify, but the cleaning contract for 1 Treasury Place is going out to tender, meaning he is at risk of losing his entitlements once more. He should have been able to access long service leave almost four times over by now.

We have got Helen Christoudas:

> I have been a cleaner for 35 years. I had long service leave at my first site but not since then. In the last 24 years I have never had long service leave. In the 24 years I have only worked on two NAB buildings, but I have changed cleaning company seven times. Every three or four years the contract will change. The companies did not ask anything about our leave when they changed it. I thought I would get long service leave for the whole time I was employed. I never asked about long service leave because I did not need it. I thought it would be easy to take it when I was ready, but it is not that easy. Now I am working with the union to try to find out if any of the companies have to pay me my long service leave.
>
> I am always working and do not get much time with my kids or grandkids. I want to retire soon. If I had long service leave, I would go to Queensland to see my daughter and grandkids, and I would also go home to Greece. It is not fair that cleaners do not get long service leave.

We have got to the case of Richard Riley, a security officer:

> I have worked in security at the national gallery for just over 12 years now. I have never had long service leave. Security is contracted out, so the contract goes up every three years, and every three years you are looking at the possibility of losing your job, or you just carry on with the one company, or you stay where you are. I have stayed where I am.
>
> In my time there we have had three major contract changes, from Wilson to ISS, now to BRI. The first contract was with Wilson. I was there for six years and three months.

That is shocking, isn't it? This guy was there for six years and three months. That left him just nine months short of being eligible to get any paid long service leave. He continued:

> When the contract ended Wilson had no work for us, so you basically had two options: be out of work, or you stay at the gallery. Contract changes can make a fairly significant impact on your earnings … Losing long service leave is a fairly large financial loss, because I reckon I have lost around $6000 to $6500 in entitlements in the time I have been there …
>
> My son also works in security and his wife works, so we had a situation during the school holidays where everybody was at work and we had to find someone to look after the kid. If we had long service leave, it would provide the additional option to do that. If I had been employed by the gallery, I reckon I would have about 10 weeks of long service leave accrued, but because I work contract I have got nothing.

These stories are telling us of the unfairness that exists in the current system. Richard just wanted to use his long service leave to look after his grandchild. We are not talking about people who want to take long service leave and head to the Bahamas for 10 weeks. These are people who have worked a long time and they want to use their long service leave to contribute to their family, and I think that that is not too much to ask for.

This legislation that we are debating today will make long service leave available to workers who up until now have missed out through no fault of their own. Under the new laws, workers will be entitled to long service leave after working for seven years in these industries, irrespective of the number of employers that they have worked for over that time. Of course the proposed model in the bill is not novel. This is not new. This has been done before. Portable long service leave in Victoria was initially introduced by the Liberal government in 1976 for construction industry workers. It has now been operating successfully in that industry for over 30 years. Of course this was introduced by the government at the time in recognition of the fact that, without the scheme, construction workers would never qualify for long service leave, due to the nature of their work, as they move from building project to building project, working for different contractors.

The intention of the scheme in relation to the bill today is also not new in itself. It was first proposed in 2010. Eight years ago we had a bill introduced into this Parliament, but unfortunately it did not pass. It did not progress. Some of the elements of that bill are reflected in this bill; however, we have revised administrative and governance arrangements. The intention of the scheme is to provide workers with an entitlement similar to what they would receive under the state's default long service leave legislation.

The scheme will be managed by a statutory authority. Employers will pay a levy to finance the payment of

entitlements. The legislation caps the levy at a maximum of 3 per cent, with the actual amount to be calculated by the independent statutory authority. Employer levies in similar schemes in other parts of Australia have varied between 1.5 per cent and 1.7 per cent. New South Wales, Queensland and the ACT already have portable schemes in place for workers in selected industries.

Employers will be required to register themselves and their employees. Contract workers may also register for the scheme, and employees will be able to self-register. Employers will be required to provide a quarterly return, and the employee or contract worker will have access to their record. The levy payable by an employer will be a percentage of the ordinary pay paid or payable by the employers or employees.

There will be a governing board, appointed by the minister, comprised of at least one representative of a union; at least one representative of an employer group; an independent chair; a deputy chair; and the registrar, who will be non-voting. Board members are expected to have skills and/or expertise relevant to the role. The board will have the responsibility to set the levy. The board will be required to commission an actuarial study at least every three years.

Employees will be able to go up to four years without working in the industry for their continuity of service not to be interrupted, although of course they would not be credited with any service during this period. Periods of leave — for example, parental leave — will be treated the same as in the Long Service Leave Act 2018. That is actually very important, particularly when we are looking at an industry that we know has a largely female workforce in the community sector. So making sure that continuity is not broken by parental responsibilities is absolutely vital.

There is scope for recognition of service in other jurisdictions with similar arrangements. That is something that could be subject to negotiating an agreement with those jurisdictions going forward. This is an initiative about fairness and portability across jurisdictions and employers, which is great, particularly for border communities. In Albury-Wodonga, for instance, creating a situation where you do not lose continuity by simply crossing that imaginary line at the Murray River is probably something that would be of particular interest to those border communities, because a lot of people work on one side and live on the other and vice versa.

In relation to how the long service leave entitlement is calculated, workers will be able to access their entitlement after seven years of continuous service. For each day worked during their employment in the industry the worker will be credited with one day's service. Their long service leave will be one-sixtieth of their credited service. So if a worker works for 10 years and on average over that 10-year period they have worked 200 days a year, their service credit will be 2000 days. One-sixtieth of this is 33.4 days. It is equivalent to the entitlement that is provided as the safety net in the current Victorian Long Service Leave Act 2018.

In relation to the governance arrangements, the Portable Long Service Leave Authority will be established as a statutory authority. There will be a governing board with nine members. The minister will be required to appoint persons from unions and employer groups participating in the covered industries. Of course it is important to have all of those voices at the table as the scheme is managed and rolled out. As a whole the board will be required to have the skills and experience necessary to act in such a role. In addition, we will have the chair and the deputy chair. It is going to be basically all people who have connections to the relevant industries.

The scheme is intended to be self-funding within five years. This is definitely something that obviously takes money to set up, but it is important to recognise that this is intended to be self-sufficient within five years. In terms of the start-up costs, they are pretty reasonable. You got to have money for staff, IT systems and communications, and obviously that operational funding will be provided through the budget process from the government.

I want to commend the bill to the house. Again I reiterate that this bill is about people; it is about fairness. The people who work in those industries do an amazing job, and I think this is a really important measure to pay respect to those workers. This is something that has been called for for a very long time, and I do wish it passage today.

Ms SPRINGLE (South Eastern Metropolitan) (11:00) — I rise today to speak to the Long Service Benefits Portability Bill 2018. The Greens will be supporting the bill, which provides long-overdue long service leave entitlements to people working in community services, security and contract cleaning. As we have heard, the predecessor to this bill, the Community Services Long Service Leave Bill 2010, was introduced in 2010 and never proceeded to second-reading debate. Subsequently the parliamentary inquiry into portability of long service leave entitlements received its terms of reference in May

2015 and delivered its final report in June 2016. Finally, eight years on, we seem to be on the verge of some genuine progress. It is a shame it has taken so long and the looming threat of an election to get here. In the interim some of our most poorly paid and insecure workers have continued to work with no access to the basic entitlement of long service leave.

I do have to say that the process to get to this point, to this debate, has been a long one. The bill has been sitting on the notice paper for quite some time, and I am disappointed in the way that the government has approached the consultation around this bill; I think it could have been a whole lot more thorough. It could have encompassed many more stakeholders and genuinely listened to them. I consistently feel disappointed by the government's approach to community and stakeholder consultation, because what we in the Greens get back — and we deal with the same stakeholders as everyone in this chamber does — is feedback that they are not being brought in a timely fashion into this process. And when they are, it is often last-minute and they do not feel like their issues are necessarily taken on board.

I think the legislation that we see before us is all the poorer for it, because it is unnecessary. It is unnecessary for stakeholders to be feeling like that; it is unnecessary for communities to be feeling like that. And so I would encourage everyone around this chamber, regardless of who forms government in the next term, to be mindful about their processes around community consultation, because up until now what we have seen is very poor practice.

Going back to the substance of the bill, this bill will enable workers in sectors covered by the scheme to access long service benefits after a specified period of service. Those benefits will accrue regardless of movement between organisations or companies within that sector. It aims to address the inequity created for workers whose employment arrangements change in line with contractual arrangements made by those employers, resulting in workers failing to accrue leave despite in many cases having done the same job in the same location for many years. The bill establishes the Portable Long Service Benefits Authority to administer the scheme and establishes the governance and functions of the authority.

The parameters of the scheme's financing are established within the bill, but a significant amount of detail is left to regulation. I am advised by the minister's office that those regulations are currently being worked through, concurrent with a regulatory impact statement. I will go to that issue a little further in my speech and within the committee of the whole, because there is some significant anxiety within some sectors around what is being put into regulation and what is not in this legislation. I think we do need to have a discussion about the nuance around that and what the government are proposing through those regulations, even in principle, so that some of our stakeholders can have some stability and security in having that knowledge.

As I said, the Greens support this bill, though we share some of the concerns that have been raised by the disability and early childhood sectors, which I will speak to in detail shortly. Notwithstanding those concerns, we believe this bill represents a necessary change to a system that currently fails to properly and formally recognise the contribution and commitment of workers in the sectors covered. The Greens have long argued for increased recognition of many of the workers in these sectors. While we do recognise that the preference of many organisations working across the community services sector would prioritise salary increases for staff over this scheme, the reality is that this scheme is the option on the table right now. Early childhood workers have been campaigning for an increase to their award for many, many years now with no success and are still paid half of the national average wage. They make an incredibly important contribution to our society, and they are worth more than that.

This scheme is no silver bullet, but the Greens believe it will make an important contribution to recognising the commitment of workers and mitigating the increasing impact of the gig economy on the livelihoods of so many workers. We have spoken to a significant number of organisations and individuals who will be affected by this organisation, and we absolutely acknowledge the fact that the scheme will involve challenges. The Greens' position on the inclusion and exclusion of certain sectors or certain types of organisations within sectors is grounded in the principle that these benefits should be extended to as many workers as possible, while working through these challenges with some of the sectors involved in a collaborative manner.

I would like to turn now to the issues around early childhood care and education. The Greens acknowledge concerns raised by a number of early childhood care providers with regard to the inclusion of non-profit organisations in the scheme and the exclusion of for-profit providers. While we support this scheme, we also believe that it must be based on a level playing field. Scoping in non-profits and scoping out for-profits will not do that. We would prefer to see both types of organisations included for two reasons. Firstly, we do not support an additional cost to part of the sector that is

likely to disadvantage that part of the sector, and it is particularly important that non-profits, including community-based education and care providers, are not disadvantaged by this.

Secondly, we believe that this scheme should be open to as many workers as possible within the sectors covered, and as stated, that is really the fundamental principle underpinning the Greens' approach to this scheme. Thirdly, we would argue that genuine portability should be an aim right across the sector, and workers should not miss out by virtue of moving from a community childcare centre to a for-profit day care centre. After all, genuine portability is one of the key principles on which this entire scheme is based. There are significant issues in relation to early childhood care and education that still need to be worked through, and we hope that the sector in its entirety will be fully engaged in that process.

Concerns we have heard from the disability sector in some ways correspond to those expressed by early childhood providers. Of course concerns regarding the cost impost and the impact on the financial viability of some organisations are exacerbated by the current transition to national disability insurance scheme (NDIS) organisations and what they are experiencing. Again we do appreciate the magnitude of the transition that disability services are currently experiencing. We also appreciate that many are operating under extremely challenging conditions, with very lean budgets, and there is a significant amount of anxiety surrounding organisations' capacity to continue to support and service people in need.

As with the early childhood education and care sector, there are clearly issues with the NDIS-funded disability services that the government needs to work through in more detail and in collaboration with the sector. We are also aware of the nature of concerns presented by the community health sector, and these concerns also have merit and are a little bit more complex than those of the previous two sectors in question. The no double dipping clause provides that organisations will not be required to pay out twice for an employee, and I understand this principle will be developed more in the regulations. While we appreciate the sector's concerns, we note that they support portability in principle, and they have been very clear about that. It is the Greens' position that these benefits, which already exist for some working in the sector, should be extended more widely and equitably.

I have had conversations as recently as this morning with the community health sector organisations, and I think there is a level of anxiety around how much is actually going into regulation and not within this bill, because there are existing provisions under the enterprise bargaining agreement for some community health workers, not all community health workers. It is very much our view that there should be portability for all community health workers, so this is a welcome development in that regard. However, it is an understandable anxiety of employers that there could be a lack of clarity around the prospect of double dipping. I guess this comes back to my earlier point around consultation and genuine negotiation and collaboration with organisations that are on the ground and facing these changes in a very practical way. I would suggest that the people that I have spoken to do not feel like they have been heard, and so there is anxiety around this issue of regulation versus legislation.

Notwithstanding, I think it would be wonderful if the minister were able to give some assurances and detail around what that will look like as much as she can within her summing up or within committee, because I think that would give these organisations a little bit more clarity and a little bit more certainty about what is going to happen moving forward with these two schemes, which will possibly run simultaneously. Community health, from what I understand in terms of this bill and this scheme, will be the only area where there are potentially two schemes running simultaneously, which makes it quite a different category to the others.

The reality is that this scheme is not without its detractors, many of whom have pointed out that there is no guarantee of increasing worker retention through this mechanism. Monitoring and adjusting the provisions of the scheme will be extremely important over the coming years, and that will help in measuring the impact of the scheme across a range of areas.

The review provisions in clause 75 require a review to commence after the third year of the scheme. This review will provide part of the story with regard to the scheme's impact on employees' movements and potentially some indication of its impact on retention. But we argue that further reviews would be fundamentally important to understanding the impact of the scheme over the long term, particularly in light of complications with certain sectors, and we would like to see an additional review undertaken at the seven-year mark. The Greens are proposing that a second review be provided for in the legislation. This is a straightforward amendment that merits consideration by all parties and crossbenchers, regardless of their position on the scheme itself. We would also urge the government to ensure consultation during the

development of regulations, particularly with regard to fee setting and adjustment of contributions.

In summary, the Greens — and I would assume that we can all agree on this — certainly do not want to see services for the most vulnerable people cut or compromised, and we certainly do not want to see services squeezed to the point where the viability of their operation is threatened. So the onus is on the government to work through these issues and ground the development of regulations and further developments of the scheme in a solid appreciation of the financial and service delivery impacts of the scheme. But this absolutely needs to be balanced with benefits for workers, and make no mistake, those benefits are significant and they are warranted. This bill does not represent the best solution to the inequalities that exist within these sectors or to the increasing impact of insecure work. Instead it represents an important step forward in addressing these structural inequalities, but much more still needs to be done.

I commend the bill to the house and look forward to seeing these changes come into effect as soon as possible to improve the lives of people working in these industries and to continue to improve retention in and the capability of these sectors.

Mr MORRIS (Western Victoria) (11:14) — I rise to make my contribution on the Long Service Benefits Portability Bill 2018. I was struck by the fact that in Mr Ondarchie's contribution he mentioned that the history of long service leave in Australia goes back quite a way. It enabled people who were originally from England and were working in Australia to travel home for 13 weeks after 10 years of service. I am informed that that began in the 1860s, so long service leave does go back quite a long way in Australia.

The purpose of this bill is to create a portable long service leave regime and apply it to the cleaning, security and community service sectors. I will outline some of the main provision of the bill. The bill establishes a Portable Long Service Benefits Authority to administer the scheme with a board of up to nine persons appointed by the minister, and with a registrar as CEO. The scheme applies initially to contract cleaning, security and community services, with capacity for it to be extended to other sectors in the future. Specifically, the scheme applies to contract workers in the security and contract cleaning industries, with provision for it to be extended by regulation to contract workers in other industries. It does not initially apply to independent contractors or for-profit organisations within the community services sector, except for for-profit organisations in the disability services sector.

The bill requires employers to pay a levy of up to 3 per cent of employees' ordinary pay to the authority, with the actual levy rate to be set by the authority itself, and it also requires employers in industries covered by the legislation to register themselves, their employees and their contract workers. The bill also allows workers in the contract cleaning or securities industries with at least seven years service to make a request to their employer for long service leave, with a right of appeal to the authority if that request for leave is refused. It also provides for workers granted long service leave to be paid for their leave by the authority at the rate of pay they receive at the time the leave commences.

The bill also seeks to recognise service in the contract cleaning and security industries up to 12 months prior to the commencement of this legislation, so there is some retrospectivity there. It allows cashing out of entitlements by employees in the contract cleaning and security industries only on their leaving the industry. The bill seeks to allow an employee to not work in an industry for up to four years without losing continuity of service. The bill further seeks to provide for the scheme to make payments in lieu of long service leave to workers in the community services sector. It also provides for proceedings in relation to the scheme to be brought in the industrial division of the Magistrates Court.

I am very pleased that we on this side of the house have conducted significant consultation with a large number of groups that are going to be affected by this bill. There are of course significant areas of concern with regard to this bill. A major concern is that it fundamentally undermines the concept of long service leave being a reward for long service with one employer. Unlike the building industry, contract cleaning, security and community services are not necessarily sectors where workers inherently move from project to project or employer to employer.

The scheme is of course likely to be very, very expensive for employers. We know what happens when governments put further imposts on employers. It means fewer employees — it means fewer jobs for people in our community. This scheme is certainly very likely to be expensive for employers, both in direct costs and in additional administrative costs with further red tape.

The levy can be up to 3 per cent of wages. The government, I understand, at this point is talking about a levy of 1.5 per cent. However, as often happens with

this government, it has allowed scope for the levy to creep up, which will enable them to rake in and control more money. At the moment we are saying that long service leave is equal to one month for every 60 months worked, and this would be equal to about 1.66 per cent of wages if every employee qualified for long service leave. This would mean that a proposed levy of 1.5 per cent would be far higher than the current costs of long service leave.

One must ask: why is it that the government would be wanting to rake in much more than would be likely to be paid out? Well, of course, they are going to need to be able to renumerate their mates that they are going to be placing onto this particular authority. I am assuming there will be someone from the Electrical Trades Union (ETU); Mr Leane will get a mate on there from the ETU. There will be someone from the CFMEU. The shoppies might get —

Mrs Peulich — And they'll get paid directors fees.

Mr MORRIS — I am sure they will be paid directors fees — indeed, Mrs Peulich. The shoppies will probably get someone on there as well. They will put out the spoils of this bill to their mates.

The scheme only applies to frontline cleaners and security personnel and not other staff of that employer. I note that the government has been unable to answer questions about how this scheme applies to staff who move between frontline and back office duties and on what basis the employer is entitled to obtain reimbursement from the scheme, as well as questions about the provision allowing four years absence from the sector, which is wider than in current enterprise bargaining agreements. This bill is just a further example of how this government picks winners and losers. They are going to try and find a few people that one can only assume their union masters have told them need to be part of this scheme. There are others who their union mates are not particularly concerned about, so they will just leave them out.

I do note that during the extensive consultation that the Liberal-Nationals conducted, unlike the government, there was a committee that investigated portability of long service leave, and that committee did report back to the Parliament. I note that the Australian Industry Group (AI Group) made a comment in their correspondence that:

> None of the members of the committee that conducted the inquiry recommended the establishment of portable long service leave schemes for the community services, contract cleaning or security industries.

So what we have got here is the government using a committee inquiry as a front, one might say, or as an artifice for —

Mrs Peulich — Another one.

Mr MORRIS — They are everywhere, Mrs Peulich. There are artifices everywhere. You have got to watch them. You have got to watch the artifices.

Ms Crozier — You've got to watch them; the police are.

Mr MORRIS — They certainly are. The police are investigating it very closely. Indeed that knock on the door — 'Are you there? It's the police'.

We have the AI Group correctly pointing out that despite the committee not recommending that the community services, contract cleaning or security industries be involved in the portability of long service leave scheme the government have gone on to do exactly that. The problem that arises out of the government doing that is there is going to be significant disadvantage for many, many sectors — one I certainly know of being the Early Learning Association Australia (ELAA), that are —

Ms Crozier interjected.

Mr MORRIS — Indeed, Ms Crozier, that you work very closely with. I would have thought that Ms Mikakos might have had a bit of a chat with the early learning association. But they very clearly —

Ms Mikakos — How would you know?

Mr MORRIS — And they are not happy with you, because they are very clearly saying on behalf of their 1300 Victorian members and numerous large-scale early childhood education and care (ECEC) providers that they are 'urgently raising deep concerns' with the government's proposed legislation. I think that is fairly clear: 'urgently raising deep concerns'. And what does Ms Mikakos do? She just ignores them; she just ignores these deep concerns. So they are saying, 'We have deep concerns', and Ms Mikakos is saying, 'Don't worry about it. It's fine. It's all going to be fine. We're just going to completely ignore you, and it's all going to be fine'. That is what Labor says.

Further, the Early Learning Association Australia said:

> We would urge you:
>
> > expressly exclude ECEC services from the operation of the bill … while further analysis and consultation about the costs and benefits of an equitable extension to the ECEC sector is considered;

> to urgently establish a joint meeting with interested parliamentary members, ELAA and the listed early childhood providers to allow the sector to present its concerns regarding the proposed bill as soon as practical.

One of the concerns that arises out of this is that we do not know what is in the bill or what the government intends to be in the bill because it is policy on the run. Four minutes before this house convened this morning there were amendments flying around. This bill has been on the notice paper for a significant period of time, and one would have thought if the government were truly committed to genuine consultation, they would not have given us the amendments 4 minutes before this house was to sit and they would not be —

Ms Crozier — It's a shambles.

Mr MORRIS — It is a shambles, Ms Crozier, an absolute shambles. And they would not be keeping the affected sectors in the dark, but that is the way they do it. They run and try under the cover of darkness to have these amendments brought into this place.

I note that their coalition partners in the Greens are not going to be supporting anyone. Their coalition partners in the Greens will be going along their merry way to support this rotten and corrupt government, as they have in the Privileges Committee, as they have the whole way with motions trying to hold to account the rorting ministers in this place and the other place. Their coalition partners continue to run a protection racket for them, and we know why the Greens are running a protection racket for Labor. It is because they have got their eyes on a coalition post-November 2018. Indeed Dr Ratnam herself has said to the media, 'We look forward to being in coalition with the Labor Party'. Daniel Andrews, when asked about it, says, 'No, we won't do it'. I will tell you when he will not do it: he will not do it up until when he does. That is how he would do it. The good people of Victoria need to understand that there is only one coalition that will provide a responsible government here in the state of Victoria, and that is a Liberal-Nationals government led by Matthew Guy post 24 November this year.

I may have strayed slightly from the bill. With the bill there are also concerns that the coverage within the community services sector is significantly complex and will create uncertainties and the potential for a double charging of penalties for non-compliance. I think we would all recognise that it is hard enough in the community services sector to do the important work they do without additional red tape and costs. We know if we add additional costs into the community services sector, they are going to have to cut services. There is not an infinite amount of money in the community services sector. Those delivering the important services cannot go to an endless pot of money. Unfortunately that is what the government think we have got; they think there is an endless pot of money there. They forget it is taxpayers money they are playing with. It is or was taxpayers money they used to pay the red shirts they used to campaign in the election.

So there is significant concern about that additional cost that would be placed on the community services sector. Further, the bill is strongly opposed by many organisations in the disability sector, which is already under significant pressure with the introduction of the national disability insurance scheme (NDIS). I note the National Disability Services, the NDS, very clearly have the position that they do not support this bill with the inclusion of NDIS-funded disability services currently before the Victorian Parliament. It could not be any more clear that they do not support this bill. I think I have just run out of time.

Dr CARLING-JENKINS (Western Metropolitan) (11:29) — I rise today to speak on the Long Service Benefits Portability Bill 2018. The necessity to work, whether in the home or in the broader economy, is part of the human condition. Many of us enjoy our work, others unfortunately perhaps not so much and perhaps on different days not so much, but all workers need time off —

Mr Melhem interjected.

Dr CARLING-JENKINS — Not Fridays? Fair enough, Mr Melhem. All workers need time off from work to attend to the other things in life: family, personal affairs, recreation, travel or simply doing nothing — or watching Netflix. Annual leave allows workers some weeks away from work to recreate, and we all need to take time off from work on a daily and weekly basis. Annual leave is associated with improved health, less stress and a more positive mood and attitude. These benefits for workers also benefit their employers by leading to increased productivity. Long service leave allows workers a longer break from work, which can be used for many purposes, including more extended travel, completing projects around the home or just simply chilling out.

This bill seeks to address the situation of workers in the security industry, contract cleaning industry and community services sector. In each of these industries for various reasons many workers find themselves employed by a series of different employers over the years of their working life, seldom retaining the same employer for the seven years needed to qualify for long service leave. Given my background in disability

services, I particularly have a deep appreciation of the hard work and commitment of those who work in providing these services to people with disabilities in our community. I am fully committed to seeing all workers in the disability sector able to access benefits that many others in other sectors of the community enjoy.

However, disability services here in Victoria, as we all know, are undergoing a thorough and challenging transformation as we move towards the full implementation of the national disability insurance scheme (NDIS). In this context disability service providers are facing many challenges. NDIS is a national scheme that sets fixed prices for various services provided by those providers to NDIS clients. Strong representation from these providers persuaded me that specific measures need to be developed by the Victorian government to ensure that application of the scheme to NDIS-funded activity did not impose an additional cost on disability service providers that could lead to their continued operation becoming quite simply financially unviable. This would have broad consequences for people with disabilities in our community.

As soon as I became aware of this problem I prepared an amendment to exclude for the time being NDIS-funded activity from the scope of this bill. This was circulated some time ago. I then approached Minister Hutchins to draw her attention to this problem and to advocate on behalf of the disability service providers. From my first approach, which was some time ago now, it was clear that the minister accepted that there was a genuine issue to be resolved. I am very pleased to say that after several weeks of negotiation and discussion the government has brought forward an amendment that for the time being exempts NDIS-funded activity from the operation of the long service benefits portability scheme. The government's amendment also allows NDIS-funded activity to be covered by the scheme by regulation at a later date if a workable solution to the financial challenge can be agreed upon with the disability service provider sector.

I look forward to all hardworking disability workers being able to access long service leave benefits once an acceptable solution to the funding issues for disability service providers has been negotiated, and they look forward to this as well. I want to particularly thank David Moody from National Disability Services and Rohan Braddy from Mambourin for their advocacy on this issue. They are strong advocates for their sector, and working with them on these amendments has been a pleasure.

I was also visited during the course of negotiating on this bill by a charming delegation from the Early Learning Association of Australia. I mean, seriously, who does not love kindy teachers? This association explained that their sector had developed a homegrown long service portability scheme based not only on legal obligation but on a friendly understanding between all parties to provide workers in early learning with access to long service benefits. They raised concerns about how this new scheme, to be introduced by this bill, would interact with their homegrown scheme, which by all accounts seems to be working very well for them. So I am pleased that the government has also acknowledged this issue. The government amendment to this would, in a similar way as with NDIS-funded activity, exempt early learning from the scheme established by this bill. If following subsequent discussion with the sector the government finds an appropriate means to combine the sector's homegrown scheme with the scheme established by this bill, then this can be dealt with at a later date.

I will be supporting the second reading of the bill and supporting the government's amendments. Very late in the process I have received some advocacy from community health sector services raising concerns about the interaction between the scheme to be established by the bill and an existing portability scheme in some parts of this sector. I have not had a lot of communication on this, I will admit, so I will listen carefully to any debate on this issue and to any proposed solutions that come forward.

Quite simply, to end a little philosophically, there is a time to work and there is a time to refrain from work. I support this bill, which seeks to extend long service benefits to hardworking Victorians who currently do not have access to them, Victorians who work in thankless industries — security, cleaning and community services. Today I take the opportunity to thank them for their work.

Ms CROZIER (Southern Metropolitan) (11:35) — I am pleased to rise this morning and speak to the Long Service Benefits Portability Bill 2018 in relation to some of the concerns that I have. I note that other members have raised their concerns during the course of the debate this morning. It is symptomatic of this government that we have had no consultation and rushed and botched legislation being debated here today. This government has not taken the time or the consideration to understand the full impacts of what this legislation would mean to the workforce or, importantly, to employers. That has been very evident from what has been happening over the course of the last few months since the introduction of the

legislation — it has been on the notice paper and it has been off the notice paper.

In the early education sector that I shadow the conversations I have had with various providers have been telling. It is absolutely clear that the government has had them on a chain and strung them along, to the point where I have been receiving queries from a whole range of providers and people asking, 'Do you know what's going on, because we do not?'. I said that I would endeavour to find out. I texted Minister Mikakos's chief of staff at 11.00 a.m. on Tuesday asking him to tell me what was going on because the sector were asking and everybody wanted some clarity. I got a text message back at 10 to 10 this morning from him apologising for the delay in his response and telling us, as Mr Ondarchie has said, with 4 minutes to go, that amendments had come in. What a disgrace.

These are the reasons why it is a disgrace. The government again has just bulldozed their way through with no consultation. Those in the early education sector have said in no uncertain terms that this bill is flawed because it is a mechanism that does not work. It does not take into consideration the 65 per cent of early childhood sector employers who are private providers. The portability of those workers in that sector —

Ms Mikakos — So you support bringing them into scope, do you?

Ms CROZIER — Ms Mikakos, you have made a monumental stuff-up here and you know it. Through you, Acting President, the minister has made a monumental stuff-up with this. The sector know it and all those workers know it, and she should hang her head in shame. It is another failure by this minister demonstrating just how incapable she is.

There was no consultation. The early learning sector have said to me that there has been no consultation, that the consultation has been distinctly lacking from the Department of Health and Human Services (DHHS) and the Department of Education and Training (DET). I have got it in writing, and I am happy to table it. They have said 'distinctly lacking'. The commitments were broken regarding further consultation with the sector. The minister's credibility has been trashed because of the disingenuous approach she has taken to this important area. It is telling, because those employers actually know and have said time and time again, 'We want this to work, but the government is not listening to our concerns'. Then they shove it through.

How on earth, with 4 minutes until we commenced the debate and when our lead speaker was on his feet, did he have the time to take up the offer of a briefing? How utterly arrogant of this government to even suggest that we would get across those details. It has been a monumental stuff-up by this government. The costs that would have been incurred by employers in the early education sector just demonstrate how lacking the government's knowledge is. They were looking at the ACT model. A 1 per cent increase in the costs incurred would have a huge implication for the early education sector and those employers. Where would that go? It would get passed on to the parents, the families of Victoria, who are already struggling under the rising cost-of-living pressures under this government. We see that time and time again with electricity prices. The closure of Hazelwood has had a massive impact on pensioners, families and, more importantly, all those businesses that employ people within Victoria, the businesses who keep Victorians in employment.

This morning we hear — and I digress slightly, but it is an important point to make, because this impost of an increase in early education would have been passed on to families and parents —

Ms Mikakos — Do you not support workers in this sector having long service leave?

Ms CROZIER — It is like the cost — well, here you go again. You are just verballing — go on, have a go.

Ms Mikakos — So do you support them having long service leave?

Ms CROZIER — Ms Mikakos, your credibility has been shot. As I have said, your credibility is absolutely shot. You have not taken into consideration anything the sector has said. As I was saying, the cost-of-living pressures were going to be passed on by this minister and this government. As for the electricity costs, we know that there is a one-in-three chance that the lights are going to go out in summer because of this government's actions.

Ms Mikakos — How is any of this relevant?

Ms CROZIER — We see what is happening under the administration of this government. Their approach is to just shut down Hazelwood, their approach is to just push through legislation like this, with no consultation. That is the relevance, Ms Mikakos, because you have actually ignored the workers and you have ignored the families of Victoria who would have incurred the costs that you were going to apply.

Now, if I can go to the point that Dr Carling-Jenkins made. Through you, Acting President, Dr Carling-Jenkins made a very important point around disability services. Again, there are massive flaws with the government's legislation on this. I have a very, very good disability service in the area of Southern Metropolitan Region — Marriot Support Services. They raised concerns with us months ago about the really huge impost that this legislation would have had. Again, who does it hurt? Who does it impact? Those very people that are being supported. This is just a shocking disregard for the impacts of rushed and botched legislation. If workers leave the sector because they cannot be supported or employers cannot afford them, that does not help anyone, does it? You can have all the long service you like but if you do not have a job, there is no long service anyway. You have not thought it through; you have just been absolutely arrogant in your disregard for the impacts on those workers.

The main concerns in these very vital areas are around the retention of staff and recruitment of staff — keeping those staff in these positions so they can undertake the incredible work that they do, whether it is in the early education sector that I have shadow responsibility for or the disability sector that I have just mentioned. These other areas are all entirely important in the work that they do — the cleaners, all of these employees — but to lump all of these sectors in together just shows that you are paying back your mates and not thinking about those people on the ground that this bill would have directly affected. It has been an absolute disgrace. What it has done is left so much uncertainty, because there is no guarantee that you will not bring this back in at a later date. What guarantee will you give that it will not be brought back into the early education sector just because you have brought in this last-minute amendment at 2 minutes to midnight, or 4 minutes before 9.30 this morning to say that it will not happen?

Nobody trusts you. You have got a Premier out there who ripped up a contract, saying it was not worth the paper it was written on. You have trashed volunteers. You have not consulted in so many areas. You have just been an absolute disgrace in the way you have conducted the governance in government. And that does not go to the point that others have made in relation to your credibility and what you believe in. You are very happy to hide behind the rorts that you covered up — sending it off to the High Court says it all. I make that point because it is about the character of this government; it is about the character of these ministers.

Ms Mikakos interjected.

Ms CROZIER — Minister Mikakos sits across the chamber — it is the character of this government which is so off the money in relation to understanding the impacts of their legislation. It would have had an impact and it would have been very considerable.

Ms Mikakos — You do not care about workers at all. What about residential care workers or those working in foster care? Do you care about them?

Ms CROZIER — What about those people in foster care, Ms Mikakos? They are leaving in droves, aren't they? They are leaving in droves. You have not been very successful — another failure. Whether it is foster care, youth justice or any other thing, you are a failure. You have failed the early education sector in relation to understanding the impacts of this legislation, Ms Mikakos, because, as I said, increasing the costs to employers would have a direct impact on parents and those very people that rely on the very vital early education sector or the disability sector — all those areas that you have finally come to the party on. It is just extraordinary to see what you have done.

You might have said that what this will do is establish a Portable Long Service Benefits Authority to administer the scheme, with a board of up to nine persons appointed by the minister and a registered CEO. I feel like I am going through the debate last night in relation to the independence of an authority, but it will be appointed by the minister and get signed off at arm's length. Well, we all know how this government works: it is jobs for the boys left, right and centre. This is another payoff like we have seen with so many other issues with this government — like the Country Fire Authority payoff to the United Firefighters Union. This shows an incredible, blatant disregard for what is decent and right, Ms Mikakos, and you do not have the decency to give this absolute guarantee to these people because you will not; we know it. Your government has time and time again hidden behind the facts. You time and time again hide behind the debacle that is youth justice, and you have made a hash of this as well.

As I said, the complexities and the administration of this scheme would have been horrendous for the early education sector. One only has to look at what happened in the ACT to see how it actually is not delivering and the huge IT implications that it will need to deliver, the payroll complexities or even the administration.

Honourable members interjecting.

Ms CROZIER — I know those opposite are very tetchy about their stuff-up with this legislation, as they

should be, because they have demonstrated this morning just how desperate they are by giving the opposition and other members of this chamber their amendments. The insecurity and the non-guarantees to this sector are profound. I think it is incredibly disappointing that the minister has undertaken and displayed this level of arrogance and disregard to all of those concerned. They have a window, I suppose, of knowing that if this gets through today, they will have that security for a short time. But what then? What happens in the future? Because there is no guarantee in this legislation that the government will not bring back this sector and again force on it the complexity of this administration. Forget about the not-for-profit sector, where 65 per cent of early educators are, and all those people who rely on that — all those workers who do such incredibly significant and good, hard work in such a vital area. There is no guarantee for them, because the costs will be passed on and services will suffer because those employers have to pass their costs onto someone. It either goes to cutting staff, cutting services or parents copping the costs. The cost of living in this state is rising. There are increases in taxes, as we know, and this is just another demonstration of this government that has wasted money.

Ms Shing interjected.

Ms CROZIER — It cost $1.3 billion, Ms Shing, ripping up the east–west link contract. Man, oh, man! You reckon that Victorians have not remembered that. But again — through you, Acting President — I say that I will not be verballed by those opposite. They know they have made a monumental stuff-up with this legislation, and in the few seconds that I have remaining I think it is incredibly disappointing that the communication in relation to how they have conducted themselves with the sector and with others has been a disgrace. It has been arrogant, and it says a lot about this government. They have just got this extraordinary mentality to ride roughshod over everyone. The only ones who would have lost out are families, children, people in the disability sector and those various workers who would have suffered because of the cost to services that —

The ACTING PRESIDENT (**Ms Patten**) — Thank you, Ms Crozier.

Mrs PEULICH (South Eastern Metropolitan) (11:51) — I also rise to speak briefly on the Long Service Benefits Portability Bill 2018. The origins of the bill are obviously of no surprise. In recent times I have been re-reading the Labor *2014 Victorian State Election Review*, penned by Mr Roland Lindell, a heavyweight in the Labor Party, inaugural chairman of Progressive Business, the big fundraising arm of the Labor Party, and also author of this particular election review. He was also an employee of Mr Lenders, who is named by the Ombudsman as the architect of one of the biggest rorts in Victoria's democratic history. The artifice was no doubt contrived by Mr Lenders. The reason why it was contrived by Mr Lenders, and the reason why we have more and more legislation in Parliament that is to do with union conditions — and we are not talking about worker conditions; we are talking about union conditions — arises from the Labor 2014 election review recommendations.

One of those is in comment 3 in section 7. It gets an entire chapter of its own, under 'Unions':

> That the party —

presumably the Labor Party —

> needs to maintain a strong relationship with the VTHC —

the Victorian Trades Hall Council —

> and its affiliates so a coordinated and cooperative campaign can be mounted amongst union members in 2018.

Before that it says:

> That the Andrews government needs to produce strong policy positions that demonstrate that Labor can best deliver the key services for all Victorians.

If only that were true! This is the skill of those who are the architects of the artifice. Indeed it says:

> That the Andrews government needs to strongly highlight the anti-union positions of the opposition.

Ms Shing — On a point of order, Acting President, Mrs Peulich has been on her feet for 2 minutes now and we have not yet heard even one reference to the bill which is being debated. She seems to think that a discussion about the platform and about former members of this Parliament is relevant.

The ACTING PRESIDENT (**Ms Patten**) — Thank you, Ms Shing. She has had 2 minutes. Please continue, Mrs Peulich, remembering that this is the Long Service Benefits Portability Bill.

Mrs PEULICH — Thank you, Acting President. I actually did mention that I was speaking on the bill and that I wanted to refer to the foundations of the bill. In actual fact if we want to understand the foundations of much of the legislation that is introduced in this Parliament, we should read the Labor Party's review, because they stick to it religiously for a party that does not believe in religion. Indeed they refer to their field

operations, and let me refer to this again. It says in section 7 under 'Unions':

> The union campaign was a factor in the success of the overall campaign.
>
> Over the term of the Baillieu/Napthine government's relations with a number of Victorian Trades Hall Council (VTHC) affiliates, in particular teachers, nurses, firefighters and ambulance officers had become toxic.
>
> Election promises had been broken, EBAs …

blah, blah, blah.

> The ground was therefore ripe for the union movement to galvanise and campaign against the Liberal government, even if not directly for the Labor Party.
>
> The ability of the VTHC to organise a coordinated campaign in key seats was beneficial to the ALP campaign.

Indeed that is why I would be very interested to see some intern perhaps do a quick audit — not a commission of audit, an audit — of how many pieces of legislation have been introduced in this Parliament to directly benefit the key unions that provide the support to the key factions, including of course the Premier.

Ms Shing — On a point of order, Acting President, we are now 4 minutes into Mrs Peulich's contribution. We have not heard anything about the actual bill, so perhaps you might direct her to the substance of the bill itself.

The ACTING PRESIDENT (**Ms Patten**) — Thank you, Ms Shing. That is not a point of order, but, Mrs Peulich, please bring yourself to the bill.

Mrs PEULICH — I understand, Acting President, that it has been a wideranging debate, and what I am attempting to do is to highlight the contradiction — that is, that this party, the Labor Party, pretends to be a party representing workers when in actual fact it is a party that represents unions. Most of the workers do not belong to a union, and that is why this piece of legislation is flawed and the government is not interested in, in actual fact, improving the legislation because it is not designed to deliver outcomes and benefits to the workers. It is designed to deliver benefits to certain workers who are unionised and of course important to the power base of the Labor Party.

I understand that question time is approaching soon, so I will keep my comments fairly succinct and may have to revisit some of those opening remarks when we resume. Hopefully Ms Shing will be here to continue taking points of order.

The bill creates a fairly expensive, centralised and bureaucratic regime that will impose high costs on employers. As we know, some of these services, especially under the reforms of the NDIS, will become vulnerable and there may be some doubt about their sustainability. Certainly it is a big reform that has been supported overwhelmingly across the parties, but I think we do need to make sure that we do not impose such high costs on the administration of a regime that undermines the rationale of long service leave as a reward for continued service with the one employer. I understand the majority of the parliamentary committee inquiry considered that the case for portable long service leave had not been made, and the scheme will have particularly damaging effects on the disability sector.

I understand there has been a last-minute amendment, which I am not across as of yet, to try and patch up some of the holes in this leaking boat, which has already been squeezed by the move to the NDIS. The bill will potentially patch up many, many healthcare organisations whose services include disability services. In addition to that of course we have heard from Ms Crozier and others about the concerns of the early learning sector and the way that they are not being accommodated by the Long Service Benefits Portability Bill 2018.

The government has obviously introduced this bill with the argument that it is going to provide long service leave benefits for workers in the contract cleaning, security and community services sectors, but really it is to reward the loyal servants, political servants and political unions who are going to be very, very important to them in their 2018 state election campaign. It is part of the big rort. It is part of the big artifice, because that is what Labor is. The entire government is a big artifice. Everything they do has an eye on the political benefit to the Labor Party, not to the workers and not to the clients who are going to be impacted by these reforms.

Indeed it establishes an authority, which obviously is going to be a very, very costly authority, to administer the scheme. And no doubt the board of up to nine members will be stacked with loyal Labor Party servants, as most of them are. Ms Shing praised the superannuation funds, but the superannuation funds have been bleeding this country dry.

Ms Shing — Not the industry superannuation funds.

Mrs PEULICH — I will come back after question time as to how they are investing their money to benefit Labor and the Labor Party and not for the benefit of those who are contributors to the scheme. This also needs to be investigated by the federal inquiry in order to get to the bottom of it and how it is geared up to benefit Labor at every turn and not Australian workers, most of whom do not belong to unions.

Business interrupted pursuant to sessional orders.

RULINGS BY THE CHAIR

Unparliamentary expressions

The PRESIDENT (12:00) — Order! This is an appropriate time to go to questions without notice, but first of all, in respect of yesterday's tabling of the Privileges Committee report, a point of order was raised by Mr Dalidakis in respect of some comments that were made by Mr Davis in his contribution and whether or not that constituted a reflection on the motives of members. I indicated at the time that I would have a look at the *Hansard* for both Mr Davis's contribution and to consider Mr Dalidakis's point of order. I have done so, and in that context I make the following ruling.

Yesterday Mr Dalidakis raised a point of order in relation to comments made by Mr Davis during his take-note debate on the Privileges Committee report. Mr Dalidakis claimed that Mr Davis had reflected on members of the committee by making allegations of their motives in relation to the report. Mr Davis's comments included the following:

> … if people want to see the discredit to the chamber as faced through this, they should read from page 45 on and see the extracts of proceedings, where they will see Mr Purcell and the Greens and Labor, that group, voting one way to cover up and to prevent information getting into the public domain.

Further on, Mr Davis continued:

> I say that at its heart this is about a grubby preference deal that is going to be done between Labor and the Greens, and I think, Mr Purcell, you will be a beneficiary of this too. I say, shamefully, that has led to this cover-up in this circumstance.

In considering this matter the first thing I note is that the rulings of the house include general guidance by President Grimwade in 1981 that:

> A member should not refer to a parliamentary committee in a derogatory way …

However, there is a more fundamental rule that should be referred to, and that is standing order 12.22, which states:

> (1) No member will use offensive words against either house of Parliament, any other member of either house, the Sovereign, the Governor or the judiciary.
>
> (2) No member will make an accusation of improper motives or a personal reflection on any other member of either house.
>
> (3) If the President is of the opinion that words used in debate offend against this standing order, he or she may order the words to be withdrawn and may also require an apology.

Having reviewed the comments of Mr Davis, I consider that he has expressly made an accusation of improper motives and made personal reflections on certain members of the Privileges Committee. He has done more than just generally reflect on the committee. This is the Privileges Committee, the most important of committees, and it was tasked with inquiring into a most important issue. All members of that committee were appointed by the house and should be treated with respect in terms of their efforts to fulfil the role of the committee and should not be subject to suggestions of motives in their conduct on that committee. As such I find that Mr Davis has breached standing order 12.22(2), and in accordance with standing order 12.22(3), I ask that he withdraw those accusations.

Mr Davis — President, I think we are into some new terrain here, but I withdraw.

The PRESIDENT — Thank you, Mr Davis.

Mrs Peulich — On a point of order, President, I certainly understand and have read those rulings previously. And I myself, on many occasions, have been breached by others, especially in terms of reflecting on other chambers and other parliaments and other members of Parliament. Noting that there are actually minority reports as part of that committee report, which canvasses a broad range of views, not necessarily the views of the majority report, would that restrict the canvassing of all of the ideas that are contained, including those in the minority report, as a result of your ruling?

The PRESIDENT — Absolutely not. The ruling only pertains to the fact that there was a suggestion of motives applied to members of the Privileges Committee in terms of the decisions they made and their voting record. The actual report of the Privileges Committee is not in any contention at all. And I do thank Mr Davis for his withdrawal.

QUESTIONS WITHOUT NOTICE

Abortion services

Ms PATTEN (Northern Metropolitan) (12:06) — My question is for the Minister for Families and Children, representing the Minister for Health. Women in Victoria have a lawful right to access a termination up until 24 weeks. However, I am increasingly contacted by women who have been unable to access terminations in public hospitals. These terminations are available in the private sector to those who can afford to pay for them but this seems to be decreasingly true in the public system, so I ask the minister to detail the specific number of public system appointments currently available for terminations between 14 and 18 weeks and 18 and 20 weeks.

Ms MIKAKOS (Minister for Families and Children) (12:06) — I thank the member for her question and her interest in women's public health. She has asked for some very specific details around numbers of appointments. That is information that I do not have at hand, but I will endeavour to seek a written response for the member with the details that she is seeking, if they are in fact available.

Supplementary question

Ms PATTEN (Northern Metropolitan) (12:07) — Thank you, Minister. By supplementary, I ask the minister what actions she is taking to ensure that women who cannot afford private sector services can access terminations between 20 and 24 weeks.

Ms MIKAKOS (Minister for Families and Children) (12:07) — Again I thank the member for her question and her interest in these matters. I will endeavour to seek a written response to her supplementary question as well.

Roadside livestock grazing

Mr PURCELL (Western Victoria) (12:07) — My question is to the Minister for Agriculture, Minister Pulford. In south-west Victoria we have had an exceptionally good winter with lots of rain, and within the month, with more days like today, we will have grass growing over our fences. Yesterday I was contacted by a stock and station agent from Mortlake, who said he fields many calls every day from desperate drought-affected farmers. He believes south-west Victoria is in a unique position to help some of these producers in allowing them access to drove cattle on suitable roads. For this to happen many state government departments and ministers need to be convinced, including the Minister for Roads and Road Safety, the Minister for Energy, Environment and Climate Change and the Minister for Local Government, just to name a few. I have heard in the past all the excuses why this cannot be done, blaming other government departments and governments, but these are exceptional times for our farming community. So I therefore ask: Minister, will you help our desperate farmers and undertake to work to have the rules regarding droving temporarily relaxed?

Ms PULFORD (Minister for Agriculture) (12:08) — I thank Mr Purcell for his question and for his concern about drought-affected farmers in East Gippsland and those in northern Victoria who are experiencing dry conditions — something that we had the opportunity to discuss earlier in the week in the Parliament. The point Mr Purcell raises is really important in recognising the different conditions that exist in different parts of the state. I had the opportunity to have a chat with Mr Ramsay earlier in the week similarly about just how good a season and how wet it has been in the south-west of the state, which is in such great contrast to the experience in the east of the state.

I thank Mr Purcell for the suggestion, and I thank the community member from Mortlake, the stock agent, who has made the suggestion to Mr Purcell. I think that the more people who are involved in informing a response and bringing forward their suggestions the better. But the question particularly relates to roadside grazing and so, whilst I will seek a response from the Minister for Roads and Road Safety, Minister Donnellan, on the road safety aspects of this question, I indicate that we are certainly exploring every opportunity for people in other parts of the state — certainly in the south-west, in parts of central Victoria and hopefully, with some good rains over the next couple of months, perhaps even people in parts of north-western Victoria — to be able to provide support to those who are really struggling. Of course some of those things are contingent on the weather; others of those are not.

However, relaxing the rules around roadside grazing has, I think, significant roadside safety consequences, and it is not something that the government is actively considering. We are actively considering many, many different measures to support our farmers. Just a personal reflection I cannot help but make in answering this question is that I have a family member who has lived with a not insignificant impairment for more than three decades as a result of a car accident when she was a much younger woman involving cattle on the road that was, I think, a result of a fence that was not doing its job. But these are decisions that of course we need to

be very mindful of, and the risks to road users of relaxing those rules are, I think, quite significant.

That said, the suggestion, like all suggestions to support our $13 billion agriculture industry and all of the innovation and fabulous good news that the sector has to celebrate, as well as the suggestions of support for those who from time to time do suffer the adverse effects of drought and dry conditions, is welcome. As I said, I will provide some further advice from Minister Donnellan on the road safety aspects of that, but I can certainly assure the house that I am fully focused on the things that we can do, the things that our farming community right across the state can do and the community more broadly can do to support those in the state who are currently experiencing difficult conditions.

I will take the last few seconds that I have, though, to make the point that our farmers are very capable businessmen and businesswomen who are participating in a $13 billion export-focused industry with great success. There is a lot of resilience in the sector, and of course we are always very sympathetic to those who are struggling, but there is much to celebrate.

Poultry industry

Ms PENNICUIK (Southern Metropolitan) (12:13) — My question is also for the Minister for Agriculture. Earlier this year the government released an independent scientific review into the farming of birds and poultry. The *Farmed Bird Welfare Science Review* was written by the University of Bristol, which is world-renowned for its work in farmed bird welfare. The review was extremely thorough and independently peer reviewed by Australian and New Zealand scientists. Whilst it did not make recommendations, it presented overwhelming evidence in terms of the mental, behavioural and physical problems caused by housing hens in battery cages. The report also shone light on other practices such as forced moulting. Back in February this year in this place you indicated that this report would inform the government's position on what future poultry industry standards should be. Six months later I wonder if you could update the house as to the progress with regard to developing a Victorian government position.

Ms PULFORD (Minister for Agriculture) (12:14) — I thank Ms Pennicuik for the opportunity to provide the house with an update on the national process around poultry standards. Ms Pennicuik is right: the government certainly takes a science-based approach to animal welfare, as do of course many who operate in our industries. The issue of poultry welfare standards is something that ignites a great deal of passion in the Australian community and of course in Victoria, but this is a national process that we participate in and a national review that is underway. If my memory serves me right, there were in the order of 600 000 submissions made — 800 000?

Ms Pennicuik interjected.

Ms PULFORD — Anyway, I think we can agree there were hundreds of thousands of submissions made to that national review process. The New South Wales government has been leading that process, and that is underway. My department commissioned a scientific review to provide additional support to our own decision-making processes, and that is a publicly available document. Industry are aware of it and we have provided it to the people coordinating the national review.

That national review is not moving particularly quickly, so whilst I know that there are lots of people in the community — people in industry, people who like to eat chicken meat, people who like to eat eggs — who have got a view on animal welfare standards in the choices that they make as consumers and a lot of interest in this, it is important I think that we continue to participate in the national process. It would be completely premature for the Victorian government to express a view ahead of that review being advanced to its next steps in terms of collating all of that feedback from all of those submissions, all of the science that is considered and all of the input from industry. When we are at a point of looking at where the next steps have gotten to, that will then be the point at which the Victorian government develops a position to take in those national discussions on this.

What I would say to our poultry industry — and I hope that they know this — is that we are very, very supportive of our poultry industry in Victoria. There are many, many people who work in processing and in growing in many locations around the state. This is an industry that has often experienced some real challenges in terms of planning controls and interaction with neighbours, and I think some of the reforms that we have done in terms of intensive animal industry planning have certainly provided some additional surety to participants in that industry. Of course many consumers now make choices about barn-laid and free-range eggs, and we all see that share of production, that share of the market, increasing.

The questions that people have about how this review will come out in the wash sometime in what I assume is 2019 will be many and varied, but again our view about

supporting Victorian industry to be the best that it can in terms of high animal welfare standards will be the same view that we take and have taken the whole time that we have been in government: to support our animal industries to maintain exemplary standards.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) (12:18) — Thank you for your answer, Minister. In fact the public consultation process received 167 000 email submissions and an estimated 2000 hard copy submissions. The collation of those submissions has actually been done by an independent consultant, and it was clear, as you said, Minister, that this issue generates a lot of public interest. The issues raised included the use of cages, beak trimming, induced moulting, stocking densities, lighting for poultry and slaughtering practices. The majority of community submissions are opposed to the use of battery cages. In your answer to me, Minister, you said that in this process you will be developing a position, but it is a bit of a circular argument. How can you go to this process without developing a position based on all the evidence that is there for you? When will the government release its position that it is taking to the national process?

Ms PULFORD (Minister for Agriculture) (12:19) — We are waiting to receive the next round of information from the national process, and the department is participating in that. In terms of any policy decision, there is no need to be making any decision ahead of the development of the national process. It is incredibly important that we participate in the national process and that we are part of the national process. I think the last thing that any of us would want to see is for standards to be wildly different from one jurisdiction to another and for that to have quite significant job loss and industry consequences. I certainly do not want to see that. I think it is a pretty open secret that the South Australian government have very aggressively pursued a greater share of the national poultry industry, and that has presented some challenges to the Victorian industry. But we absolutely support the Victorian industry, and the participants in the Victorian industry are committed to improving animal welfare and improving standards.

Timber industry

Ms DUNN (Eastern Metropolitan) (12:20) — My question is also for the Minister for Agriculture. Minister, the wood pulp agreement between the state government and Paper Australia, a subsidiary of the Japanese conglomerate Nippon Paper Group, is ratified under the Forest Wood Pulp Agreement Act 1996. Section 13(5) of that act requires the government to make payment to Paper Australia if the specified wood volumes cannot be sourced from inside the forest area defined in the annexure to the agreement. Evidence presented to the inquiry into VicForests's operations noted that representatives on the Premier's Forest Industry Taskforce were advised these payments were in the order of $1 million per year. Could the minister advise how much has been paid to Paper Australia under these provisions since the 2009 Black Saturday bushfires?

Ms PULFORD (Minister for Agriculture) (12:21) — I thank Ms Dunn for her question. Ms Dunn has asked this before, and if she recalled the answer I provided to her on previous occasions she might recall that these are confidential commercial arrangements between the government and the company so I am sure Ms Dunn will be disappointed, but I am not in a position to be sharing that information with Ms Dunn. Suffice to say that the lion's share of the timber that is required to be supplied does come from the area that is comprised of the agreement. Because of a —

Ms Dunn — Fifty per cent burnt on Black Saturday.

Ms PULFORD — Would you like me to continue? As Ms Dunn and every member in this chamber knows well, there are, have been and continue to be constraints on the available native timber resource for industry, and there are many reasons why that is the case. Partly that is the case because of fire — not just the 2009 bushfires but other fires in other years — and also because of some of the environmental protection measures that the former government put in place. They have placed pressure on the available resource, as I am sure every member in this place knows better than probably any other group of 40 people in Victoria. So Ms Dunn's question goes to, really, the ongoing challenge that the government has in terms of reconciling our legal and contractual obligations to Australian Paper but also to a number of other companies. Ms Dunn asked questions earlier this week indeed of Minister Jennings about the G6 group of sawmills, and of course other mills are similarly impacted by a decline in resource availability.

We in the government continue to work through these challenging issues to seek the best possible outcome that we can for the environmental values that are very important to many people in the community but also to the employment and economic objectives of the government and the need to provide secure employment for as many people as we possibly can in balancing these really quite challenging sets of circumstances that the industry has as a result of pressure on resource.

Supplementary question

Ms DUNN (Eastern Metropolitan) (12:24) — Thank you, Minister. In its response to an FOI request regarding the government's review of that same wood pulp agreement your department's decision not to release the 2011 review of the agreement gave the following reason:

> The report reviews pulpwood resource availability and includes limited consideration of options to meet supply needs, which could be misinterpreted as an intention by VicForests to expand its operations beyond the legislative, regulatory or environmental framework within which it is required to operate.

Minister, what environmental regulations has VicForests been prepared to break in order to meet its commitments under the wood pulp agreement?

Ms PULFORD (Minister for Agriculture) (12:25) — VicForests does not break environmental regulations. VicForests is very cognisant of its responsibility to be complying with the environmental regulations that exist.

Ms Dunn — Except when it illegally logs.

Ms PULFORD — Says you.

Ms Dunn — Says your department of environment.

Ms PULFORD — I would just add to that that the resource outlook, which is a public document, makes absolutely clear the multiplicity of reasons impacting the pressure on our native timber resource.

Child out-of-home care services

Ms CROZIER (Southern Metropolitan) (12:26) — My question is to the Minister for Families and Children. The Salvation Army has advised your department that it will be withdrawing its provision of all out-of-home care services, including residential care, foster care and transitional care packages, by June 2019 in the South Gippsland areas. What was the reason the Salvation Army gave your department for withdrawing these vital services to some of Victoria's most vulnerable children?

Ms MIKAKOS (Minister for Families and Children) (12:26) — I thank the member for her question. Can I just say to the probably less than half a dozen people out there watching question time at the moment a big cheerio. They certainly get the gold star for following the Victorian Legislative Council today as all eyes are on Canberra. In fact it has been very noticeable that all eyes of those opposite have in fact been on what is going on in Canberra as well. It is good to see that your eyes have lifted off your phones to actually be looking at me at the moment. Keep looking, keep looking — this way. Keep looking at me, and I will —

The PRESIDENT — Order! Minister! It has nothing to do with the question, Minister — not in my wildest imagination. Minister, the question.

Ms MIKAKOS — Thank you very much, President. I am very happy to come to the question, but I know that those opposite are a little bit distracted —

Honourable members interjecting.

Ms MIKAKOS — And I'm coming to it. Settle down. I know you are waiting for the puff of smoke. But what I want to say to those opposite is that —

Honourable members interjecting.

Ms MIKAKOS — Are you listening? Are you actually interested in the answer? What I can advise the house is that the Salvation Army advised my department on 15 August of its intentions to cease delivery of all out-of-home care services by 30 June 2019. I am advised that the reason the Salvation Army have given is that they are undertaking a national restructure and they have decided that their social services across Australia need to change. As a result they have made the decision to withdraw from providing out-of-home care services. The Salvation Army of course will continue to provide other services to vulnerable people that are funded by my department across the state. Our government takes the safety and wellbeing of young people seriously, and we are determined to work in the best interests of these young people and of course carers as well. This is why my department is working closely and actively with the Salvation Army through this transition period to ensure the safety and wellbeing of the children and the young people receiving the services.

The advice that I have received is that the Salvation Army have met with the affected staff and also are in the process of meeting with their foster carers. Our government is committed to working with the Salvation Army to make sure that this transition period can be as seamless as possible.

Supplementary question

Ms CROZIER (Southern Metropolitan) (12:29) — Minister, thank you for that response. Minister, how many carers and children will therefore be impacted by this decision, and can you guarantee, as you have just

said, that there will be a seamless transition to other agencies to support them?

Honourable members interjecting.

Ms CROZIER — No, I am asking how many.

Ms MIKAKOS (Minister for Families and Children) (12:30) — Thank you for that supplementary question. What I can say to the member is this example is just a very good example of why we need a portable long service leave scheme for the community sector, because in fact we have got workers who are about to have their employment with the Salvation Army actually terminated, and these are no doubt going to be workers who are going to put their hands up, in most cases, to continue to work in the community sector. So if you had an interest in supporting the carers, the children and the workers who are affected by out-of-home care services, then you would in fact be supporting our portable long service leave scheme.

What I can say to the member is that I am happy to provide further details in respect of this.

Honourable members interjecting.

Ms MIKAKOS — Well, I do not have the numbers at hand, but what I can say to her is that my department is working very closely with the Salvation Army to actually ensure that there is a seamless transition. I have just explained to you that this is going to happen in June 2019.

The PRESIDENT — Thank you, Minister.

Fishermans Bend

Mr DAVIS (Southern Metropolitan) (12:31) — My question is to the Special Minister of State. Will the minister confirm that after almost four years of drift, delay and dithering on the future of Fishermans Bend yet another committee has been appointed and that he, as Special Minister of State, will have responsibility for managing this committee, effectively stripping strategy for Fishermans Bend from his hapless Minister for Planning, Richard Wynne?

Mr JENNINGS (Special Minister of State) (12:31) — Like every other member of the chamber and every other member of the community who may be witnessing this at this moment or may witness it at any moment in the future, when Mr Davis started to describe the drift, the lack of initiative and the dithering that is taking place everyone thought that it was a preamble relating to what is happening in this nation. Everyone thought that that was actually going to be Mr Davis's commentary on what is happening in Canberra. That is what they believed when Mr Davis started his commentary.

Mr Davis — On a point of order, President, my question was about a very narrow piece of land. It has got nothing to do with national issues, and the minister ought to come back to answering the question.

Ms Shing — On the point of order, President, Mr Davis opened the door with a preamble that had a number of presuppositions contained within it, and the minister is entitled to actually address them in the context of his answer.

The PRESIDENT — Order! Mr Davis today, in a courtesy to the house, withdrew without comment some remarks he had made yesterday on the basis that it was my judgement that those remarks might have been seen to go to the motives of members in their conduct in the Privileges Committee. Given that he has done that, it is particularly in my mind that the answer to his question now ought not go to suggest motives or to suggest that peripheral matters in some other part of the country might well have been associated with the question he asked. I would bring the minister to the question itself.

Mr Leane — On a point of order on your ruling then, President. Mr Davis did not withdraw without comment. I would say that you might want to check *Hansard*. He did make a comment before he withdrew.

Honourable members interjecting.

The PRESIDENT — It is my understanding that he withdrew. He stood up and he withdrew.

Mr Leane — Just to be helpful, I would say that he did make a comment before he withdrew, and I would urge you to check *Hansard*. I am happy to be corrected, President, if I am wrong.

The PRESIDENT — He withdrew. In the view of the Chair, he withdrew. We are dealing with a question now, and I invite the minister to actually respond to the question.

Mr JENNINGS — Indeed I will, President. In fact I think that you had done your best earlier today to close down an issue that actually may have been subject to consideration of the chamber and exercising the chamber's prerogative in relation to that matter. Can I actually put on the record that I think Mr Davis was very lucky by just withdrawing what he said. If that is the end of it, he was very lucky to get away with it.

In that commentary, I was not actually impugning anything in relation to Mr Davis's motive. I was suggesting he was very careless in his preamble and in the way he constructed his question to me. Because in fact it was provocative, the way in which he described the circumstance about Fishermans Bend — Fishermans Bend, which does actually have a national significance because in fact it may be one of the major precincts that is developed across this nation into the future and which was actually left bereft of planning controls and considerations by the government that he left behind.

It was a circumstance where there was no provision for the protection of community amenity. There were no protections for the siting of schools or for parkland. There were no protections in place to make sure that there was public transport in place or other amenity developed in Fishermans Bend. There were no protections in place, and this government has been trying desperately to restore the circumstances of Fishermans Bend that were left to us in terms of allowing development to occur but allowing for civil amenity and community development to occur in an appropriate fashion.

There were many, many regrets, and the members of the coalition in Victoria should have many regrets about what was left to the incoming government in Fishermans Bend. This government has actually worked very hard to try to prevent the circumstances where there was rampant profiteering that occurred through planning decisions that were rammed through and that had no integrity to them. So the interventions of this government have been, at all stages, to protect the public interest, the community interest and to allow development to occur in a way that is well-planned, well-organised and actually leads to the minimum number of regrets by the end of this term, rather than the maximum number of regrets that this government inherited from its predecessor.

Supplementary question

Mr DAVIS (Southern Metropolitan) (12:37) — President, I take that as a confirmation from the minister that in fact he has taken over effective strategy on Fishermans Bend. Let me —

Mr Jennings — This is a stupid question — a stupid question that you led with your chin.

The PRESIDENT — Order! I am not in a position to understand whether it is a stupid question when I have not even heard it, Minister.

Mr DAVIS — Minister, I therefore ask: how can you take on this role, a highly sensitive pseudo-planning role, when you are one of six government ministers who are known rorters and likely under formal investigation by Victoria Police? How can you take on this role and the community have confidence in the integrity of your decision-making given the serious outstanding questions on rorts?

Mr Jennings — Was I right or was I wrong?

The PRESIDENT — Minister, Mr Jennings.

Mr JENNINGS (Special Minister of State) (12:38) — Thank you, President. You know it was a stupid question. It does not deserve anything but an answer to put the coalition back in its place in relation to the complete neglect and disregard for public outcomes at Fishermans Bend, the rampant profiteering and the private benefit that was derived by developers and mates of the Liberal Party in relation to Fishermans Bend. That sorry history will haunt you for ever.

Honourable members interjecting.

The PRESIDENT (12:38) — Order! Mr Davis, 15 minutes please.

Mr Davis withdrew from chamber.

The PRESIDENT — Minister, complete?

Mr JENNINGS — I think that is enough, President.

The PRESIDENT — So do I.

TAFE funding

Ms WOOLDRIDGE (Eastern Metropolitan) (12:39) — My question is to the Minister for Training and Skills. Demand for nursing qualifications at Australian Catholic University's (ACU) Ballarat campus has halved because of your TAFE course fee removal announcement. ACU have approached the Minister for Education and you to convey their concerns about the impact of the policy. You, Minister, unfortunately have refused to meet with them. Minister, will you immediately amend the eligibility criteria so that nursing students at ACU college in Ballarat can access TAFE course fee removal instead of being excluded?

Ms TIERNEY (Minister for Training and Skills) (12:39) — I thank the member for her question. I have not refused to meet the organisation that the member raises. In terms of those that have raised issues with respect to the government's policy and the government's budget initiative, we have encouraged

them to contact the department, and there have been a series of meetings to work through people's issues. The fact of the matter is, as I said in the house yesterday, the initiative is in relation to free priority courses at TAFE. If people are wanting to change their constitution for eligibility, then so be it, but at this point in time I am not seeing any proposals before me, whether they be from universities or other providers, that they want to become TAFEs. So that is the benchmark in terms of eligibility.

In terms of those people that are enrolled in nursing, I would encourage them to continue and to complete their courses, because this is a course that is in high demand for jobs. In fact as a result of the course being on the free TAFE course list from 1 January, it is a saving of $16 000. This is something that is recognised in the community as something very important. It provides an opportunity for those who might not have been able to even think about going to TAFE to think about being a carer, to think about being a nurse. They now can seriously contemplate being a nurse, enrolling in TAFE, saving themselves $16 000 and getting a job in their own community. This is something that is very important. We have dealt with this issue time and time again in this chamber. The eligibility is clear, and the commencement time on this policy change is clear: it is 1 January next year.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) (12:42) — Minister, because ACU is excluded from your policy Ararat hospital has been forced to abandon the partnership it had in place with ACU to train nursing students. This is a terrible outcome of your policy. What are you going to do to fix this?

Ms TIERNEY (Minister for Training and Skills) (12:42) — Again I would encourage those to continue in the nursing courses that they are currently enrolled in, and I also would encourage those that are interested in undertaking nursing to actually enrol in TAFE and do the course that is there that will save them $16 000 and will ultimately deliver employment to that individual. This is very important. We all know that the health and hospital system in this state is growing; the health industry is growing. This is the very reason this course — as well as individual support, as well as disability services support — is on the list, because industry needs it and employers need it. Indeed those that have been locked out of the system in the past want to get on board, want to have skills attained and want to have a profession. They want a career, and they want a job in this area.

Metropolitan Remand Centre

Mr O'DONOHUE (Eastern Victoria) (12:43) — My question is to the Minister for Corrections. Minister, in response to my question about the incident at the Metropolitan Remand Centre earlier this week you dismissed it as nothing more than an incident between a small number of prisoners which resulted in only minor injuries. Minister, I have now received contrary advice from multiple sources. Can you now confirm that this incident you are trying to downplay was actually a fight that included edged weapons, as many as 80 prisoners refused the order to return to their cells to be locked down, prisoners became aggressive and violent towards the prison officers and now as a result up to 10 prison officers have gone onto WorkCover?

Ms TIERNEY (Minister for Corrections) (12:44) — This is the third time that this has been dealt with in the house this week. The fact is that there was an incident between a small number of prisoners which required a unit to be locked down. This week Mr O'Donohue verballed me and did not tell the truth on Twitter. This is totally irresponsible. It shows that Mr O'Donohue is more interested in self-promotion than representing the interests of our hardworking prison officers. I would like to reiterate that the incident was handled well. The incident was handled well by staff, and apart from one of the participants in the fight, no-one required medical attention.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) (12:45) — On Wednesday, Minister, you described this incident, which involved up to 80 prisoners and has left up to 10 prison officers on WorkCover, as 'not an unusual situation'. So I ask, Minister: can you advise how many serious and dangerous incidents like this have taken place since you became the Minister for Corrections?

Ms TIERNEY (Minister for Corrections) (12:45) — Seriously, this is just another case of Mr O'Donohue coming in here making wild allegations, and he is trying to actually grab a tabloid headline. That is his whole modus operandi. He does not care about the smooth functioning of the corrections system in this state. He is moribund in terms of ideas, and all he does is come in here and want to throw hand grenades and Molotov cocktails on things that just do not exist. This is a person that just will not accept what happened this week at Barwon Prison. He is absolutely wedded to a journalist on the other end of the line to just grab whatever headline he can to try to scare the community

and put people off from being employed in the corrections system in this state.

Metropolitan Remand Centre

Mr O'DONOHUE (Eastern Victoria) (12:46) — What an extraordinary response. What an extraordinary answer from the minister. I ask by way of a new substantive —

Mr Dalidakis interjected.

Mr O'DONOHUE — Perhaps the minister should do a Latin course at TAFE, because taking up her previous answer, honestly, if she is going to use Latin phrases perhaps —

The PRESIDENT — Order! To the question, please.

Mr O'DONOHUE — Thank you, President.

Mr Gepp interjected.

The PRESIDENT (12:47) — Mr Gepp, 15 minutes, thank you. Mr O'Donohue from the top, but not with commentary on the previous answer.

Mr Gepp withdrew from chamber.

Mr O'DONOHUE — Noted, President. My question is to the Minister for Corrections. Minister, following the Metropolitan Remand Centre (MRC) riot in 2015, the worst in Victoria's history, the government received advice that Operation Oyster, which was not activated at the time, should be reviewed. Have the recommendations from that review been implemented?

Ms TIERNEY (Minister for Corrections) (12:48) — I thank the member for his question and his continued interest in the MRC. We undertook a number of initiatives as a result of what occurred at the MRC. We also of course engaged Kieran Walshe, who undertook an examination of the drivers and had a look at the physical infrastructure of the facility as well as engaging with staff and management of that facility. As a result of that, as I said, there was significant investment in repairing the infrastructure and strengthening the MRC. Indeed there were a number of very important infrastructure projects that have been included —

Honourable members interjecting.

The PRESIDENT — Thank you. The minister to continue, without assistance.

Ms TIERNEY — Thank you. This is a very important facility for Corrections Victoria and very important for this state. That is why we have made sure that we have reinforced and built new fences internally as well as a range of other buildings that needed to be reinforced, particularly in terms of the flow and the control building at the facility.

Mr O'Donohue — On a point of order, President, Operation Oyster has nothing to do with the infrastructure. The minister has been talking for 1 minute 40 seconds about infrastructure solutions to the worst prison riot in Victoria's history at the MRC in June 2015, and I ask you to direct her to answer the question.

The PRESIDENT — The minister still does have a considerable amount of time available to respond to that question. She has provided some information to the house, I expect in a contextual way. I am sure the minister will come to the actual question.

Ms TIERNEY — Thank you, President. In fact the last part of all of that work was completed fairly recently, which has also led to more than 70 beds being added to the MRC. We have implemented all of the recommendations from Kieran Walshe. We have fixed the system, and the MRC is operating now better than it has ever, ever operated, and particularly better than what it was when you were the minister, Mr O'Donohue.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) (12:51) — I noticed the minister failed to actually address the question in any way whatsoever. I think it demonstrates that she did not even know what the question was about. I ask by way of supplementary: Minister, since 15 December, when you received advice about Operation Oyster, how many times has Operation Oyster been activated in a prison or correctional centre?

Ms TIERNEY (Minister for Corrections) (12:51) — The response I can give is that in terms of recommendations that pertain to the MRC, I am not advised of any recommendations outstanding.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) (12:52) — There are 10 written responses to questions on notice: 11 473, 11 495, 11 518, 11 540, 11 562, 12 717–18 and 12 751–3.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT (12:52) — In respect of today's questions, Ms Patten's question to Ms Mikakos involves a minister in another place, so I seek written responses to the substantive and supplementary questions in two days. Mr Purcell's substantive question to Ms Pulford — again Ms Pulford needs to have a chat to some other ministers, particularly Mr Donnellan, about the specifics of that question, therefore two days on that, and that is only the substantive question. Ms Crozier's question to Ms Mikakos, the supplementary question, one day. Mr O'Donohue's two questions to Ms Tierney, both the substantive and supplementary questions on each occasion, that is one day.

Ms Wooldridge — On a point of order, President, it is a longstanding tradition of the house that ministers stay in for question time. Minister Dalidakis actually left today with, I think, quite some significant rudeness before question time was concluded. In fact Minister Dalidakis and occasionally others leave before you have considered and announced the reinstatement of questions. I ask if you could provide some guidance to ministers in relation to the expectations of you as President, and this house, in relation to their attendance for the entire period of question time.

The PRESIDENT — Order! I am sure that there are occasions when ministers have other commitments that they need to meet — sometimes with people who are members of visiting delegations who have a timetable that makes those meetings difficult. Nonetheless, ministers do realise, I think, that we have a set period for question time between 12 and 1 on Wednesday, Thursday and Friday, and a little later on Tuesday. I think that ought to be entered in their diaries and, as a courtesy to the house and the members who are offering questions, they ought to stay until that question period is acquitted. I do not think that it happens very often, but certainly I think the courtesy to the house is that ministers ought to be here until we have completed question time, because sometimes there are matters that I do need to double-check with them in terms of making determinations on questions where I might require further written answers.

Mr Morris — On a point of order, President, I want to raise a written response to a question without notice that you reinstated yesterday — Ms Tierney's supplementary question. Once again the minister has failed to answer what is a very, very simple question in her written response. I know that you are constrained in what you are able to do through the standing orders, but I highlight that this is another example of incompetence from this minister. It is a discourtesy to this house that the minister has once again refused to answer a simple question in a written response. It is pathetic; it is absolutely pathetic.

The PRESIDENT — As the member indicates, I have no power to reinstate it a further time. I would suggest that if a minister does not answer a question where you believe that you have some position that you wanted to establish — if she or another minister does not answer that question — then in fact in some ways you have your answer.

RULINGS BY THE CHAIR

Questions on notice

The PRESIDENT (12:56) — I indicate that my penpal, Mr Rich-Phillips, has written to me seeking a further reinstatement of questions. In this case he is being quite circumspect — it is only one question. It is question on notice 12 813, and having looked at that question and the response that was provided, I am of the view that I should ask for that question to be reinstated because it has not been satisfactorily answered.

CONSTITUENCY QUESTIONS

Western Metropolitan Region

Mr FINN (Western Metropolitan) (12:57) — My constituency question is to the Minister for Education. I was horrified to learn this week of a gross breach of privacy at Strathmore Secondary College. I was staggered that sensitive information about hundreds of students at the college, including medical diagnoses, learning difficulties and treatment plans, has been made public to the school community. I share the fury of students and parents alike at this monumental stuff-up. Strathmore Secondary College is an excellent school with a first-class reputation. It certainly does not deserve this incident sullying its name. Minister, how did this outrage occur, and what is the government doing to ensure it never happens again?

Northern Metropolitan Region

Dr RATNAM (Northern Metropolitan) (12:58) — My constituency question is to the Minister for Public Transport. Minister, commencing on 31 August there are tram works on Nicholson Street, Fitzroy, to introduce three new accessible platforms, which we absolutely welcome. These works will disrupt the

86 tram route temporarily and will run for two weeks. During this time buses will replace trams along the 86 and 96 tram routes. There are, however, two stops along Queens Parade — stop 23 at Wellington Street and stop 24 at Michael Street — that will not be serviced at all during that time. A constituent of mine uses these stops regularly and has raised the fact that for people with mobility issues it is quite a distance to walk to the next stop. He has asked that, rather than these stops being bypassed, replacement buses could in fact travel along the tram reserve and use the existing stops without causing any further disruption. Would the minister consider changing these replacement buses to better service the people of Clifton Hill and include all stops along the route during this temporary period? If not, what other suggestions does she have for people with mobility issues who will find it hard during this time?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) (12:59) — My constituency question today is for the attention of the Minister for Public Transport. I am aware of a constituent of mine who lives in Park Street, South Melbourne, Peter Tsetis. He is a former taxi licence holder and he faces a number of serious issues. He is close to bankruptcy given the issues that have occurred here with the government stripping taxi licences. His superannuation has been frozen. Bendigo Bank has stepped in and is using a range of tactics which are having a very serious impact on him. He has received nothing from the Fairness Fund, I should say — not a zack. What I ask is: will the minister review the inadequate payments that have been made by the Fairness Fund and other government agencies and review other government steps to ensure that fairness prevails?

The PRESIDENT — It is really a fairly broad one again.

Eastern Victoria Region

Ms SHING (Eastern Victoria) (13:00) — My question today is for the Minister for Roads and Road Safety in the other place, Minister Donnellan, and it relates to a section of Commercial Road, Morwell, which is directly opposite the Tipping Foundation, a facility which is attended by a number of people with physical and/or intellectual disabilities to come together for the purposes of classes, learning and support, and to get assistance where required. VicRoads has recently identified that there may be some areas of the road associated with road safety hazards for people who need to alight from a bus on the other side of the road in order to cross to the Tipping Foundation, and they may require assistance in doing this. Staff from Tipping are currently providing them with this assistance, but VicRoads has committed to working with the people who rely upon better access to improve the way in which they can cross the road. What assistance will be provided to ensure that this is done quickly, and will it be an island or a zebra crossing, including lights?

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) (13:01) — Just a quick cheerio to our new Prime Minister, Scott Morrison, and the new deputy leader of the Liberal Party, Josh Frydenberg, a proud Victorian. My constituency question is for Ms Natalie Hutchins, the Minister for the Prevention of Family Violence. Recently I have received a number of briefings about domestic violence hotspots around the South Eastern Metropolitan Region, and the question that I ask is: what are the figures, what are the hotspots, and what action has the government taken to respond and with what results?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) (13:02) — My constituency question is for the Minister for Energy, Environment and Climate Change, and it is in relation to Yarra Flats Park, a matter that I have already brought to the attention of the minister, who in her response talked about a whole lot of works being done: in fencing, weed programs, removal of rubbish, maintenance of the Heidelberg School Artists Trail signs and improvements to billabongs along the Yarra River. However, my constituent indicates that none of those works are actually being undertaken at the Yarra Flats Park, and in the four years since he has moved there, there have been no improvement works undertaken of that nature, except by the friends of the park, who of course do volunteer work there.

So my question is: Minister, will you please support Parks Victoria to undertake the works required in the Yarra Flats Park?

Eastern Victoria Region

Ms BATH (Eastern Victoria) (13:02) — My question is for Ms Tierney, and she may have to relay it on to Minister Pakula as it relates to a withdrawal of funding from the Department of Justice and Regulation. The Windermere's Gippsland Victim Assistance Program team offers great support, advocacy and practical assistance to victims of crime. Until recently the team comprised a staff of nine dedicated outreach workers based in Morwell. However, the position of

intake worker has been cut, and this has placed great and significant pressure on the remaining staff to take up that extra workload on top of their own. The position involves being the first point of contact for the organisation, answering phones and emails, receiving and processing referrals, liaising with police and councillors, and connecting people into the system so they can start their healing process. Windermere's south-eastern Melbourne office, which covers south-eastern Melbourne up to the Bunyip River, still retains their outreach worker, but Gippsland's has been cut. So I ask the minister: why has the government cut Gippsland's intake worker position?

Mr Davis — On a point of order, President, relating to questions without notice, I asked a question on Tuesday — the Minister for Regional Development did not provide a response until late yesterday — and it was a question to her in her capacity representing the Minister for Public Transport. It concerned the breakdown of formal complaints received at Public Transport Victoria for Sky News interviews shown on city loop stations. The supplementary concerned who — a person — advised the Minister for Public Transport that there had been hundreds of complaints. The response is in no way responsive to either of those questions. It does not provide a number or numbers, and it does not provide a name or names as to who advised the minister. I seek reinstatement of the questions if that is possible.

The PRESIDENT — In respect of the question, I have had an opportunity to have a look at it. Certainly I think that this matter, the occasion that Sky News was banned from broadcasting at stations, is of some interest. To that extent I certainly accept that the substantive question requires a little bit more substantiation for how that decision was made than has been provided in this answer. In respect of who might have advised the minister, I am not, as the Chair, so interested in a name, but it might well be that —

Mr Davis — The position.

The PRESIDENT — the position of a person who might have advised the minister in that matter would be a relevant consideration. To that extent, I am prepared to seek further written answers on both the substantive and supplementary questions.

Sitting suspended 1.06 p.m. until 2.13 p.m.

LONG SERVICE BENEFITS PORTABILITY BILL 2018

Second reading

Debate resumed.

Ms BATH (Eastern Victoria) (14:13) — I am very pleased to rise this afternoon to make a brief contribution on the Long Service Benefits Portability Bill 2018. It is interesting when you think about the history of long service — I know others have gone into it in quite a great deal of depth this afternoon, so I will not drill down too far — the idea about long service was that you had actually endured with, participated in, supported and encouraged that business and worked in that business for a long period of time. In actual fact, going back a long, long time ago, it enabled people to travel back to the mother country, back to England, when we used ships as our main form of transport and so required a three-month period to go home and visit relatives. What I find so counterintuitive is that one of the main provisions of the bill looks at allowing an employee to not work in their industry for up to four years before losing continuity of service. That to my mind is indicative of not following the tradition of long service. Yes, things have to move and change, but after speaking with a number of sectors, I think this bill is not hitting the mark and is not serving our small to medium enterprises and also particularly the disability sector in rural and regional Victoria, which I will talk about shortly.

The purpose of the bill is to create a portable long service leave regime to apply initially to the cleaning, security and community service sectors. It establishes an authority to administer the scheme, a board of up to nine persons appointed by the minister, and a registrar, who will be the CEO. It applies to contract cleaning, security and community services, and I really want to have a look at that in detail at the moment. It applies to contract workers within the security and contract cleaning industries with provision for the scheme to be extended by regulation to contract workers in other industries. It does not apply to independent contractors and not-for-profit organisations within the community sector except for those within the disability sector, and we know that there are a great many disability organisations, both for-profit and not-for-profit, operating in my Eastern Victoria Region electorate. This bill would then enable and require employers to pay a levy of up to 3 per cent of their ordinary pay to the authority to manage, and the actual levy rate is to be set by the authority.

If we have a look at long service leave in terms of specifically the disability sector, to my mind it is like asking someone to pull their hair out, grow it back and then pull it out again. We have the national disability insurance scheme (NDIS) being rolled out across the nation, across our state and in the regions, and whilst that is fine, I note that in my Eastern Victoria Region, East Gippsland is still yet to receive that NDIS rollout, and the implications of that are really being felt as it travels across eastern Victoria.

So when you look at this, there are inherent requirements and pressures on our disability sector by having this NDIS rollout. It is a really important rollout, but it is a reform of major proportions. Indeed the disability service providers are dealing with a process where they are changing from block funding of services to user-pays, client-based funding. That enables the client to have a great deal of flexibility to meet their niche needs, which is important, but it is also making our service providers restructure their businesses and the way they do things, and it is not necessarily going to be great timing if this is then rolled out on top of their shoulders too.

What we also know about out disability service providers is that many of them, our not-for-profits, are made up of boards of volunteers — people who donate their time, their expertise and their skill matrix, whether they be people who had worked in that industry in the past, whether they be medical people, whether they be accountants or lawyers or just great community people who go on those boards. Not only will they be dealing with the NDIS and its implications, but now they will be overlaid with the long service portability and the requirements on those particular providers.

It is interesting, if you think about it, that in our Gippsland region we often have great service providers — and I have met a number of them — but there are no margins of grand profit, particularly in that not-for-profit sector. They take their profits, whatever they be, and they turn them back into increasing infrastructure and increasing the operations so that they can offer more to their participants and clients but also provide extra services. What that says is that there is no margin for error. There is no margin for additional burden.

What we know is that the federal government is funding the NDIS, but only Victoria is going alone on this particular scheme that the Andrews government is putting forward today. If we look around, the maximum is 3 per cent, but they are discussing around 1.5 per cent that the Victorian disability service providers — the employers — will have to pay. How is that going to be absorbed? There is no additional funding coming to them via the state government, so they are just going to have to absorb that into their bottom line. As I said, there are certainly thin margins and low profitability. Daniel Andrews does not seem to understand this or take this on board; it is just, 'Roll out, off you go, sort it out'. I think that reflects the fact that there has not been good consultation with this sector and certainly not in the country areas. There are certainly some grave concerns.

If I look at a particular sector — and I just wanted to drill down into this a little bit — we know that in the aged-care sector within the community health sector, the not-for-profits will not be included, but the ones that are running as a commercial entity will certainly be involved with this scheme. What you also have to think about with respect to that is that if you have got one scheme which is operating — and there will be and there continues to be a low number of workers in that area — they are going to migrate over to the best deal, and that is understandable. But the not-for-profit community service operations are going to suffer, and it certainly can create quite a pain in this area.

The other thing that I would just like to flesh out a bit is in relation to where we have got one institution that could be offering two services. We can look at a residential care facility where there are mixed services — where there is an aged section in that particular service but also disability beds in that service. How are the staff going to transition from a sector that covers off on that portability leave to those that do not? I do not believe that this government has really navigated their way through the fine intricacies of it.

The other point that I want to make in relation to this is that we can also have a person who may be the carer of somebody with a disability in the system. Then as that person ages, migrates through the system, becomes over 65 and is not any longer in the NDIS, what will happen to that person who is the employed carer? They are going to migrate out of the system. I believe that there are a whole range of nuances around this that have not been well thought through and will certainly make complications for the disability sector, the community health service sector and those small businesses that work within that.

The other thing that I think should certainly be spoken about is the burden of the administration with respect to this bill and the ramifications of this agency. I think that the government has not thought this through well and needs to address these issues before it passes this bill, but I am sure it is going to belt ahead just to say that it has done it and got it through. With those few words, I

think I have made my point with respect to the disability sector. It is an important sector. I think that the government has undersold them and is not accounting for the slim margins for the low-profit sector, for the fact that we have got the NDIS and for the fact that they are putting this burden on the sector without actually creating any gap or breathing space. With those few words, I will state that The Nationals oppose this bill.

Ms PATTEN (Northern Metropolitan) (14:24) — I would like to make a brief contribution to the Long Service Benefits Portability Bill 2018. As many of the speakers before me have said, and as we all know from the amount of time this bill has been on the notice paper, this bill provides portable long service benefits to certain industries and, I would say, certain vulnerable industries. I met a number of workers who will be positively impacted by this change. They were cleaners who might have been cleaning the exact same building for 25 years; it is just that they had eight different employers during that time. It was the same situation with security staff at the National Gallery of Victoria who I spoke to. Again, the contract for security is changed every few years, but the security staff may well stay there, and yet this excludes them from getting long service leave. I think this bill has a lot of merit. Unfortunately I have one area of considerable concern.

We are talking about people like Jadwiga Dodok, who worked in the same building for 26 years. She had 10 different employers over that time, but she kept doing the same job; she kept being loyal and diligent and working hard. However, she did not qualify for any weeks of long service leave, and this is a physical job. This is a job where her body will take the toll; this is a job that, going into her 60s as she is, she may not be able to continue. But like 61 per cent of cleaners in Victoria, she will miss out on long service leave entirely. Similarly, 74 per cent of security guards will miss out on long service leave entirely. This bill is a matter of equality, and I think that was certainly what the parliamentary inquiry found in 2015. It is about fairness, and I am largely supportive of the concept of what is within the bill and the reforms. We already have a portable long service leave scheme covering the construction industry. We have had that for decades, and I think that has been working relatively well. Every other state in Australia has it. There is already a scheme in the ACT covering cleaners and security guards. So the policy, I think, is fair and good. My concerns are wrapped up in who gets covered where there is no need for them to be caught up in this legislation.

This legislation also recognises the changing nature of work. In the 21st century we are not necessarily even going to have the same job for 10 years. One thing we can be certain of is that we do not know what the jobs will be in 20 years time. We have no idea what sorts of jobs our children who are going to preschool now will be doing or what industry and what work will look like in the future. What I do recognise is that it will not be stuck in one place; it will not be the person who works in the same office or on the same factory line for 25 years and retires with the gold watch having spent decades in the same place doing the same thing. That is not what the future of work is going to look like.

My concerns with this bill relate to the application of this scheme to community health. I am a huge champion of community health; this is money incredibly well spent. Community health provides that much-needed health care to people who are the most disadvantaged in our community and is at the forefront of preventative health. It is enabling people to get good diets. Looking at Cohealth in South Melbourne — and I talked about dental systems here the other day — they have eight chairs and they see nearly 5000 clients a year. No private health sector could provide that. Community health does this brilliantly. What they also do brilliantly is deliver a portable long service leave scheme, and they have done for years. They have an enterprise bargaining agreement that entrenches this, and it is a good scheme, so by adding this other layer as this bill does to the community health sector it does mean additional administrative costs and, perhaps more substantially, much-needed money taken off the balance sheet of these important community institutions and organisations. They are not rolling in it — I can tell you — but they are doing remarkably great work.

The North Richmond health centre, which is obviously close to my heart because of its connection to the supervised injecting centre, was able to organise a volunteer dentist there, so that incredibly marginalised, homeless group of drug users is now getting dental services. And this is the really extraordinary work that community health is able to contribute, and rather than taking anything away from community health, I think we should be adding to it. It is where we can really get into our communities, and if we are talking about preventative measures, whether that is preventative measures on family violence or preventative measures on inequality — all of those issues — this is where we can have early intervention. As Lyn Morgan, the chief executive of Cohealth informs me, this legislation will probably add somewhere between $200 000 and $500 000 a year in costs to her organisation. This means $200 000 to $500 000 a year that Cohealth will not be able to spend on the community, and I think that is a terrible outcome.

I appreciate that the government has introduced amendments that recognise the complications with the childcare sector and that recognise the complications with disability workers with the implementation of the national disability insurance scheme. But I am really disappointed that the government has rejected suggested changes that would have seen community health workers retaining the same rights and protections to portable leave without disadvantaging the sector in this way. I have been partly reassured by the minister's office that some of this will be dealt with in regulation. I cannot say that the sector is reassured by the response, 'Don't worry, we'll pop it into regulation'.

November is nigh, and I think the sector really wanted some legislative assurances rather than assurances that the regulations would ensure that there was no double dipping and that this would be streamlined. The sector is not assured, and I would take their advice that they do not feel comfortable with that. Having said that, I support the notion of portable long service leave, and I was very much moved by all of the people that I have met, particularly in the cleaning and security sectors, that talked about their long-term commitment to their work, which was not returned in long service awards that most of us would take somewhat for granted.

I will continue to listen to the debate. I will continue to consider the amendments that the government is putting up and the amendments that the opposition is putting up, and I will certainly hold my decision on this bill. As I say, I am completely in favour of the concept, but my major concern is how it will affect the community health sector.

Mr RAMSAY (Western Victoria) (14:33) — I also wish to make a small contribution, perhaps even smaller than Ms Patten's, in respect of the Long Service Benefits Portability Bill 2018. I think I have almost reached the dizzy heights of my political career to be able to speak to this bill on a Friday afternoon at about 20 minutes to 3 o'clock after having served four days in this chamber, but I am sure there is more to come. I am not being flippant about the seriousness of the bill, I have to say, but the fact that we are here on a Friday afternoon speaks to me of some terrible disorganisation from the government in relation to the processes they go through to present bills to the chamber. As we know, there are 24 other pieces of legislation that are still sitting idle waiting to be dealt with before the caretaker period, so I do not intend to prolong the passage of this bill.

Mr Dalidakis interjected.

Mr RAMSAY — Given its substance, Mr Dalidakis, I suspect we are going to be here for a long time going through all sorts of divisions, because this bill is problematic. As has been foreshadowed on our side, it comes with significant costs to many of the stakeholders. I will just spend a little bit of time going through that.

I will deal with the purpose of the bill first, which is to create a portable long service leave regime to apply initially to the cleaning, security and community services sectors. Herein lies the first problem about how it will be applied for employers that have different staffing roles within an organisation. They might have frontline services and backroom administration services, and will have to juggle between who gets what in respect of long service leave and the portability of it.

The bill establishes a Portable Long Service Benefits Authority to administer the scheme with a board of up to nine persons, which seems like quite a large board, appointed by the minister, and a registrar as CEO. I will be interested to know the process for those appointments through the committee stage. It applies initially to contract cleaning, security and community services with the capacity for the scheme to be extended to other sectors in the future. Well, under what process, jurisdiction and direction might that occur and on what basis? It applies to contract workers in the security and contract cleaning industries with the provision for the scheme to be extended by regulation to contract workers in other industries. Thereby we give the minister, certainly, a large scope of freedom to apply regulation for expanding the scheme. Once you start expanding the scheme of course you start expanding the cost relating to the scheme. I will raise a couple of those concerns further on in my contribution.

The bill does not initially apply to independent contractors or not-for-profits within the community services sector except for for-profit organisations in the disability services sector, and Ms Bath has raised some concerns in respect of that sector and how this bill will impact it. It requires employers to pay a levy of 3 per cent tax of ordinary employees ordinary pay to the authority, with the actual levy rate to be set by the authority. The moment I read that, as part of the clauses, my immediate thought was, 'Well, here's a nice little bureaucracy being set up that employers will have to fund to both gather the 3 per cent of pay and put it in the authority, and then the authority dispenses with it'. Obviously there will be compliance costs, audit costs, financial costs et cetera.

The bill requires employers in the covered industries to register themselves, their employees and their contract workers. It allows workers in the contract cleaning and security industries with at least seven years service to request from their employer long service leave, with a right of appeal to the authority if refused. It also provides for workers granted long service leave to be paid for their leave by the authority at the rate of their pay at the time the leave commences.

The bill recognises service in the contract cleaning and security industries of up to 12 months prior to the commencement of the legislation. I will have a bit more to say about that in a minute. It allows cashing out of entitlements by employees in the contract cleaning and security industries only on leaving the industry. It allows an employee to not work in their industry for up to four years before losing continuity of service, and I will say a bit more about that in a minute also. It provides for the scheme to make payments in lieu of long service leave to workers in the community sector and provides for proceedings in relation to the scheme to be brought in the industrial division of the Magistrates Court.

Well, we know what happens once some of these industrial relations issues come before the Magistrates Court. It gets expensive, and the proceedings can be quite lengthy. What we have done is sought a full — and I congratulate Robert Clark as the shadow minister responsible for industrial relations and also for this bill — and very wide consultation process to get an understanding of how employers see this portable long service leave bill and the proposed regulation impacting on their companies, particularly in relation to the bureaucratic costs associated with it. We have sought views from these groups, some of which I know very well: the Australian Industry Group, Victorian Chamber of Commerce and Industry, the Victorian Farmers Federation, Independent Contractors of Australia, Australian Retailers Association, Victorian Trades Hall Council, H. R. Nicholls Society, Recruitment and Consulting Services Association, National Disability Services, Victorian Healthcare Association, Women's Health Victoria, Merri Health and other community services stakeholders. So it was a very wide consultation process that the coalition went through to get good feedback about this bill and the impacts of it on many of the stakeholders.

I have to say that there was one area of concern that came to me from the start, which was identified by number of the stakeholders. I must say I have never been a recipient of long service leave because I have always been self-employed and have never had the opportunity to garner any of the sorts of benefits that come with working for an organisation as part of a salary or worker entitlement. The concept of long service leave is usually that it is a reward for long service in a company. To my mind this bill undermines the value concept of someone serving loyally and competently in a company for a long time and, when they do, the reward is that they get long service benefits.

I do take Ms Patten's point about the fact that now in the employment market long durations of employment are rare, and in fact we have a workforce that is very mobile. I think the average term of employment is somewhere around five to six years. I do not know the exact data, but I suspect traditionally, going back a few decades, long service leave meant that someone had worked in excess of 20 years. Yes, it is true, the mobility of the workforce is changing and consequently we do not see those employees working for long lengths of time in one job; nevertheless, the point of long service leave is to reward those who do.

The scheme is likely to be expensive to employers — I have flagged this — both in direct and administrative costs. As I indicated, the levy can be up to 3 per cent of wages. The government is talking about a levy of 1.5 per cent, which seems to be significantly higher than the cost of long service leave to employers. The scheme only applies to frontline cleaners, which I made mention of before, and security personnel, but not the other staff of the employers. So how are they going to juggle how the scheme would apply when they move from frontline work to back office type duties? How is the employer going to work out the entitlements in relation to reimbursements from the scheme in that shift in workplace, between a frontline and back-line role?

Also, an absence of four years from the sector, which I mentioned, is part of the bill, and it is well in excess of normal enterprise bargaining agreements (EBAs). I am not sure why the government saw fit to put that time frame in there given that it is well in excess of normal and current EBAs. Maybe it will come out in the committee stage.

The coverage within the community services sector is complex and will create uncertainties, as we were told by many people, as I have mentioned, in the consultation process.

Mr Dalidakis — You are a team player, through and through.

Mr RAMSAY — A team player, Mr Dalidakis?

Mr Dalidakis — You are. I respect that.

Mr RAMSAY — I am just giving you the drum. You are you the minister, are you?

Mr Dalidakis — On duty. Most people get scared by that too.

Mr RAMSAY — I am just seeing if you are going to grace us with your presence during the committee stage as the minister.

Mr Dalidakis — No, I am not the minister with carriage.

Mr RAMSAY — No? What a shame.

The ACTING PRESIDENT (**Ms Dunn**) — Order! Through the Chair, thank you.

Mr RAMSAY — Anyway, we can have a conversation offline about that. The bill is strongly opposed by disability sector employers — Ms Bath raised this issue — who are already under significant pressure with the move to the national disability insurance scheme (NDIS).

I must also congratulate the Napthine government in taking that opportunity, Mr Dalidakis, of being integral in the establishment of the NDIS in Geelong. We now have some wonderful statutory authorities in Geelong, not least of which is the Transport Accident Commission, which has been a great move for Geelong for employment. Now there is also WorkSafe Victoria and the wonderful new building that has just been created to house 3000 WorkSafe staff. The problem of course is that it is not very stable in high winds. In fact, fairly ironically, in the high winds in Geelong just the other day parts of the WorkSafe building fell off, and WorkSafe inspectors actually had to cordon off the building and re-append some of the ironwork that fell off the building. Not a great advertisement for WorkSafe, but I am digressing.

Mr Gepp — Who built it?

Mr RAMSAY — Pardon?

Mr Gepp — Who built it?

Mr RAMSAY — Who built it? Well, it was a company I am not going to name in this chamber, Mr Gepp. Nevertheless, it was inspected regularly by the building inspectors and WorkSafe staff, so it was disappointing to see that.

The point I wanted to make there is that it is great to see the NDIS being established in Geelong and watch the growth of the NDIS in Geelong, particularly in relation to employment and the services that are being provided. The trouble with this bill is of course that it actually discriminates against disability sector employers who are already under significant pressure, as I said, due to the move to the NDIS and the added administrative work and costs of compliance that will occur, where they operate with fixed national fee rates. The levy will wipe out most of those providers' surpluses, and it risks sending many of them into unknown financial territory. Again, I look forward to the minister's response to those concerns that have been raised not just by me but also by others.

Lastly, the government have given no commitment to additional funding to community services organisations to meet the additional costs of the scheme. Even organisations that support the scheme have called for additional state or commonwealth funding to meet their costs. In fact Ms Patten raised this very point, and to get her vote today the government are going to have to satisfy her concerns in relation to the additional funding that will be required to support the scheme.

Our main concern of course is that long service leave should be for long employment. There are significant costs associated with the 3 per cent levy that the government is seeking, as well as the costs associated with compliance and the general bureaucracy of the scheme. It is on that basis that we see this bill as being expensive. It creates a centralised bureaucratic regime with a high cost to employers, and it undermines the rationale, as I said, of a long service reward. It is particularly damaging to the disability sector, and it will catch many health organisations, whose services include disability services, with some significant costs in bureaucracy. On that basis we oppose this bill.

Ms LOVELL (Northern Victoria) (14:47) — I rise to speak on the Long Service Benefits Portability Bill 2018. This is a policy direction that has obviously been put together by people who have no understanding of employing people or running a business. As my colleagues have said, it does undermine the concept of long service leave, which was introduced as a reward for long service to one employer — not to an industry, not to someone who worked in an industry amongst a number of employers, but loyalty to a single employer.

Like Mr Ramsay, I have never been a beneficiary of long service leave, and I do not begrudge other people having it just because I have not. Like Mr Ramsay, I was always self-employed before coming into Parliament. I had 25 years of running my own business and then 16 years in the Parliament. However, I have paid long service leave to a number of staff. I was very pleased to be able to do that, because I felt that was repaying them for their loyalty. I know, having been an

employer, that the biggest asset to your business is your employees, and to keep them is something you want to do when you get a good employee. You want to invest in their professional development, invest in them and repay them for their loyalty when they reach that point of being eligible for long service leave. But many employers will be less likely to invest in professional development and in the employees themselves if long service leave becomes portable and transfers with the worker across a number of employers.

This bill, as I said, does undermine that concept of long service leave being a reward for long service with one employer. I know that this has been the concept in the building industry for some time, but there is very little evidence that this is needed across any other sector. The scheme is likely to be expensive for employers both in direct costs and in administration costs. We see from the bill that the levy can be up to 3 per cent, and the government is talking about a levy of 1.5 per cent, which is far higher than the current cost of long service leave to employers. Long service leave is equal to one month for every 60 months worked, and this would equal 1.66 per cent of wages if every employee qualified for long service leave. But in these sectors only a small proportion of employees currently qualify, meaning the proposed 1.5 per cent levy is actually far higher than the current cost of long service leave to employers.

This bill creates red tape and it creates increased costs. Reporting every three months will certainly be a significant burden with increased red tape on these businesses, and the cost will be significant. The government has given no commitments to provide additional funding to community service organisations to meet the additional costs of this scheme. Even organisations that support the scheme have called for additional state or commonwealth funding to meet these costs. It will drive up costs, and therefore there will be less money available for frontline services. Certainly the last thing we want to see is services in the community sector decline because of the increased costs that will be brought about by this particular bill.

The bill will establish a new body that will oversee the portability of long service leave, so again there will be more costs. You talk about long service leave being loyalty to one employer; the government is proposing that this will be loyalty to a sector or industry, and this is something that I really do not understand. The bill actually allows an employee not to work in their industry for up to four years before losing continuity of long service. Four years is a long time to be out of a particular sector, but your employment will be continuous.

As I said, it is a policy direction that shows no understanding of actually employing people or running a business. We know that those who sit on the benches opposite have never run their own businesses. They have no concept of running their own business. There are very few of them who have ever been employers. We saw Mr Gepp down on Webb Dock last Christmas blockading the docks, which really significantly impacted on small businesses in the Goulburn Valley. Many farmers in the Goulburn Valley had fruit on the dock for export and milk on the dock for export, and they were unable to get them off. The milk and the fruit rotted on the dock while Mr Gepp took selfies of himself posing with his union mate, blockading the dock and really affecting his local constituency that relies on him to represent them, not to oppose them in the way he did.

Mr Gepp — On a point of order, Acting President, as entertaining as Ms Lovell's contribution is to some, it has got absolutely no relevance to the bill before the house, and I ask you to invite her to come back to the terms of the bill. I am happy to sit down and tell anybody what I did last Christmas.

The ACTING PRESIDENT (Ms Dunn) — I would ask Ms Lovell to draw her attention and contribution back to the bill, please.

Ms LOVELL — I do understand Mr Gepp's sensitivities as to his activities. It is no use tweeting that you are having a Parma for a Farmer when you are actually stopping them from being able to run their businesses and get their exports out of the country in order to make a dollar.

This bill is about long service leave, and it is about a portable system that will be unworkable. It shows no understanding of employing people. It shows no understanding of the delivering of services. It will cost frontline service in this state because of the increased costs that it will create and it will mean less frontline services in the community sector. This bill is a particularly poor piece of legislation.

My fear is that this is just the first crack in the dam. Labor want to get this in in a small way, and how long will it be before the floodgates open and this portability of long service leave goes beyond the sectors that are proposed in this bill and goes right across the community sector, right across the public service, goes right across the private sector? It would drive many businesses out of business if this were to come in on a broader basis.

The ACTING PRESIDENT (**Ms Dunn**) — Thank you, Ms Lovell. I call now on Ms Wooldridge.

Ms WOOLDRIDGE (Eastern Metropolitan) (14:55) — Thank you very much, Acting President.

Honourable members interjecting.

Ms WOOLDRIDGE — It is so lovely to be here on Friday afternoon with the peanut gallery. The peanut gallery is here this afternoon, but we do have a very serious matter at hand. I think this is a very significant bill. I am pleased to have the opportunity to speak to the Long Service Benefits Portability Bill 2018.

It is interesting that back in 2010, as the second-reading speech alludes to, a bill was introduced, the Community Services Long Service Leave Bill 2010, but did not proceed beyond the second-reading speech. The reason it did not proceed beyond the second-reading speech was that bill was fundamentally flawed. The sector took a very strong stand against that bill. The ramifications of that bill were very significant, and in many ways we are seeing the same issues here again today.

The management of this bill by the government has been an absolute shemozzle in relation to the community services workers. We are seeing that with a comprehensive response across the board from the community health sector, from the disability sector and from the early childhood sector, all of whom have opposed their inclusion in the scheme, all of whom have alluded to a lack of consultation in relation to the substance and the contents of this bill and all of whom have requested to be excluded from the bill. The mistakes that were made back in 2010 are being made again. This shows the ideological bent of this government in relation to the community services sector, and it is against the wishes of the sector in terms of the benefits for their workforce.

There is no doubt that the community services sector supports their workers. They know that their workforce is everything they do; it is absolutely fundamental to it. But portable long service leave is not the answer in terms of retention. I want to use my contribution today to put some of the concerns of various parts of the community services sector on the record in relation to this bill.

What this bill does is provide for portability of long service leave benefits for employees in the contract cleaning, security and, as I have said, particularly from my perspective, the community services sector. It establishes a new statutory authority that is responsible for managing the scheme. The levy can be up to 3 per cent, but I think the expectation is that it is going to be about 1.5 per cent.

As I said, there was great concern at the time the bill was introduced that there had been very limited consultation. In terms of the community services sector, I have heard from many community health organisations, including the peak organisation, the Victorian Healthcare Association, Cohealth and others in relation to their concerns. I quote Lyn Morgain from Cohealth, who said:

> Cohealth, and the community sector as a whole, wholeheartedly supports the principle of portable long service leave. However, the inclusion of community health sector employees in the current bill is of grave concern to us. Long service leave is currently already available to our employees, who are covered by industrial agreements providing for portability, for which Cohealth holds budget liability. Including them in this bill will result in extraordinary financial and administrative costs to our organisations, whilst bringing no net benefit to employees.

Lyn went on to outline some concerns in some detail, including that:

> This legislation may have unintended consequences for the continued delivery of our critical services, without providing any additional conditions for our staff:
>
> > community health service employees already have access to long service leave provisions through industrial agreements;
> >
> > the bill has contradictory statements about coverage; while schedule 1, section 4, provides for an exemption where an 'employer is a community health service', the same clause appears to extend the bill's application to those undertaking 'community service work'. We have received advice that community health sector employees will come under this latter definition;
> >
> > the financial implications will be substantial — between $200 000 to half a million dollars per annum, depending on the scheme's application. This does not include the additional administrative costs arising from administering two separate long service leave schemes, or the loss of interest income;
> >
> > this cost will have a significant impact on our budget, and critically, on our ability to deliver services;
> >
> > government subsidies would be required to offset the considerable establishment and recurrent costs to community health services, but there was no provision for these in this year's budget …

She went on to outline further concerns. I want to place on record that I will be coming back to some of these questions in the committee stage in relation to how these things are being dealt with.

This issue of the overlap with the workforce — I understand the community health sector has been

repeatedly reassured that that will be dealt with through the regulations. 'We'll fix it in the regs' is an absolute admission of failure and that this drafting has been poor. It should be fixed. The uncertainty for the sector should not be there. From our perspective, the community health sector should not be in included in this bill.

The other group that has been very concerned in relation to the bill is the disability sector. I will quote National Disability Services (NDS), which said:

> NDS does not support this bill with inclusion of NDIS-funded disability services, currently before the Victorian Parliament.
>
> While NDS supports measures that contribute to the availability, quality, skills and satisfaction of staff employed in the disability services sector, we are not convinced that portable long service leave is an effective workforce intervention. The proposed scheme is costly, will be complex administratively to implement, and is likely to significantly impact the financial sustainability of disability services which are currently struggling under NDIS prices.

It went on to outline key concerns, being disability services moving to national disability insurance scheme (NDIS) funding:

> NDS does not support imposition of additional state-based costs on services transitioning to NDIS, a federally run scheme.

Regarding cost, NDS went on to say:

> The portable long service benefit scheme will impose a significant cost on Victorian disability service providers.

It is complex and costly administration due to the scheme's scope. The scope of the scheme sits poorly with the reality of disability work and will lead to complex and costly administrative arrangements, and there is a lack of evidence that portable long service leave is an effective intervention to address and acknowledge challenges facing the disability workforce. I quote:

> There are major challenges facing the disability workforce, but NDS questions whether …

long service leave —

> is the most effective intervention in this day and age, for either workers or employers, particularly given its administrative complexity when applied to the emerging forms of work characterising the disability sector.

There is a great level of concern from NDS.

I have had representations once again from many disability organisations concerned about the impact of this bill on them and their operations. They include Onemda, a wonderful disability service provider in Doncaster East in my electorate. Simon Lewis, the chief executive, said — and this goes back to the history that I mentioned before:

> Furthermore, a similar scheme was floated in 2009 and again was vehemently opposed by the sector. At that time, the sector (including Onemda) argued that such a scheme would impose an unnecessary burden on agencies, does not reward dedicated loyalty to a single agency and questioned any evidence that such a scheme would foster workforce retention. This proposal was abandoned with the change of government in 2010.

I would actually argue that the proposal was abandoned well before then; the then Labor government just did not admit it.

Simon went on to say:

> As you are fully aware, the introduction of the NDIS has placed enormous pressures on the disability sector. This includes an ambitious rollout timetable, increased complexity of administering services under the scheme and significantly reduced funding to deliver services.
>
> The proposed bill by the current state government would see further increased administrative burden to agencies along with an estimated additional 1.5 per cent cost to wages. As outlined in a number of independent reviews into the impact of the NDIS … the sector is facing significant sustainability and administrative pressures. By carrying this bill will only compound these pressures.
>
> Onemda seeks your support with opposing the bill or seek an exemption for the disability sector.

I have had further representations along those exact same lines from Rod Harris at MND and also from Therese Desmond from OC Connections Ltd and a number of others. But the theme is all the same. They are very concerned about the inclusion of the disability service sector in the bill at a time of intense pressure in relation to the sector and in relation to a time of intense price pressure, given the move to NDIS funding and the relationship between NDIS service provision and broader disability sector service provision as well. Rita Butera from Women's Health Victoria (WHV) wrote:

> WHV supports the Long Service Benefits Portability Bill 2018 and its objective of enabling workers in the contract cleaning, security and community service sectors to have more equitable access to long service leave.

But she did go on to say that she has got issues of concern, including the initial impost on the cash flow of small and non-profit agencies, the plans for the government to support those organisations, the imposition of another layer of reporting and also whether the maximum rate actually will be 3 per cent or capped at 1.5 per cent and the impact of that on the financial sustainability of small non-profits.

Of course Early Learning Association Australia once again had great concerns:

> We are very concerned that the bill's extension to ECEC —

early childhood education sector —

> is being brought forward without a proper assessment of the merits and costs of its proposals. We note in this context that KPMG actuarial analysis has not been undertaken as per commitments to the ECEC sector to better understand the impacts of the bill.

They went on to say:

> Our view is that the bill will significantly increase employment and compliance costs to the sector, possibly increase cost pressures on Victorian families and potentially result in the loss of ECEC jobs due to service viability. These detrimental outcomes will occur without delivering a significant benefit to employees or the sector.

And they went on to outline their concerns once again. This is a pretty comprehensive and loud chorus from the community services sector, whether it be community health, whether it be the disability sector or whether it be the early childhood sector. They are exceptionally concerned about being included in this bill. There are quotes, which I have not gone into, detailing them not being consulted in any way and in any detail in relation to the content of the bill and them having been provided assurances that were not delivered in relation to what they finally saw in the legislation.

More recently of course we have seen some potential amendments from the government in relation to starting to carve out some of those groups — an acknowledgement that the government failed in their initial legislation. Let us not forget that this is their second go at this — eight years on from their initial go, which failed dismally — and they still cannot get it right now. They did not consult, they did not get it right and they are now proposing carve outs, but not comprehensive carve outs and certainly not addressing at this stage very significant concerns in relation to the community health sector, much of which they say is already covered. This is going to double up, this is going to create a great level of confusion and the sector should be excluded comprehensively, as is alluded to in the bill but not actually achieved by the drafting of the legislation.

We also have of course grave concerns more broadly, but I wanted to focus my contribution today particularly on the sectors where I have had very significant input in relation to the concerns about the bill. The community services sector does a phenomenal job each and every day. We need to help them do their job effectively to make a difference in the lives of the, particularly and often, vulnerable Victorians each and every day and not make their jobs harder, not make it harder for them to actually manage their workforce, not make it harder for them to be able to deliver their services and not add administrative burden and increasing cost complexity.

They know that they are nothing without their workforce, many of whom are already covered by portability and many of whom they seek to reward, acknowledge and pay in a way which reflects their importance in their roles and the value they add to the community and the individuals through the jobs that they do to ensure they are retained, celebrated and appreciated within their organisations. Unfortunately this is not the way to do it. This does not deliver the objectives the government is seeking to achieve, and certainly I will be supporting amendments that will be put forward by Mr Ondarchie in relation to making sure we carve out those sectors for which anomalies are created by this legislation which will have a detrimental impact on the community as a result.

Ms MIKAKOS (Minister for Families and Children) (15:10) — It is with great pleasure that I rise to speak on this bill. I want to begin by making the point that we have had very wideranging contributions during this debate, and one would be forgiven if they did not know a great deal about this issue and thought that we were seeking to create a new workers entitlement through the course of this legislation. We have had in fact long service leave enshrined in legislation now for some time. It was in fact a previous Liberal government that legislated portable long service leave in 1976 for construction industry workers, and that has been operating successfully for over 30 years. We have had long service legislation enshrined in this state for a very, very long time as well.

It is really important, in summing up the debate so far, to make the point that we have had a very, very long process that has brought this bill to this house here today. Some might even call it the gestation period of an elephant. I really want to acknowledge the patience of many workers in this state in waiting for this portable long service leave legislation, because it was in fact a previous Labor government — the Brumby government — that sought to bring legislation into the Parliament. I want to acknowledge the work that Lisa Neville, in the Assembly, did at that time as then Minister for Community Services in bringing in that legislation.

With the 2010 election that bill was not able to be passed, and then the Liberal government had absolutely no interest in seeing it come to reality. However, we did

in fact have an election commitment to introduce a portable long service leave scheme, and we are a party that honours our election commitments. This is why we had a reference to a parliamentary committee. In June 2016 the Economic, Education, Jobs and Skills Committee of the Parliament published a report on portable long service leave schemes, and the committee recommended that the Victorian government commission further studies for a contract cleaning and security industry portable long service leave scheme. The committee also found that the portable long service leave scheme for the community services sector should be re-examined.

I note that those opposite did not in fact support those recommendations. That is pretty consistent with their approach in terms of opposing anything that supports workers in the state, but the Victorian government response to the report was tabled in Parliament on 23 November 2016, and the government announced at that time design studies for the cleaning, security and community services sectors.

There has been a considerable amount of work that has happened since that time to progress this particular commitment. There has been a lot of misinformation put out in the course of the debate, and I am no doubt going to come to that in the course of the committee stage and address these issues, but there has been considerable consultation by the government around these issues, with representatives of workers — unions, and they are absolutely entitled to be consulted — as well as employer organisations.

The thing that, to me, really was glaringly missing in listening to the contributions of those opposite was any reference to the workers. There just seemed to be no reference at all to the workers, because they clearly have no interest whatsoever in the needs of Victorian workers in this state. It is interesting when you have got people coming in here and talking about the needs of Victorian families — guess what, Victorian families are workers. In fact they are amongst some of the most lowly paid workers in our state. They are working in these industries, and it is hard work. It is very important work, and we actually, as a government, very much value the work that people in the security and cleaning industries do.

Some of our most lowly paid workers work in those industries. And we very much value the work that people in the community sector do. They do incredibly hard work, whether it is in my portfolio, our carers in out-of-home care, working with young people and supporting some of the most vulnerable people in our state. We just had a question in question time earlier when I was asked about the future of carers, workers and children in relation to one particular agency, and the point that I make is that these workers would actually be advantaged by such a scheme. The Liberal Party want to actually carve out the entire community services sector from a portable long service leave scheme — a scheme that would actually provide continuity of entitlements for the workers with this particular out-of-home care agency who are now going to be transitioning over to a new employer.

This is exactly a case-in-point example of why a portable long service leave scheme is needed. Someone might work in a particular industry for years and years and put dedication and commitment into that sector, but because their employer happens to decide that they no longer want to provide that service — it might be a government-funded service in the community sector — that they no longer want to be in that particular line of business or they want to pull out and do something else, that particular worker is currently disadvantaged.

Mr Gepp interjected.

Ms MIKAKOS — Yes. And this is exactly why we support a portable long service leave scheme, because we do have so many thousands of workers in Victoria working in the community sector who are disadvantaged by the current arrangements. I also want to make the point that those opposite who just cannot understand the needs of working people fail to understand that some of these sectors actually already make provision through custom and practice — through informal arrangements — and they are already working incredibly hard to retain valuable employees by providing these types of arrangements, either through the community-based early childhood sector or through enterprise bargaining agreement arrangements in community health. There are already arrangements in place providing for these types of arrangements, but we want to formalise them and make sure that workers are in fact protected.

One of the biggest lines of argument that those opposite have in fact been using is that particular sectors need to be carved out for particular reasons. I have found it really interesting to hear Liberal speaker after Liberal speaker talk about national disability insurance scheme (NDIS) pricing.

Mr Gepp — What a cheek!

Ms MIKAKOS — It is incredibly galling to have Liberal members come in here and talk about NDIS pricing being the reason the disability sector should be carved out, because we know who has actually caused

the NDIS pricing issues. It is in fact the federal government. I can no longer say the Turnbull federal government, because of course Mr Turnbull is no longer the Prime Minister.

Mr Gepp — I think it's still Scott Morrison. Let me check.

Ms MIKAKOS — I do not know if the new Prime Minister has gone to Government House to be sworn in.

Mr Gepp — He hasn't been sworn in yet though.

Ms MIKAKOS — No, it has not happened yet. There was a lot of colour and movement happening throughout question time earlier. We do not actually have a Prime Minister at the moment in Australia, but we know it is in fact the federal Liberal government that has dudded the disability sector in this state and has caused the challenges that people are experiencing. They are the ones who are short-changing children with autism. I find it appalling that they are requiring children with autism now to get reassessed in order to qualify for the NDIS. We have got an appalling situation where the federal government is seeking to save money to fix their budget black hole by short-changing families and children and individuals who have a disability. This is why the disability sector is feeling the squeeze, and we as a government understand the pressure that it is experiencing at the moment.

Similarly, those opposite are crying crocodile tears in relation to the early childhood sector. Those opposite are crying crocodile tears.

Honourable members interjecting.

Ms MIKAKOS — Well, we know that the biggest pressure that the early childhood sector in Australia is facing at the moment is the shambolic implementation of the federal government's childcare changes. If you look at the letter that has been sent around to members of Parliament by organisations working in the early childhood sector, they actually refer to the 'extremely challenging' experience that they are facing at the moment as they are dealing with the overhaul of the federal childcare subsidies. Whilst our government is putting in place record funding for the early childhood sector, we have got the federal government making it incredibly difficult for the early childhood sector as a result of these childcare changes.

It is absolutely galling to have those opposite come here and cry crocodile tears for the early childhood sector and the disability sector when we know it is their federal Liberal colleagues in Canberra who have caused all the challenges that the sectors are experiencing at the moment. This is why we have been working with these sectors, we have been working with unions and we have been working to make sure that we can respond to their concerns, and I will have more to say about this in the committee stage.

We will no doubt have some discussion around all of these issues in the committee stage shortly, but what I want to say is that we have in fact a very strong commitment to workers and to Victorian families in this state. We are going to ensure that we are going to implement our election commitment here. We want to make sure that some of the most committed and lowly paid workers in our state get the benefit of portable long service leave in Victoria. This is long overdue. It has been talked about now for a long time, and we have been working with workers, unions and employers to make sure that we can introduce a piece of legislation in the Parliament that is going to deliver on our election commitment for the contract cleaning, security and community services sectors.

We make no apology for protecting workers in this state. We make no apology for that. We know that those opposite cannot even bring themselves to utter the word 'worker' in their contributions. They have absolutely no interest in providing for the interests and rights of workers in this state, so we make sure that we look after every part of our state. We make sure that we look after families and the vulnerable. We make sure that we look after those sectors that also support and provide for the vulnerable. This is why this is an incredibly important piece of legislation. It is going to ensure that these committed workers are encouraged and incentivised to stay within these sectors into the long-term and continue to do the important work that they do in looking after the most vulnerable in our state. I commend the bill to the house.

House divided on motion:

Ayes, 24

Bourman, Mr	Patten, Ms
Carling-Jenkins, Dr	Pennicuik, Ms
Dalidakis, Mr	Pulford, Ms
Dunn, Ms	Purcell, Mr
Eideh, Mr (*Teller*)	Ratnam, Dr
Elasmar, Mr	Shing, Ms
Gepp, Mr	Somyurek, Mr
Jennings, Mr	Springle, Ms
Leane, Mr	Symes, Ms
Melhem, Mr	Tierney, Ms
Mikakos, Ms	Truong, Ms (*Teller*)
Mulino, Mr	Young, Mr

Noes, 16

Atkinson, Mr	Morris, Mr
Bath, Ms	O'Donohue, Mr
Crozier, Ms	Ondarchie, Mr
Dalla-Riva, Mr (*Teller*)	O'Sullivan, Mr (*Teller*)
Davis, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Lovell, Ms	Wooldridge, Ms

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The ACTING PRESIDENT (**Mr Elasmar**) — It is my understanding that there are amendments, so before I take questions on clause 1 I ask members to have their amendments circulated.

Ms MIKAKOS — I ask that both sets of house amendments standing in my name be circulated at this point, and I will wait before I speak to them.

Mr ONDARCHIE — I ask that amendments in my name to a variety of clauses be circulated now.

Ms SPRINGLE — I would like to request that my amendments be circulated now.

The DEPUTY PRESIDENT — I invite Minister Mikakos to speak briefly to her amendments. She will move them when we come to the appropriate clauses.

Ms MIKAKOS — I think it is very helpful if we do begin the committee stage by being able to outline to the house the effect of the two lots of amendments that I will be moving. The first lot of amendments make some further amendments and insert some new clauses. There are 33 amendments and they relate to issues that came about as a result of the Long Service Leave Act 2018. Members would recall that we had another bill pass the Parliament recently that related to long service leave issues. In particular it related to giving women who go on maternity leave continuity of service for long service leave purposes. In the course of that bill passing an issue has been identified that we are seeking to clarify here. It is in fact seeking to maintain the status quo but it has the effect of clarifying that where industrial action is taken it does not accrue service but nor does it break continuity of service for the purposes of long service leave.

The Long Service Leave Act 1992 provides in some situations that whilst certain absences do not break continuity of service those absences do not count as a period of service for accruing long service leave, and I understand that all other state and territory long service leave schemes have similar provisions. When the act was amended earlier this year the new provisions should have included a reference to absences 'arising directly or indirectly from an industrial dispute', and that is based on the language in the old Long Service Leave Act. This omission means that where an employee is absent due to an industrial dispute or is stood down, their continuity of service may be broken. So just to be clear, the first lot of amendments are just maintaining what has been the status quo for some time.

In relation to the second lot of house amendments standing in my name — this is the page that has three amendments — just to explain to members what they are seeking to do, as I alluded to in the summing up, we know that the disability sector and the early childhood sector are currently undergoing once-in-a-generation reforms. The national disability insurance scheme (NDIS) is still in its rollout phase and is transforming the way that disability services are delivered. It is having a significant effect on both the workforce and disability service organisations that are moving from block funding arrangements to individual funding packages.

I want to particularly acknowledge that Dr Carling-Jenkins has had a number of conversations with people in the government around this particular issue and has sought to advocate on behalf of the disability sector on this. We know that people who work in the disability sector do incredibly important work. They do work that I think many of us in the community would struggle to contemplate in terms of the challenging nature of their work, and I certainly have great admiration for them. I also understand that there is some anxiety, I guess, in terms of the reforms that this sector is experiencing at the moment, which really comes down to the inadequacy of the pricing that the commonwealth has put in place and imposed on the National Disability Insurance Agency.

Again, I did refer to this issue in my summing up, and I made it very clear that I do find it quite galling that members opposite have effectively been using the challenges imposed on the disability sector and the early childhood sector — and I will come to them in a moment — as the argument by which they are seeking to oppose this piece of legislation. We are mindful of the concerns of members of this house, and I

acknowledge that there are other members of this house who have also raised similar such concerns.

In relation to the early childhood sector, we know that it is currently dealing with the overhaul of childcare subsidies that are provided by the commonwealth government and that the continuing uncertainty over federal kindergarten funding remains an issue, and I have raised this issue in this house on numerous occasions — the fact that the 15 hours of four-year-old kindergarten funding is scheduled to end next year. We know that the changes to the childcare subsidies have been very poorly implemented by the federal government, and we continue to hear stories of families and services not receiving subsidies for their children's care. I note that recent data does indicate that as a result of the messy transition process relating to new IT and software many providers are experiencing a great deal of frustration. In fact 66 per cent of early childhood providers that were surveyed very recently by the Australian Childcare Alliance said that the transition is going 'terribly'. They expressed a great deal of concern about what this means for the viability of their centres and for the support that they can continue to provide to families.

We are very mindful of the concerns being raised by both of these sectors around this very significant period of reform and transition. We have listened to both of these sectors, and we have decided that now is not the right time to be implementing additional reforms on them. This is why we are seeking to exclude those particular sectors in this manner through this particular amendment. However, we are moving ahead with the child and family services workforce and other workforces in the very large community sector here in Victoria. It is the government's intent to have all employees in the community sector benefit from a portable long service leave scheme, and this is why the way that these amendments have been drafted enables changes to be made through regulation in the future. A re-elected Andrews Labor government will work at adding additional parts of the community sector workforce at appropriate times in coming years once the authority and the scheme are up and running.

I think it is important, and I put on the record, that further consultation will be undertaken with the early childhood education and care and disability sectors to minimise any cost to employers and to families beyond what they already are required to allocate to long service leave entitlements. I note that in other jurisdictions the authority has gradually reduced the levy once there has been sufficient funding and that it was invested to sustain future long service leave liabilities.

I know that we will come to the issue around community health later, because our amendments do not relate to community health. I just want to make one last point in relation to the amendments, and that is that first lot of house amendments that I spoke to before also change the proposed default commencement date, which is currently 1 April 2019. It is proposed to change this date to 1 July 2019 to ensure that there is enough time to establish the portable long service leave benefits authority that is charged with managing the scheme and also to educate employers and workers as to their rights and responsibilities under the scheme. I thought it would be helpful to the house, to members participating in this debate, to outline what the effects of these amendments, if passed, would be so that we really can have an informed debate as we go forward and everyone can understand the government's position in relation to these matters.

Mr Ondarchie — On a point of order, Deputy President, in relation to the last-minute arrival of these amendments from the government, I note for the sake of the committee that they arrived at 9.26 this morning, 4 minutes before the bells rang for the start of the day's proceedings. In the scope of that 4 minutes we were also offered a briefing — I am not quite sure how the government expected to deliver a briefing when the bells were due to ring in 4 minutes for the sitting of the house. The opposition has had no opportunity to consider these amendments, to receive a briefing from the government or, more importantly than all of that, to take them out to the sector to get its views on these amendments. Notwithstanding that, the point I would like to come to immediately is the new clause that has been introduced today. I draw your attention to page 1 of the bill and 'Part 1— Preliminary':

> **1 Purpose**
>
> The main purpose of this Act is to provide portability of long service benefits in certain industries.

I put to you, Deputy President, that this clause in relation to industrial action is outside the scope of this bill. My advice is it may have consequential amendments to other bills that are not contained in the scope of this bill. I put to you that this clause is in fact out of order and outside the scope. Maybe you should seek some advice from the clerks.

Ms Mikakos — On the point of order, Deputy President, Mr Ondarchie has circulated three lots of amendments. This is the first time I have seen these amendments.

Mr Ondarchie — They were circulated yesterday, well in advance of yours.

Ms Mikakos — No, no-one has seen the third lot of amendments before, Mr Ondarchie. As for you making the point about people not circulating amendments earlier, this is the first time we have seen these amendments. In relation to the Liberal Party's amendments, I know you came in here earlier and started your contribution to the debate this morning by claiming that the opposition had circulated its amendments some time ago — I have a copy of an email that I was cc'd into at 7.05 p.m., so let us not all get on our high horse —

Mr Ondarchie — On Thursday.

Ms Mikakos — Last night.

Mr Ondarchie — Yes; I am talking about Friday at 9.26 a.m.

Ms Mikakos — Okay, so let us not get on our high horse here about this. We all know that there has been a lot of discussion going on around this place for some time about these matters. I find it very hard to believe that the member was not aware of those, but anyway, the point is that we have a series of amendments here. I look forward to you outlining to the house what your third lot of amendments do as you have not had the courtesy to send them to us earlier.

Mr Rich-Phillips — On the point of order, Deputy President, I would like to also talk in support of Mr Ondarchie's contention that the amendments moved by the minister are outside the scope of the bill. One of the sets of amendments moved by the minister, which seeks to insert a new clause following clause 81, talks about amendments to the Long Service Leave Act 2018. The minister in her introduction described these amendments as essentially fixing an oversight in the passage of the Long Service Leave Bill 2017 earlier this year, saying that it was a matter that was meant to be included in that bill but had not been included in that bill. She has now brought these amendments forward to correct that oversight from the earlier bill this year.

I would put to you that Mr Ondarchie is correct in his contention that the scope of this bill we are dealing with this afternoon is actually very narrow. The purpose of the bill is to provide portability of long service benefits in certain industries, and those industries are set out in the bill and in the explanatory memorandum as contract cleaning, security and community services. The subject matter of the minister's proposed insertion goes nowhere to the issue of portability of long service leave for any industry, nor does it go to the specific industries which are set out in the bill. While the matter might be about long service leave, I would submit to you that it is well outside the scope of what is otherwise a bill purely about portability of long service leave.

As the committee knows, there is a mechanism provided for in standing orders where a member can seek an instruction motion to a committee when they wish to move amendments which are outside the scope of the bill. The minister has elected not to do that, and I would submit to you that in the absence of an instruction motion to the committee these amendments, which do not relate to portability of long service leave, are outside the scope of this bill.

Ms Mikakos — On the point of order, Deputy President, the advice that I have is that we are putting forward technical amendments to the Long Service Leave Act, which is in fact the legislation that we are dealing with here. The further advice that I have is that these amendments were in fact provided to the clerks yesterday, and I do not believe that the clerks have identified that there is an issue in terms of the scope of these technical amendments to the bill. The point is that, as I explained earlier, these are technical amendments that do not make any policy changes. They are really a clarification to the legislation to maintain the status quo.

Mr Rich-Phillips — Further on the point of order, Deputy President, while the minister says these amendments are about maintaining a policy position and they are not a policy change, that is in relation to a different matter in a different act of Parliament. It is not relevant to the issue of portability of long service leave. The minister cannot simply seek to use a different bill to fix a mistake in an act from earlier this year, and the mere fact that the bill we are dealing with this afternoon will seek to amend the Long Service Leave Act does not of itself put the amendments in order. I would refer you back to the case earlier this year —

The DEPUTY PRESIDENT — Order! Thank you, Mr Rich-Phillips. I have to interrupt business, according to standing orders.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Committee resumed.

Mr Rich-Phillips — Deputy President, I would draw you to an example from earlier this year when the committee dealt with an amendment to the Primary Industries Legislation Amendment Bill 2017. In that primary industries bill were references to the act which establishes the Game Management Authority. At that time Mr Young sought to insert amendments into the

primary industries bill in relation to the Game Management Authority. Notwithstanding the fact that the Game Management Authority Act 2014 was referred to in that primary industries bill, because the amendments he sought to make went to a different aspect of the Game Management Authority Act, he was required to seek the house's support for an instructing motion. The mere fact that this bill refers to the Long Service Leave Act does not mean that amendments which are unrelated to the purpose of this bill are in order. The mere fact that it seeks to amend that act does not mean these amendments are in order. As I said, the purpose of this bill is quite narrow. It relates only to the portability of long service leave in certain industries, and that goes nowhere near the subject matter that the minister is seeking to deal with through her proposed new clause to follow clause 81.

The DEPUTY PRESIDENT — Order! Thank you for raising this, Mr Ondarchie, first of all. I have spoken to the Clerk and I have listened to his advice very carefully. While I understand that this is a long service benefits portability bill, at the same time it is an act for other purposes as well. I will consider the advice later on this, because it is not relevant until schedule 1. I am still waiting for further advice from the Clerk, but we will proceed with the bill as it is until we come to the end and then we can talk about it more.

Just for your information, Mr Ondarchie, on your point of order — I am taking it on notice; I am not ruling it out. It is on notice, so we can continue with the bill.

Mr Ondarchie — Thank you, Chair. I accept that. I just draw your attention to part 1 of the bill and the purpose clause on page 1, where it says:

> The main purpose of this Act is to provide portability of long service benefits in certain industries.

The DEPUTY PRESIDENT — I understand that. As you said, it is the main purpose, but not the only purpose. So now I invite you, Mr Ondarchie, to speak to your amendments.

Mr ONDARCHIE — I still have a point of order on the amendments as delivered this afternoon by Ms Mikakos, both her further amendments and her other amendments that she seeks to propose in committee. Here I take up the points of Ms Patten in her second-reading contribution and those made in conversations I have had with other members in this house in relation to the arrival of these amendments at a very late stage. The press release associated with this bill was released in March 2018. The bill was introduced into the lower house in May 2018. As I understand it just now, these amendments were circulated to the clerks yesterday and they arrived here on 24 August 2018, today, at 9.26 a.m. — 4 minutes before the house was due to commence the day's proceedings. With that arrival was an offer to provide a briefing on this. Obviously given the short time frame there has been no opportunity to take a briefing on this.

But what is more important is the fact that this bill was first announced by press release five months ago and introduced in the Legislative Assembly three months ago. There has been adequate time for the government to propose these amendments, have them circulated to other parties and provide briefings. But more importantly, that should also have allowed more time for us to take this to the sector. I find it incredible that we got these things 4 minutes before the starting time of today's proceedings. We have had no opportunity at all to take these amendments to the sector to seek their views.

As I said in my second-reading debate contribution today, we have consulted widely on the purpose of this bill; hence we have some amendments, which were circulated yesterday. But the government, essentially five months since the press release, has brought amendments to this place 4 minutes before the start of the day, allowing us, firstly, no time to contemplate them and, secondly, no time to seek a briefing from the department on this. But more importantly, as a third point but it should in fact be the first point, there has been no time to consult with the sector about this at all. We have had no time whatsoever.

So I pick up the points that we made in our second-reading debate contributions but also the point that Ms Patten raised in her second-reading debate contribution about how this may affect the community health sector when she said that there had been little time to consult. I have also had conversations with other members of this house who have similar feelings about the fact that these amendments arrived so late which has given us absolutely no time to have a chat with the sector about how they may positively, or indeed negatively, affect them. We just have not had the opportunity.

As a result of my earlier point of order, I move:

> That progress be reported.

I move this to allow us — this is not time critical now given the minister has extended the effective date of this bill until May 2019 — over the next week or so to take the amendments back to the sector and say, 'What do you think?'. That is consistent with the view we have heard from Ms Patten and consistent with the

views I have heard from others, as I have discussed this through the course of the day.

Mr MORRIS — I rise to support Mr Ondarchie's motion that we report progress. It is quite clear that there are several significant issues with regard to the government's amendments, and had this government not been in such a chaotic state as it is now, perhaps we may have been able to resolve these issues before.

However, at 4 minutes before the bounce of the ball this morning we were provided with these amendments, and I certainly acknowledge Mr Rich-Phillips for picking up the many flaws that this government is trying to impose through this particular bill. With the amount of amendments that have been proposed, it is very clear that this bill is fundamentally flawed and further time is required to consider the many aspects of this bill that should rightly be examined.

I think this sends a very clear message to the government about trying to force amendments on this house at the very last minute. A statement was made that a briefing would be provided to other members in this place. However, that has not been able to occur. Of course we have had a very busy sitting day, and that is something that the government should be taking on board in ensuring that everybody is briefed. If the government wants the support of this house for amendments, then it should provide information and those briefings in a timely manner. Without that, it is not only difficult for anybody to support those amendments but it is also discourteous to other members in this place.

The government really should be considering this motion moved by Mr Ondarchie. Very clearly there is a significant need to address these very real concerns that have been raised not only with the scope of the amendments but also with the bill as a whole. It is quite clear that if the government did undertake consultation it was just lip-service that was paid to the very significant number of groups who raised concerns about this bill. It is certainly time that the government go back and appropriately consult with those groups — National Disability Services and the early school educators — who are very concerned about the impact on their sectors. The government, to this juncture, has just completely ignored their concerns and has not taken them on board. So we are doing the government a favour by having this motion put to ensure that they can go back and further that consultation and listen to the very real concerns that those groups have, because the community services sector is not one that can afford to have extra burdens placed on it, whether it be administrative, financial or other, because to this point that is all the government is doing with this particular bill. The government needs to go back and consult with the very many groups that have raised concerns, and I would certainly encourage others to support Mr Ondarchie's motion to report progress.

Ms MIKAKOS — I want to respond to these issues, because on the one hand we have got members of the Liberal Party coming in here and saying, 'This bill has been on the notice paper now for months', and the community sector and other stakeholders have known that this debate has been coming now for months. So members of this house have had months now to get their heads around what is in this bill and how this bill will operate, and yet before we have even had any discussion whatsoever about the issues, they are already wanting to pull up stumps and go home and lick their wounds about what has been going on in Canberra.

We have had a discussion already. I have outlined to the house the fact that our house amendments are seeking to actually carve out two particular parts of the community services sector and the reasons for that as we have worked with members of this house to secure the passage of this legislation. In fact that addresses most of the points that those opposite have been making in their contributions. It is totally preposterous then that, having made those points and having heard the government's response to this issue, they are now seeking to pull up stumps and go home.

Mr Ondarchie interjected.

Ms MIKAKOS — In relation to the other technical amendments, I have made it very clear that they are technical amendments that retain the status quo and that make no policy change. They have indicated no policy concern with it whatsoever, other than Mr Ondarchie continuing to complain that he has not had the opportunity of having a briefing. He was offered a briefing. We are now here at almost 4.15 p.m., and we know that he has had the opportunity to be briefed on these amendments all day. That offer stands, Mr Ondarchie, because we will take some time to work through this bill, and that offer stands to have a discussion and brief you about the two lots of government amendments that we brought to the house. The members opposite cannot have it both ways. They cannot on the one hand argue that the bill has been in the notice paper for months on end —

Honourable members interjecting.

Ms MIKAKOS — We have come here and addressed the concerns that the sectors have referred to. We have addressed the concerns of other members of

the crossbench in relation to these issues. We think that we should proceed to actually give workers and employers in this state some certainty around these issues. You are just wanting to delay this; you are true to form. All you do is filibuster all week long. You put speakers on who repeat the same speeches over and over and bring in things that are completely irrelevant to every bill debate. So we should get on with it; we should get on and do the job that we have all been given responsibility for by the people of Victoria, and that is to make sure that we can actually debate this legislation and give working people and give working families in this state the benefits of a portable long service leave scheme that they have been waiting for for a long time.

Mr RICH-PHILLIPS — I speak in favour of Mr Ondarchie's motion that the committee report progress on the basis that the government is now seeking to ambush the committee with these sets of amendments that the minister has now circulated. The minister said the house has had months to consider the issues in the bill, and that is true. This bill has been in the Parliament since March of this year, so there is no urgency for this bill to be pushed through this afternoon. There remain two sitting weeks for the committee stage of this bill to be finalised and for the issues which have arisen about this bill to be agreed and settled across the community as well as across the Parliament before we proceed to the committee stage.

It is notable, as Mr Ondarchie said, that these amendments were circulated by the government this morning just before the house sat, with a couple of minutes notice before Parliament commenced. I draw members' attention to the dates on these amendments, which are shown in the corner of the amendment sheets. Members will see that both sets of amendments circulated by the minister were in fact finalised by parliamentary counsel yesterday. So the government had these amendments finalised by parliamentary counsel yesterday and chose not to circulate them to members of this house until today. We then had the minister complaining about members wanting to actually see the amendments and consider them. The reality is that the government had them yesterday and chose to withhold them until today.

We now know from Mr Ondarchie's earlier point of order that there is a question as to the validity of one set of amendments as it applies to this bill. The minister has explained it is to fix an error from the earlier piece of long service leave legislation, which is not in the scope of this bill, and therefore it is questionable that that set of amendments can be considered for this bill. So we have the government deliberately withholding amendments it had yesterday, not circulating them to the house until today, with one set of those amendments raising a significant question over whether they are in fact valid for this bill. Until that question of validity is settled and until the community sector has had the opportunity to consider the amendments that the government had but chose to withhold until this morning, it is not appropriate to proceed with this committee stage and with the consideration of those amendments. I would urge the committee to support Mr Ondarchie's motion that we now report progress.

Ms CROZIER — I also rise to speak in support of Mr Ondarchie's motion. Other speakers on this side have eloquently highlighted the flaws in the government's process in relation to this important bill. What became very clear to me — and I highlighted this in my second-reading speech with the questions I had — was the government's approach to how they have been handling this. People in the early education sector were ringing me. They were confused. This bill has been on and off the notice paper for some sitting weeks.

Mr O'Donohue — Hopeless!

Ms CROZIER — Absolutely hopeless, Mr O'Donohue, and they are trying to work it out. Ms Mikakos was saying to us that we need to get our heads around what is in this bill. Well, how arrogant are you to take that approach when the sector did not even —

Ms Mikakos — You've only had a few months!

Ms CROZIER — Ms Mikakos, you are missing the point. The amendments came at 9.26 a.m. The house sat at 9.30 a.m. You are arrogant.

Ms Mikakos interjected.

Ms CROZIER — No, that is your problem. People in the sector have been saying, 'We don't know if this is on or off. What is going on? We have got huge concerns with this'. Still they do not trust you to say that you will not bring it in at a future date. There are many, many issues in relation to this. You just said that a few minutes ago. How broad is the scope of this? Where is it going to be? What is the intention of a re-elected Andrews government? There are many concerns with what is happening here. As Mr Rich-Phillips said, you had these amendments yesterday, as we can all see, and you denied the opposition and other members the opportunity to have a look at them.

Ms Mikakos interjected.

Ms CROZIER — Well, Minister, you gave them out at 9.26 a.m. Your chief of staff, after I texted him at 11.00 a.m. on Tuesday, came back to me 72 hours later, at 10 minutes to 10 this morning, to say, 'No, we're taking the early education sector out in the amendments'. So, Ms Mikakos, you might try and bluff your way through this, but your arrogance and the mismanagement of this bill are very clear to see. You have got a chaotic system and a chaotic process, and it is absolutely appalling for the government to treat this bill like it has. Your comments in relation to what is going on here are appalling, but I am not surprised, because it is pretty true to form in the way that you do treat the people of Victoria with contempt.

There were huge concerns about this bill. There was huge consultation undertaken by the opposition, as we have highlighted, and yet those consulted have not had the proper process or the courtesy, actually, to see what you are proposing. That goes to the point of Mr Ondarchie's motion and the points that have been made by Mr Rich-Phillips and Mr Morris. I reiterate my support, and I would urge others in the house to listen to what we are saying and understand the importance of what the sector needs to also understand in relation to these important matters.

Mr ONDARCHIE — I would like to take this opportunity to sum up my motion to report progress. It is simply because of this: I want to pick up Ms Mikakos's interjection during the contributions when she made the claim that she only got a set of amendments from us late this afternoon and they had not had time to consider them either. So that being the case, the reason I want to stop is that we have not had a chance to ask the sector. The press release about this legislation came out in March 2018, the bill hit the lower house in May 2018 and it has been sitting around on the Council notice paper for a period of time. This document arrived at 9.26 a.m. today with the offer of a briefing, which of course we could not take up — nor can we take this out to the sector because the house has to undertake its business today — and I pick up Mr Rich-Phillips's point that actually this has been around since yesterday afternoon. One would suggest you deliberately held this back until 9.26 a.m. today to not give us a chance to check with the sector. That is the point here. You have not given the opportunity for us to take this out to the sector and say, 'What do you think about these amendments?'.

When it comes to Ms Springle's amendments, which she is going to put later in the day, they actually make a lot of sense and we will support those. But on this inordinate set of amendments, some of which we do not even think are valid, we have not had the chance to go and consult with the sector. That is the reason you delivered them at 9.26 a.m. So the reason we are asking to report progress is simply this: give us the opportunity — given the dates have now moved, on Ms Mikakos's request, and the bill is not time critical; it has been sitting around for a long time — to do this on the next sitting day when we have had the opportunity to check with the sector. We might even be able to get a briefing from the department in that time. We might even be able to do that. But the government is holding back on a briefing to the opposition and it is also holding back on the opportunity for us to consult with the sector. That is why this document, dated yesterday, was delivered to the opposition at 9.26 a.m. — 4 minutes before the bounce of the ball — with no opportunity for a briefing, but more importantly no opportunity to check with the sector. That is why we should report progress.

Committee divided on motion:

Ayes, 16

Atkinson, Mr	Morris, Mr
Bath, Ms	O'Donohue, Mr
Crozier, Ms	Ondarchie, Mr
Dalla-Riva, Mr	O'Sullivan, Mr
Davis, Mr *(Teller)*	Peulich, Mrs
Finn, Mr	Ramsay, Mr *(Teller)*
Fitzherbert, Ms	Rich-Phillips, Mr
Lovell, Ms	Wooldridge, Ms

Noes, 23

Bourman, Mr	Patten, Ms
Carling-Jenkins, Dr	Pennicuik, Ms
Dalidakis, Mr *(Teller)*	Pulford, Ms
Dunn, Ms	Purcell, Mr
Eideh, Mr	Ratnam, Dr
Elasmar, Mr	Shing, Ms
Gepp, Mr	Somyurek, Mr
Jennings, Mr	Springle, Ms *(Teller)*
Leane, Mr	Symes, Ms
Melhem, Mr	Tierney, Ms
Mikakos, Ms	Truong, Ms
Mulino, Mr	

Motion negatived.

Ms SPRINGLE — My amendment is quite a simple, straightforward amendment. I spoke to it briefly in my contribution earlier. It inserts a review at the seven-year anniversary on top of the existing third-year anniversary review that is already in the legislation. The reason for this is we felt that three years was not quite long enough in terms of implementation. Given the gravity of this reform and how many different not only stakeholders and sectors it impacts on but also segments of those sectors that it impacts on, we felt it would be very beneficial to get a very robust set of data

around how that implementation is panning out, if there are any unintended consequences that may have occurred from the implementation and how the scheme could be improved over time. Therefore seven years gives a far more robust length of time for any of those unintended consequences or benefits of the scheme to surface and to see how the scheme can perhaps be improved as a result. That is the intention of the amendment, and I commend it to the house.

The DEPUTY PRESIDENT — Mr Ondarchie, please speak to your amendment.

Mr ONDARCHIE — My amendments before the house are fairly self-explanatory. We think they go further than the government's amendments that have been put today, albeit we have not had a long time to look at those amendments. It provides for, as we said in our second-reading speeches, the chance to protect elements of the sectors to make sure they are not financially disadvantaged by this Long Service Benefits Portability Bill. They are fairly self-explanatory.

The ACTING PRESIDENT (**Mr Elasmar**) — Are there any questions on clause 1?

Mr ONDARCHIE — Minister, could you please talk us through the elements of this proposal apropos of a comment that was made in a Department of Health and Human Services (DHHS) briefing to a participant in the sector, who asked about the need to create this agency and the associated funding model, and the answer was, 'Well, we need the money to fund the authority'. Can you explain it to us please?

Ms MIKAKOS — Thank you, Mr Ondarchie. I am a little bit puzzled about what the question is exactly. Obviously there is an authority that will be established under the bill. Are you going to the issue of the funding that has been put aside for the establishment of that authority? Can you just be a little bit clearer about what your question actually is?

Mr ONDARCHIE — Okay, Minister, that is pretty well what I said. When one of the participants asked the department at the briefing about the rate and the amount of money required, given it is over the norm for standard long service leave provisions why they needed that much extra money, the comment was made that we need this money to fund the authority. I thought the purpose of this was to create a fund to be able to provide for long service leave for workers and working families, as you expressed in your commentary earlier. Why would the department seek as part of this to send the message to the sector that we need to increase the level to ensure that we fund the authority? What does that mean?

Ms MIKAKOS — I am a bit puzzled by the question that has been asked, but what the bill does do is establish a portable long service leave authority as a statutory authority. As part of this, in terms of administering the scheme, what will happen is employers will pay a levy to finance the payment of entitlements. There are other such employer levies in similar schemes in other parts of Australia. I understand that New South Wales, Queensland and the ACT already have portability schemes in place for workers in selected industries, so perhaps the member could be a little bit clearer about what he is seeking to ask. I can advise that there is seed funding to establish the authority and that it is anticipated that the authority will be self-funding after no more than five years via the levy.

Mr ONDARCHIE — Minister, what is the exact level of self-funding in this budget and the out years for the authority?

Ms MIKAKOS — I am advised that there was funding in the budget this year of $8.2 million over four years as seed funding for the establishment of the authority. Employers will be levied, as is the case in similar schemes in other jurisdictions, as I have alluded to, and that will be principally by way of contributions to employee entitlements. Let us not forget, and I think it is really important that we are very clear here, employers currently have an obligation to set funding aside for their employees long service leave entitlements, and that is not going to change. What will happen now is they will be making a payment to the authority for their employee entitlements to long service leave.

Mr ONDARCHIE — I pick up Minister Mikakos's comments there about them already making a provision for long service leave, but it is not exactly the same, Minister. Right now it appears as an accrual on the balance sheet. What you are asking for is a cash payment every quarter into the fund. That could have a detrimental effect on cash flow for the business. You say, 'Don't forget, they already do it', but they do it in a different way. Let us not forget that not every single employee ends up taking long service leave, because they may well leave. I use that by way of example, as many employees in this sector, particularly in the community service sector, are either part-time or casual.

On numerous occasions — we have spoken to many people, as I outlined in my second-reading contribution today — many in the sector have told us, 'Well, they work for us part-time or casually while they're studying to be nurses, studying to be physios, studying to be occupational therapists et cetera, and they hardly stay seven years. In the main they don't, because once they qualify they go off to higher jobs'.

So if your point is that instead of making accrual on the balance sheet each year for long service leave provision the cash is paid into a fund on a quarterly basis, affecting the cash flow of some of these organisations, can you tell us: if the employees do not last seven years in the industry, will that money be refunded to those employers?

Ms MIKAKOS — Well, now we are really getting to the heart of the issue, Mr Ondarchie, because this is exactly why we are establishing a portable long service leave scheme. This is a transient workforce. We have people who leave different organisations and go to other organisations in the community sector and they lose their long service leave entitlements. We think that is unfair. People who are on low salaries and who are absolutely committed and dedicated to supporting the most vulnerable people in our community are being short-changed.

Let us be frank here. Yes, employers are making a saving because their employees are leaving before their entitlement accrues. That is exactly what is happening, and we think that that is unfair. We think that people should have the ability to take that entitlement with them, because we want to encourage them to stay in these sectors. We want to encourage people in these low-paid sectors to stay in these workforces and continue to work in the same dedicated way and to support vulnerable people in our community, and this provides an incentive and actually helps employers to keep good employees, to keep workers in the sector — to keep them in their organisation, firstly, but to keep them in the sector — and to make sure that we do not lose people because they think they can move to a completely different sector entirely that better recognises their contribution to society. So you really have now come to the heart of the issue around why we as a party are committed to portable long service leave. It is because we think that people who work in these low-paid sectors should get this support.

The government welcomes the fact that even the Liberal Party recognises that workers in some sectors — the cleaning and security industry sectors — should get the benefit of portable long service leave. We welcome that, Mr Ondarchie, because you have not sought to exclude those sectors with your amendments. Thank you for doing that. At least you recognise that these workers are amongst the most low paid workers in our society. But I do make the point that you have singled out workers in the private sector. You have given preferential treatment to workers who work in private industry — workers who work for big business in many cases, in big corporations in the cleaning and security industries, in big companies like G4S and others — but you do not want to accord the same support to those low-paid workers who work in the community sector.

This is the fundamental issue where we have a strong disagreement — over people who might be working part-time or working their way through their studies. In many cases we know that these are heavily female-dominated sectors as well. They might be going off to start a family. We have already legislated to make sure that women do not lose continuity of entitlement for long service leave through the legislation that we have already passed and that we are making some technical amendments to, which I referred to earlier. Now we want to make sure that people in the community sector get the benefit of this continuity of entitlement. So this really cuts to the heart of the issue, Mr Ondarchie.

Really what I have heard so far — and I know we are at the early stages of the debate, or the committee stage of the debate; we have certainly had many hours of debate already — is not one explanation as to why the Liberal Party thinks it is appropriate to support low-paid workers in the cleaning industry and the security industry but not in the community sector. I have not heard one word about that. I have heard issues around the NDIS and the disability sector and issues around the early childhood sector, and I have explained our views on these issues and the many challenges that these sectors are experiencing at the moment as a direct result of what the federal government is doing to those two sectors and how we propose to address these issues to give these sectors more time to deal with these federal changes before we work with these sectors again on these issues, but I really have not heard the rationale as to why someone working for an organisation — it is difficult not to, I guess, single out organisations here, really dedicated organisations that I am very familiar with work in out-of-home care, support foster carers in our state, support young people in residential care or support people in homelessness, in the housing sector and in so many other areas in the community sector — should not get the benefit of retaining their long service leave entitlements.

So let us focus on the key issue here, Mr Ondarchie, and that is that you think it is okay for some low-paid workers to get portable long service leave entitlements and not okay for other low-paid workers to get long service leave entitlements. How about you address that — why you are giving preferential treatment to those working in the for-profit sector in the security and cleaning industries and you think that the community sector workers can be dudded.

Mr ONDARCHIE — This is a landmark day. Mr Finn, I ask you just to be comfortable in your seat, because the minister and I agree on three things today.

Mr Finn — Tell us about them. This will be good.

Mr ONDARCHIE — The first thing is that no worker should be disadvantaged, and the Liberal-Nationals coalition absolutely agree with that; no worker should be disadvantaged. We are not looking to see any worker disadvantaged, none whatsoever. Let me pick up the second point that Ms Mikakos and I agree on today. The second point that we agree on today is that there has been a lot of misinformation in this house — and it has all come from her. They accuse us of filibustering; well, I will tell you what, these responses are the longest you have ever seen. We can set hourglasses to them, honestly. There has been misinformation, and it has come from Ms Mikakos. We agree on that. The third thing we agree on is the amount of filibustering, and it has come from the minister herself — 15 minutes to sum up, and look how long she is taking to respond to the questions today, straying into a whole lot of areas that have nothing to do with the question I asked whatsoever.

So let me ask you the question, Minister, and hopefully you will come to the answer this time: if employees, many of whom the employers tell us are casual or part-timers, are working in a sector and they are doing work in either the disability sector, the contract cleaning sector or the security sector to help them with their studies in higher education — for things like nursing, for things like physiotherapy, for things like occupational therapy, for example — and then at some point they graduate and they move on. Often, these three sectors tell us, it happens within the seven-year window. In that time, according to your legislation, companies will be making quarterly cash payments into a fund to fund that potential long service leave contribution for that employee. That employee leaves after they have qualified and they go off to do other things outside one of those three sectors. Does the company get its money back? Yes or no?

Ms MIKAKOS — I did not think the member was actually looking for an answer. I thought it was a bit of a rhetorical flourish, because he actually knows what the answer is. Of course the employer does not get the money back, because the point of this is it is working to enable the employee to take their entitlement with them if they are working in another part of that sector. What is anticipated to happen is the funding that will go in, the payments that will be made, will continue to drive the levies down, and that is actually what has happened in other jurisdictions. For example, the ACT has had a portable long service leave scheme for some years now that includes a community sector. As at 1 April this year their current levy was 1.2 per cent. It was lowered from 1.6 per cent down to 1.2 per cent on 1 April 2018. I think it is important to understand that by putting the funding into the authority the anticipation is that this will be a self-funding authority within five years and that the funding will enable the levy to come down over time.

Mr ONDARCHIE — I am at risk of asking a question the minister will listen to, because she strayed again into areas I did not ask about and talked about retaining people who stay within the industry or sector. That is not what I asked, Minister. I asked about people who leave the sector inside the seven-year window and go off to do other things, be that working as security guards or contract cleaners or starting a degree in an area outside of those communities. They go and do something completely different. So it is about those who step outside of the industry — not those who remain in the industry but those who step outside of that sector. If the employer — and some of these businesses are quite marginal businesses, particularly in the community sector — has been paying cash payments into that fund every single quarter, and after a period of time, somewhere between zero years and seven years, the employee does not stay in the sector but goes somewhere else completely, the rationale of your legislation would not apply, so does the company then get its money back?

Ms MIKAKOS — This might be for the third time. Maybe I need to do a bit of mansplaining for Mr Ondarchie. I thought I was very clear about this. If an employee leaves the sector, the authority retains the money paid for them and, as I explained, this will help to reduce the levy over time.

Ms CROZIER — Minister, you talked about the ACT legislation —

Honourable members interjecting.

The DEPUTY PRESIDENT — Ms Crozier has got the call, thank you.

Ms CROZIER — Thank you, Deputy President. Minister, in an answer to a question from Mr Ondarchie you mentioned the ACT scheme and that the scheme that is in the ACT, as my understanding of it is, has experienced having both employers and employees working with the authority specifically. Did you wholly base this legislation on the ACT scheme? I might have missed that — I know you referenced it before — just in terms of the entitlements.

Ms MIKAKOS — No.

Ms CROZIER — So if it is a no, I will go to my next question. As you did not base this particular piece of legislation on that scheme but you have referenced the scheme, so is it true that the authority in the ACT has collected seven times what has been paid to employees? What do you know about that?

Ms MIKAKOS — Ms Crozier, I actually did not say that it was based on the ACT scheme.

Ms Crozier — No, you did, didn't you?

Ms MIKAKOS — No, I was giving an example of the fact that in the ACT just recently, as of 1 April, the levies came down from 1.6 per cent to 1.2 per cent. The point that I am making is because it has been a scheme that has been in operation for a number of years, the payments that have been made by employees into this scheme have actually driven the levy down over time. That was the point that I was making there, because by putting these payments in, it means lower costs for all employees. It means lower costs because the levy is coming down for all of those who are participating in the scheme. That is the point that I was making there.

In terms of the legislation itself, members would be aware that we had a bill back in 2010. That was the starting point for this legislation, but there have been changes over time due to federal workplace relations changes, and other changes of course have necessitated some changes from that legislation. I think it is important that we focus on the bill we have before us and the scheme that is being proposed here for Victoria rather than talking about other jurisdictions. The point that I was making is to give the example of how putting in the payments drives down the levies for all those participants in that scheme over time.

Ms CROZIER — Thank you, Minister. I think that goes again to what we are concerned about here, because the ACT system does not sail smoothly in all instances. In fact it has had many issues in relation to compliance, and it involves employers maintaining separate systems, for instance, in order to comply with the authority's requirements. Excuse me if I have repeated your question, Mr Ondarchie — I was out taking a phone call — but again I want to understand the impacts on those employers of maintaining separate systems and what advice you have got from that ACT model or other jurisdictions, or what advice you have got in relation to any employer having to maintain separate systems. We know your track record with IT systems has not been too great in previous governments.

Ms Shing — Don't editorialise.

Ms CROZIER — It is an important issue, Ms Shing, because IT systems cost employers and businesses a lot of money if they go wrong. This is what is concerning a lot of employers in terms of the ongoing costs of this system and this scheme to their bottom line and where that goes to — that is, either a cut to the services or it gets passed on to the consumer, and in my area it would be the parents paying those early education fees.

Ms MIKAKOS — Firstly, Ms Crozier has made some assertions in relation to the ACT scheme. She has not demonstrated exactly what the particular problems are. Our understanding is that that scheme is working quite well. I know she has received a copy of a letter that I have as well, and she is probably just referring to issues around levy payments. That is quite a separate issue. In terms of IT systems, obviously employers currently have HR systems — payroll systems — that they would have in place in relation to their employee entitlements, including long service leave entitlements.

This particular bill, and the amendments I flagged earlier, will not commence until the middle of next year if the house amendments are carried in relation to the commencement date. So there is some considerable period of time to work through the transitional issues with employers, and it is our expectation that the authority will work with employers around these particular transition issues and give them advice around these matters.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Committee resumed.

Ms CROZIER — I do not know what letter you are referring to, Minister, but this has been raised with me in relation to the structure in the ACT and how the employers must maintain separate systems in order to

comply with the authorities. So I think it is a valid question. You told the committee that the ACT scheme is working quite well, but I make the point that there are still concerns. If that is the case, then over the next few months or so if this bill is passed, the authority, as you say, will have time to transition, and I do hope that they have got the support. Again, it is an added cost to all these organisations for compliance. Nevertheless, I will move on.

Could you explain to me what the rationale is for grouping all of the not-for-profit and for-profit community sector organisations, the services for disability and all of the cleaning and security employers, along with the area that I am interested in especially in the early education space and children's services? What was the government's rationale for lumping all of these sectors in together in the first place in this bill?

Ms MIKAKOS — We touched upon these issues earlier, as I explained in the summing up. The reason I spent some time in the summing up was to try and avoid covering a lot of these issues again in the committee stage, but so be it. I explained that we had had an election commitment. I explained that we had had a reference to a parliamentary inquiry and that it made specific recommendations around particular industries, and these are the industries that are captured in the bill that we have before us. These are all typically workforces that are low paid and we do think that it is fair that these workers have the benefit of a portable long service leave entitlement. If you want to go to the specifics of particular workforces, I am happy to go into more detail. I am sure we will probably get more questions about these matters.

The starting point for how we developed this bill was to look at the 2010 bill and the workforces that were included there, but of course we have had regard to the recommendations of the parliamentary inquiry as well in relation to our approach to this legislation.

Ms SPRINGLE — Can the minister please provide some information on the extent and specificity of analysis undertaken to understand the financial implications for organisations covered by the scheme — both costings that are particular to sectors and the expected cost to a variety of sized organisations?

Ms MIKAKOS — Obviously the government has done some considerable work to look at the implications of such a levy on different workforces. The way the bill will work is that the governing board will set the levy and it will be capped at no more than 3 per cent. The board may set different levies for each of the covered levies, and it may also set a different levy within each industry. This will allow it to offer a discounted rate to employers that provide their quarterly returns on time as an alternative to imposing a fine for late payment. There will be separate trust funds for each of the three covered industries as well as a central fund for administrative purposes to cover things such as wages and IT, and all moneys must be used for the payment of entitlements or for administrative purposes. The funds must be invested with the Victorian Funds Management Corporation. In other words, the governing board will not make its own investment decisions.

I did allude earlier to the fact that if you look to other jurisdictions — comparable jurisdictions in Australia — that have also introduced portable long service leave schemes, what we have seen there is that the investment of the payments into the authority does drive the levies down over time. There are a range of levies that exist currently, from 2.7 per cent in the Victorian construction scheme to 1 per cent in the Queensland contract cleaning scheme. The New South Wales contract cleaning scheme levy is 1.7 per cent. The levy in Queensland was recently lowered from 2 per cent. As I explained earlier, the ACT scheme recently lowered its rate from 1.6 per cent to 1.2 per cent, and it is also 1.07 per cent for the security industry there.

Ms SPRINGLE — Thank you, Minister. I would like to move on from that if I might and pivot to the issues that have been flagged by several members in the chamber around the community health sector and their concerns around being scoped into this bill. It does appear — and it is sometimes a little bit murky to get to the bottom of exactly what the situation is with some of these issues, but this is my understanding — that there are some community health workers that are caught up in a federally based enterprise bargaining agreement scheme. It is not all community health workers; it is part thereof. I think there are some concerns from that sector around what seems to be called double dipping in this context. Their concern is that there is going to be a lot left up to regulation, and regulation that they have not seen. I am curious to know why this issue has not been addressed in a more transparent manner by the government and why there has not really been consideration given to putting more into the legislation as opposed to leaving it to regulation.

Ms MIKAKOS — Thank you, Ms Springle, for raising this issue, because I know this issue did come up during the course of the second-reading debate from a number of members. It is important to understand,

firstly, that workers in the community health sector largely have access to portable long service leave currently through industrial agreements or informal arrangements. Our reason for wanting to bring community workers in the community health sector within scope is that this portability is limited to the community health sector itself and does not extend into the community sector more broadly.

Just to be clear, if you are working in a community health centre now under this informal arrangement that exists and you move to another community health centre, then you get the benefit of that informal portability arrangement that exists under those industrial instruments. But if you are, say, a homelessness worker working in a community health centre, leave that community health centre and go and work for a homelessness organisation, then currently you do not get the benefit of those informal portability arrangements. So we do think there is a gap there for those workers working in community health centres when they want to go and work in the broader community sector, so we want to give them coverage for that reason. However, I do understand that there have been some concerns raised around the issue that there is in fact some existing informal arrangement. We are very clear about that and about how we want to approach this particular issue.

Just to be clear in terms of coverage firstly, before I move onto this issue around potential double dipping, so we are all clear, the scheme will cover workers who perform community service work as defined in the legislation, subject to new regulations. The type of work, as I have explained, can cover things from counselling services to homelessness support services, immigrant and refugee support services, and community fundraising activities.

We have asked registered community health services for their assistance to more precisely identify which workers should be covered to provide further clarity for this sector. The subgroup working on community health has explored whether the appropriate descriptor of who would be covered by the scheme is those covered by the social, community, home care and disability services industry award. We have been working with the sector, and we encourage them to engage with the working party and the regulation-making process to assist us to clearly define the scope of the scheme and eliminate any uncertainty for the sector.

Just on the issue of double dipping, so we are very clear, section 17 of schedule 1 of the bill establishes the principle that a worker is not entitled to long service leave under a fair work instrument and payment of a long service benefit under the proposed scheme in respect of the same period of service. The government does not intend for any employer to pay twice for the long service leave of one employee. I am very happy to put that on the record for the benefit of the community health sector, who might be listening in or read *Hansard* subsequently. That is our very clear intention here.

This principle will be supported through regulations which will prevent any double dipping. This may take the form of an employee being reimbursed by the authority when they pay out under a different scheme, such as an entitlement to portability contained in an enterprise agreement. So we are going to work with the sector to work out which option best works for them to avoid this double-dipping scenario.

I hope that is helpful to the member. I have got more information I can give in relation to this. We do think that there is currently a gap for community health centre workers. We do think there is a very valid reason why they should be in scope, unlike the disability sector and the early childhood sector, which as I explained earlier and we acknowledge are facing some challenges as a result of federal government changes. We think that the community health centres are in a better position to come within scope now and to go forward with this change. We are committed to working with them to avoid any double-dipping issues that might present themselves as a result of the existing informal arrangements.

Ms SPRINGLE — Are you able to perhaps speak to why, because there is, I suppose, some conversation about perhaps having an exemption to exclude those that already fall under a federal scheme and why that has not been considered part of the bill. As opposed to leaving it all up to regulation and offline negotiation, why hasn't it actually been factored into the legislation to say that if people are the recipients of another scheme this should not apply to them?

Ms MIKAKOS — Thank you for that further question. Ultimately it would still mean that those workers would lose continuity when they move into the broader community sector. So if we legislated to do that and we said, 'If you're a worker in the community health sector that has the benefit currently of a federal instrument' — an enterprise bargaining agreement (EBA), for example — 'we are going to exclude you', then we are basically taking them out of scope of getting the benefit of the portability. So as I explained earlier, currently the portability only travels from one community health centre to another community health

centre. We want to give these workers the ability to go from a community health centre to the broader community sector and not lose their portability.

Ms SPRINGLE — So would that mean that if you are a beneficiary of the federal scheme and that covers you as a community health worker going from one community health centre to another community health centre, then the state scheme would potentially kick in if you left that second community health centre and went and worked for a homelessness organisation? Is that what you are saying? So you would actually effectively be accessing two schemes but for different purposes. That is what I understand that you just said, but I could be wrong.

Ms MIKAKOS — Sorry, say that example again exactly.

Ms SPRINGLE — So what you are saying is that the federal scheme only covers you going from community health centre to community health centre, yes?

Ms MIKAKOS — Yes.

Ms SPRINGLE — So if you have gone from a community health centre to another community health centre as an employee and you are accruing —

Ms Shing interjected.

Ms SPRINGLE — Don't you start!

If you are accruing portable long service leave for that job, but then you get another job and you leave the community health sector and you go and work in a community centre, do you then access a different scheme? Is that what you are saying?

Ms MIKAKOS — What I am saying is that currently you lose the benefit of that portability. The informal arrangements are within the same sector, but what we are doing is we are bringing these people into scope so they will get the benefit of portability by going from a community health centre to exactly your example. If they go from a community health centre to the wider community sector, like a homelessness organisation, then they will be able to benefit from portability.

Ms SPRINGLE — Does that mean that at the end of the day they need to transfer their portable long service leave from federal to state, because otherwise you are actually invoking two different schemes?

Ms MIKAKOS — So that we are clear, it is not a federal scheme as such. There is not a federal authority as such; it is a federal instrument. The EBA is under federal law. That means the employer is retaining that worker entitlement, and it is transitioning to the other employer. There is no comparable arrangement in relation to the community health centre, but I will just confirm that if I may.

I have obtained that confirmation. To be clear, there is no federal scheme. I think maybe that is where the confusion has been created. If an employee leaves community health centre A having done three or five years there and goes to community health centre B, that employer might recognise that prior service through the informal arrangements that that sector has developed through the EBA and say, 'I'm going to recognise your prior service with your previous employer in terms of your long service leave entitlement', but there is no scheme as such. Whereas what we are doing now is we are saying that if an employee works in community health centre A, then goes to a community sector organisation like housing organisation B, does five years with the first employer and does two years with the housing organisation, it is the authority that for the first time will then make that payment to that employee.

So these workers are getting a very real tangible benefit here by bringing them into the scope of the portable long service leave entitlement, because they are now going to have the authority to make sure that they get that entitlement when they go to the wider community sector.

Ms WOOLDRIDGE — I am just trying to understand: have you done some workforce analysis in terms of where the workforce moves between the sector? You are using an example of moving from community health out to the wider community services sector, but certainly some of the evidence that I have been provided with by some of the community health sector workers is actually that the workforce does not move in that direction. The workforce tends to either move within community health or it actually moves into health services, where there is portability and where these entitlements can transfer between. Do you have any evidence or has there been a workforce survey in terms of where workers are and where they move to that might give us a sense of the order of magnitude that you are talking about?

Ms MIKAKOS — Essentially, Ms Wooldridge, what we are getting to the heart of here is we are saying that workers should not have to rely on the goodwill of their employers. We are wanting to make sure that these informal arrangements in the community health

sector now are brought into scope through this legislation. But I can advise you that the government has engaged consultants who are doing this survey work of all the sectors, including the community health sector.

I think it is important at this point just to make it very clear, because there were a lot of claims in the debate earlier around issues of consultation, that there has been an implementation working party that has been established for some time and it does have very wide reaching representation across the community sector, including representatives from National Disability Services, the Centre for Excellence in Child and Family Welfare, the Victorian Council of Social Service, the Community Child Care Association, the Australian Services Union, the Health and Community Services Union, Berry Street, the Victorian Chamber of Commerce and Industry, the Victorian Healthcare Association, Early Childhood Intervention Australia, the Early Learning Association Australia, the Australian Education Union, Trades Hall, Bestchance and Merri Health. There have been lots of discussions with the sector.

For people who were claiming earlier that employees have been kept in the dark about this matter, I can advise that there have been at least the following meetings that I have got information for of the implementation working party: 28 May, 25 June and 13 August. There are further meetings scheduled in coming weeks. At the request of employee representatives, we also established three subsector groups to deal with specific issues related to issues in their particular sectors, and they are reporting back to the working party. The subgroups are working up papers to present to the working party. There is a dedicated working party for the early childhood sector that met on 20 June and 4 July, for the disability sector that met on 6 July and for community health centres that met on 18 June, 2 July and 25 July.

I have taken the trouble of putting those dates on the record because I know that members opposite made a big thing about the issue of consultation. We have been working with these sectors around these issues. In fact a lot was said by Ms Crozier and by other members of the opposition about the early childhood sector. I can assure members that my office has had numerous conversations with the early childhood sector about this legislation, and in fact I have sat down and had face-to-face meetings with both employer organisations and employee organisations in the early childhood sector. So I absolutely refute the suggestion that there have not been discussions about these issues. I know that they have been listening in today, and they have been very concerned about the claims that have been made by members of the Liberal Party. They have conveyed those concerns about these claims because they know and I know that they are actually not true. Let us have some discussions here based on facts and let us actually have a discussion around the heart of the issues and how this legislation is going to operate, without people wanting to use fig leafs and excuses to oppose this legislation that will put in place important safeguards for our lowest paid workers.

Ms WOOLDRIDGE — Thank you, Minister. I will follow up on the survey. But I do want to go back to the consultation because you did go into detail. Minister, this bill was of course debated in the lower house on 1 May. Every single date you outlined was after this bill was introduced and debated in the lower house, which I think is the point about the consultation. This happened back in 2010 as well; a bill was actually introduced into the Parliament before the consultation happened. The amendments that you have got are evidence that you are now carving out sectors, which shows that you failed to do the work in the first place. Perhaps you could outline what consultation happened before 1 May, before the bill was debated in the Parliament? It was not introduced on 1 May — 1 May was budget day — it would have been introduced in March, I think. What was the consultation that happened, and who was it with then?

Ms MIKAKOS — I just want to make it clear that that working party was established at the request of employer groups because we wanted to work through the detail with them. But that is not an exhaustive list of the consultations that occurred. In fact there were also consultations with employer peak bodies through the legislative impact assessment process in 2017. I am being advised that on 12 April DHHS convened a community services sector forum as well, and if I am correct, that predated the legislation. I can get further information around dates and so forth, as I do not have all the dates at hand. I just want to make the point that there have been numerous conversations.

Certainly I personally spoke with employers in my own portfolio area about this legislation prior to it coming to the Parliament. So there have been conversations about these issues with different parts of the sector and the entire sector by different ministers across government over a period of time. But let us be clear here; we had an election commitment. It will be of no surprise to any employer that we had a commitment to do this. Looking at our track record back in 2010, it is not a new issue for Labor; we have had a longstanding commitment to have portable long service leave for the community sector. That is why we have had numerous

conversations since that time — and through the parliamentary inquiry process as well. There was a parliamentary inquiry process —

Ms Wooldridge — The majority didn't support the recommendations.

Ms MIKAKOS — But it had a submissions process. It has been years in the making to get this bill before the Parliament now —

Ms Wooldridge — No-one thought you'd be crazy enough to do it.

Ms MIKAKOS — Ms Wooldridge is saying, 'No-one thought you'd be crazy enough to do it'. Well, you know what? We stick to our election commitments. We had an election commitment to do this, and we honour our election commitments. So if it was a secret, it was a pretty badly kept secret.

Ms WOOLDRIDGE — If I can get back to the survey, you did mention there is some survey work happening. Minister, is there at this stage any data or information in relation to the workforce movements within the sector? Secondly, can you give us some more information, then, on the survey, what the survey is doing and when that will be completed?

Ms MIKAKOS — Firstly, there was a very detailed actuarial study that was undertaken for the 2010 bill. That work was refreshed in 2017. In terms of the survey — the member asked about the more recent survey — the implementation working party has been consulted about the questions that are being asked. They go to questions such as their experience of staff movements and issues such as payments that they might be making in a year. My advice is that the responses to that survey are due by the end of next week.

Ms WOOLDRIDGE — Can I just clarify that the survey then is not about where staff are leaving to — what types of jobs. This started with a question from Ms Springle in relation to the workforce that you responded to saying they are leaving the community health sector and going to the broader community sector. Has any of that work actually addressed this issue of where staff leave from and go to in relation to this sector and where they would be carrying that portability?

Ms MIKAKOS — The advice that I have is that the survey does pose questions around the transition of staff. It goes to questions such as whether staff are staying or leaving the sector if they are leaving their organisation. The further advice I have is that the actuarial studies also examined issues based on modelling and also had regard to the experience of other interstate jurisdictions.

Ms WOOLDRIDGE — Back to my original point about the feedback I have had from the community health sector, which is that the workforce largely moves within itself or into the health sector rather than out to community services. Do you have a number, a proportion or any order of magnitude in relation to that transition, or can you take that on notice?

Ms Mikakos — Sorry, do we have data?

Ms WOOLDRIDGE — What is the answer to the question, Minister? What proportion of the workforce or how many or some sort of order of magnitude are actually doing what you talked about in your response to Ms Springle, which is moving from the community health sector in a portable long service leave environment to the non-portable long service leave environment but still within the community services sector?

Ms MIKAKOS — In respect of this type of information that came out of the early actuarial studies, as the member would be well aware in terms of government processes, that is confidential information within government. But as I indicated, there is a survey that is underway at the moment that is ending at the end of next week. There is a working party that has been established to work through these types of issues with employer groups in these particular sectors. The commitment that I have from the people in the box is that this type of information will be shared with the working party.

Just to be clear, DHHS has convened this working party to work on sector-specific issues that the regulations will cover as well as other implementation issues. I touched upon that already in terms of the coverage issues, for example, for community health and the double-dipping issue for community health. The regulations will also be informed by the working party and we will obviously be working to involve interested parties in commenting on the draft regulations before the regulations are finalised. We will be notifying key stakeholders prior to the publication of the draft regulations. So there will be an opportunity for further discussion during the consultation period with those interested parties.

Ms WOOLDRIDGE — So, Minister, if I can interpret, and I do not want to verbal you: are you saying that the actuarial study did show that information — to answer the question that I have asked,

which was about the transition proportion — but you are just not prepared to tell us? Is that confidential within government? I do not actually understand if that information is available and has been captured if you cannot give us an indication. Given this is a pretty fundamental point and there are going to be amendments around this point, can we get a figure or some sort of order of magnitude for this transition of staff?

Ms MIKAKOS — Thank you, Ms Wooldridge, for that further question. As I indicated earlier there was some modelling done as part of those early actuarial studies. That is information that is confidential within government. That is why I volunteered that, because I did anticipate that you would ask for the data. We did have the benefit of information from other jurisdictions as well. I did indicate that there was earlier work done for the 2010 bill, but I did also say that we did look at that again in 2017.

Ms WOOLDRIDGE — Why would it be confidential? It is not revealing the private details of anyone. It is a fundamental question. It is the basis of your entire argument about why any amendments to this should not happen. But you are just saying, 'We've got the information, but we're not going to tell you'. This is the Parliament. I would have thought that we could ask these questions and get an answer which is not going to harm anyone; it is just going to share some information with the house for our decision-making.

Ms MIKAKOS — Thank you, Ms Wooldridge. As you would be well aware, as was the case during the previous government, there are legislative impact assessments that occur in the development of legislation, and actuarial work is undertaken as part of that process. I am not aware whether they were released during the time of the previous government, but my understanding is that they were not.

Ms WOOLDRIDGE — It was done in 2010. That was when you were in government. Why would it be confidential?

Ms MIKAKOS — I have referred to earlier work, Ms Wooldridge, during our term of government.

Ms WOOLDRIDGE — So, Minister, the only thing I can conclude is that they do not exist, because you have provided no logical reason why you would not release that information, why there would be any harm to anyone or why there would be any impact other than informing the house to help our decision-making. Clearly that is not going to come.

Can I ask just in relation to the working group then: the advice I have is that the working group has been repeatedly told — and you have relied on them for consultation — that the message from the community health sector has been that this bill does not work for the community health sector. Is that your understanding of the very clear feedback from the sector in the working group — your consultation mechanism? And I suppose the question is: why, then, have you not been prepared to change for community health? When disability said it does not work for them and when early childhood said it does not work you made amendments for both of them, but you are not prepared, on the very clear feedback from community health, to make any amendments in relation to that sector.

Ms MIKAKOS — Thank you, Ms Wooldridge. I did go into these issues in some considerable detail earlier in response to Ms Springle's line of questioning. I did acknowledge in responding to Ms Springle some of the concerns that have been raised by members in the course of the debate and that reflect some of the concerns that have been raised by the community health sector. I reiterate that we are going to work with that sector around the concerns that they have. We do think that we can work through these issues, particularly the concerns that exist around any potential double dipping, and I explained how we propose to do that through the regulations and in working closely with that sector around those issues.

The point that I also made earlier to Ms Springle is that the community health sector is in a different position to those other two sectors. The NDIS is presenting some very significant challenges for disability organisations, and the early childhood education and care sector is experiencing significant challenges as a result of the federal childcare changes. Community health is not in that same situation. We think that we can work with them to address their specific concerns.

Ms WOOLDRIDGE — Minister, the sector tells me they are in a similar situation, and the Auditor-General's report published in June — so just two months ago — actually says that they have been significantly underfunded, they have not got a plan and they are under massive pressure. I would put to you that the community health sector has had independent assessment that they are under massive pressure and in a very difficult situation. I ask the question: why have the concerns that have been highlighted by the Auditor-General and then followed through by the sector in relation to this bill not been taken into account?

Ms MIKAKOS — We have taken their concerns into account, and we are confident that we can work through the issues. I have explained in some considerable detail to Ms Springle earlier the process that we propose to undertake with them.

Mr ONDARCHIE — Minister, the analysis done by those affected by this, particularly in the community service sector, have indicated that the 1.5 per cent proposed scheme levy is far higher than the current cost of long service leave to employees and far higher than the likely level of long service leave benefits that will be paid to those employees who qualify. Why is it set at that level, then?

Ms MIKAKOS — Thank you, Mr Ondarchie. As I explained much earlier, there is a cap of 3 per cent under the legislation. It is our expectation that the levy for the community sector will be about 1.5 per cent. Of course the board itself will set the levy. But we are essentially coming back to the same issue that we spoke about at some length, and you were complaining earlier that I gave you a very lengthy answer. It comes down to the fact that employers are currently banking on staff leaving before they accrue their entitlement. They are banking on staff leaving and therefore they are putting aside less because of that, as a direct result of that.

What we are ensuring is that people who go from one community sector organisation to another community sector organisation get the benefit of portability. That is the whole rationale of this legislation. I make the point again — which you seem to have not accepted earlier — that you agree with us that that is good for people in the security industry and good for people in the cleaning industry, yet you are saying it is not good for people in the community sector industry. You still have not explained to us why you take a different view about different sectors.

I make the point that we are also including the sector that we have provided record funding for. I am very proud of the fact that just in my own portfolio area the child and family welfare sector is getting the benefit of an enormous additional funding increase. Since 2014–15, the last Liberal budget, there has been an increase of 69 per cent in funding in the child and family services system.

I think it is important that we continue to expect the best possible quality and outcomes from the workforce in the community sector around the types of supports that they are providing to vulnerable people in our community. We are certainly investing in them. We are giving the community sector a vote of confidence through the record budget investment that we are making in housing, out-of-home care and family violence. We are seeing these workforces grow. There is enormous growth in these workforces as a direct result of the investment that our government is making, and we want to make it even more attractive for these employers to retain their staff, at a time of growth, at a challenging time. They are wanting to hold on to their staff because there are just so many opportunities out there. There are so many opportunities out there as the sector is growing, and we want to help employers retain their staff. That is the rationale as to why we are doing this.

Mr ONDARCHIE — Thanks, Minister. You have actually said that about four times this afternoon — I have understood it every single time — but that was not my question. You would do yourself a favour by not preparing your answer before you hear the question. The point is that you said that businesses are banking on staff leaving. Well, I put it to you that by not refunding the money from the scheme to those who have paid into the scheme, and employees do leave early, in fact the agency is banking on staff leaving as well, because there is an upside for them because they are going to retain that money, as per your explanation earlier. The question was —

Ms Mikakos interjected.

Mr ONDARCHIE — Hang on. Let me finish my question. Just relax. Calm down.

Ms Shing — On a point of order, Deputy President, I find it somewhat incredible, Mr Ondarchie, that you have just told the minister to relax and calm down. I think that is actually incredibly sexist. You would never say that to a man.

Honourable members interjecting.

Mr ONDARCHIE — I would. She was pointing at me.

Ms Shing interjected.

The DEPUTY PRESIDENT — Thank you, Ms Shing.

Mr ONDARCHIE — When they get desperate they get personal.

Honourable members interjecting.

The DEPUTY PRESIDENT — Thank you, Mr Ondarchie.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! I am on my feet. There is no point of order.

Mr ONDARCHIE — So my question, Minister, was: how did you arrive at the 1.5 per cent, given the explanation by the sector is that their calculation is that it is a significant cost impost on them? I understand that you said it can go up to 3 per cent. I understand that you said that the agency can decide to cap it at 3 per cent. I am trying to understand how, given the costs are higher than the current costs they are paying for long service leave and are higher than the likely long service benefits that will be paid by an employer, did you arrive at 1.5 per cent? That was the question.

Ms MIKAKOS — I was explaining earlier to Ms Wooldridge that we have undertaken actuarial work in relation to these issues. There has been modelling work that has been undertaken, and that is how we have arrived at an expectation that the levy will be at about 1.5 per cent for the community sector. Of course over time our expectation is that the levy will reduce as employees get the benefit of these payments that the authority will be retaining.

Mr Ondarchie, you are seeing this as a negative. Well, I can say to you that the experience if you look at other comparable portable long service leave schemes is that as employers make payments into the scheme, that drives down the levy for the benefit of all employers who participate in that scheme. That is a very important thing to understand. The other important thing to understand is that there will be employer representatives on the board as well, and they will obviously be able to put a view forward if they think the levy is too high. I have given the ACT example now a number of times. As we have seen, the levy there declined over time and our expectation is that will similarly occur in Victoria.

Mr ONDARCHIE — The sector, and in particular the community services sector, has expressed to us — as no doubt they would have expressed to you in the range of consultation you have had through your department and directly in your office, as you said — the fact that this will be an added cost to them when trying to manage the whole thing in both indirect costs and administration costs. Given about 10 minutes ago in answer to a question from Ms Wooldridge you were talking about your great support for the community sector and how much funding you put into the community sector, will you provide some funding to the community sector to deal with their added costs of administration and their indirect costs?

Ms MIKAKOS — We have been providing record funding to the community sector during our term of government. We have provided record funding to the community sector that is enabling many organisations that are funded by government to actually grow. They are growing under Labor because we are providing more services to the community. That means that they will be able to do what is right by their employees and provide for the retention of staff both in their organisation — providing that incentive for staff to stay on — but also to stay within the sector.

I have to say that you are wishing to suggest here that all employers are anxious or are in opposition to this change. I am not going to name any names, but I actually want to commend those community sector organisations I have spoken to who are actually very positive about this reform. They are very positive because they see the benefits, not just for their organisation but for the entire sector. These are people who are very community minded in their thinking — that is why they are in the community sector in the first place. They are very community minded and they see this as a win-win for their entire sector, so I want to commend them on that because they are prepared to support this scheme. It has been a long time coming, and they understand and recognise Labor's very longstanding commitment to make this reform.

The DEPUTY PRESIDENT — According to standing orders, I have to interrupt business and report progress.

Business interrupted pursuant to standing orders.

Progress reported.

ADJOURNMENT

Mr JENNINGS (Special Minister of State) — I move:

That the house do now adjourn.

Daylesford to Hanging Rock rail trail

Ms LOVELL (Northern Victoria) (18:01) — My adjournment matter tonight is for the Minister for Regional Development. It follows the Liberal Party's announcement that, if elected in November, the coalition will commence construction of the Daylesford to Hanging Rock rail trail. The action that I seek from the minister is that she follow the lead of the Liberal Party and match our commitment to provide funding for the construction of stage 1 of the Daylesford to Hanging Rock rail trail.

For four years the Andrews Labor government has ignored the need for an economic boost in the Hepburn and Macedon Ranges shires. The Daylesford to Hanging Rock rail trail involves converting the railway line of the former Carlsruhe to Daylesford railway into a 44-kilometre bike track. The trail will include tourism experiences along the route, including cafes, wineries and local natural attractions like the Wombat State Forest. The construction of the Daylesford to Hanging Rock rail trail will get more people active and provide the economic stimulus local businesses need.

The Liberal candidate for Macedon, Amanda Millar, has been a strong advocate for the construction of the trail because she recognises the benefits it will provide the local area, and Amanda truly is an outstanding candidate — a great advocate for the local region and a local herself, unlike the current member. I was proud to be in Trentham last week with Amanda and the shadow Minister for Tourism and Major Events, Heidi Victoria, to announce that, if elected, a Liberal government will provide $5 million towards stage 1 of the Daylesford to Hanging Rock rail trail. It is estimated that the project will bring an extra 62 500 visitors to the region and create 51 new jobs. Importantly the rail trail will generate an additional $4.1 million into the local economy, providing a boom for the local tourism and hospitality industries.

Amanda Millar is our wonderful candidate for the seat of Macedon, and she recognises the benefits this project will provide to the local region. It is a pity that the people of the Macedon electorate have been let down by the current member and the Andrews Labor government for the last four years. Now is the chance for the government to again follow the Liberal Party's policy lead and commit to the Daylesford to Hanging Rock rail trail. The action that I seek from the minister is that she follow the lead of the Liberal Party and match our commitment to provide funding for the construction of stage 1 of the Daylesford to Hanging Rock rail trail.

Walmer Street bridge, Kew

Ms PENNICUIK (Southern Metropolitan) (18:04) — My adjournment matter this evening is for the attention of the Minister for Roads and Road Safety. It concerns the Walmer Street land bridge construction. The City of Boroondara, which is responsible for the Kew section of this bridge, has raised this issue with me. Since early 2013 the council has been actively monitoring and responding to safety and usability concerns about the Walmer Street bridge. It is comprised of three components: the land bridge in the City of Boroondara, the river bridge across the Yarra and the land bridge in the City of Yarra. It provides a strategic link into the Melbourne central business district and a vital link for the communities of Kew, Richmond and Abbotsford. It is a key connection across the Yarra River which enables people to cycle and walk with easy access to the Victoria Gardens Shopping Centre, for example. It is identified on the principal bike network as a bicycle priority route. Daily weekday numbers show usage in excess of 2200 people, with over 1300 cyclists and almost 900 pedestrians. On weekends there is also high usage, with daily figures approaching 2500 with an almost equal split of pedestrians and cyclists.

The land bridge section is not disability compliant, it is excessively steep — known locally as the big dipper effect — and it has a clear width of only 1.73 metres. An independent road safety audit has also confirmed these safety issues. In addition to the safety concerns created by the geometry and the width issues, the land bridge is showing signs of structural failure. It has been supported since January 2013 with temporary scaffolding and props. Boroondara council says that without urgent attention and reconstruction the land bridge is expected to deteriorate, and everyone is aware of this. Council has developed a detailed design for the bridge reconstruction and all the approvals are in place for it.

The Minister for Planning, on 4 August, said that he had $200 000 for a scoping study. The council and others agree that all the parties need to be brought together, but the problem is the community needs to know that the bridge will actually be built after the scoping study is perhaps — hopefully — completed by the end of the year. We need a 5-metre-wide bridge that is grade separated, and we need the funding to be confirmed prior to the election so that the funding for this bridge will be provided in the next budget.

The PRESIDENT — What if they are not the government?

Ms PENNICUIK — Thank you, President. Can the minister provide assurances that if they are in government, they will provide the funding required for the Walmer Street land bridge?

Autism education services

Mr FINN (Western Metropolitan) (18:07) — I wish to raise a matter this evening for the attention of the Minister for Education. I have received correspondence from a lady whose name is Lisa Zahra. She tells me that her son's name is Michael and he is currently attending Bulleen Heights School. He has been diagnosed with

autism. She tells me that she is having a few problems with Bulleen and would love to enrol Michael at the Southern Autistic School next year but she is not in their zone. She says:

> I did go and speak to the principal … and he advised me that he has a long wait list and it is up to the department.

She says she phoned the department and just kept getting brushed off to the next person. She says her son can no longer attend Bulleen as she has not seen any progress. He is only five and has to be on the school bus by 7.00 a.m. and does not get home until 5.00 p.m. If he was to go to the Southern Autistic School, he would be picked up and driven home at a reasonable hour each day. Waking up at his current time is affecting him quite severely.

This unfortunately reflects a major problem with autistic education in this state, and that is the lack of choice for parents. Parents of children who send their children to a mainstream school regard choice in education as a given. It is something they regard as their natural right. Unfortunately in this situation, and in so many others, there is no choice for parents who wish to access autistic-specific schools for their children. That is something that I am confident we will address upon taking government in November. That is something that really needs a great deal of attention, and I am very enthusiastic about taking that task on when we become the government later this year.

In the meantime I am very keen to ensure that Ms Zahra is assisted by the minister. She is in a dreadful situation. Sadly she is in a situation a lot of people find themselves in, but she is in a dreadful situation with her son, Michael. I am very hopeful that the minister will be able to assist her, and I am asking him to do that. I am very happy to send him all the details that I have, and I am asking him to take Ms Zahra's case on board and ensure that her son, Michael, gets the appropriate education that he needs.

Ridesharing regulation

Mr O'SULLIVAN (Northern Victoria) (18:10) — My adjournment this evening is for the Minister for Public Transport in the other place. Up in Bendigo there is a group called Bendigo Lifts 4 Cash, which is a Facebook group that has been set up where on a Friday or a Saturday night or any time during the week you can get onto this Facebook site and request someone to come with their private car, pick you up from your location and drive you to the location of your choice. It is very popular, particularly outside the hotels and nightclubs and so forth, in terms of getting home from wherever you have been. As part of the Facebook group, there is an agreed up-front price in relation to the fare that would be charged, which can only be paid in cash.

That sounds terrific for those people who might have that service, but unfortunately if you are a taxi owner or have a taxi licence in Bendigo, this is not such a great plan that is currently being undertaken. One gentleman up there, Ben Galea, is a young fellow who had a taxi licence. He bought his taxi licence about 10 years ago for $240 000 and just recently sold his licence back to the government — or the government took it back and he got paid $100 000 for that particular licence. So he paid $240 000 and got $100 000 back for it, and now it is very difficult for him to undertake any work in the Bendigo area because a lot of people are using this Lifts 4 Cash group, which is very unregulated and does not have the insurance to cover that type of transport. You just go onto the Facebook site and you can get someone with their private car to come and pick you up and take you home at a prearranged price for cash only.

The action I am seeking from the minister is that she meet with Mr Galea and other taxi operators in Bendigo to work through with them some sort of arrangement in terms of dealing with unregulated rideshare groups such as Lifts 4 Cash.

Kingswood golf course

Mrs PEULICH (South Eastern Metropolitan) (18:13) — I wish to raise a matter for the attention of the Minister for Planning, and it is in relation to a very, very controversial proposal to rezone the Kingswood golf club in Dingley Village, which is where I live, and I have always been up-front in saying that my home backs onto this golf course. Primarily that is probably the reason why we bought it, as has occurred with many residents in the area.

Recently I attended a public meeting of 500 Dingley Village residents on a very, very cold, wintry night, and let me tell you that Dingley Village residents do not usually get all that riled up. The last time they got riled up was when we opposed the installation of a dedicated bus lane through Dingley Village. But 500 residents rocked up to object to the proposal to rezone Kingswood golf club.

Unfortunately, the local member, Martin Pakula, did not front, and neither did Ms Springle, a local member of the Greens. I think secretly the Greens probably quite support some of the intent of the proposal. However, currently there is a process. There is consultation and the establishment of an independent panel, but unfortunately the time frame is such that the decision

would be stalled within the caretaker period of time as this government comes to the end of this particular term.

So what I am actually asking for the minister to do is to recalibrate the time frame to make sure that a decision about the rezoning of Kingswood golf club does not proceed. It should have been zoned in the green wedge and kept in perpetuity as a pristine environmental asset. There is plenty of land in the nearby area that could easily be used for housing purposes at a semirural density. I ask the minister to bring the date forward so indeed the decision is made before the next state election rather than buried in the state election or post the state election.

The land is in what is the safe Labor-held seat of Keysborough, so my concern is that the Labor Party, the Labor government, the Labor-dominated council and the Labor Minister for Planning can work in collaboration with the proponents to actually drive this through given that ISPT paid $125 million, more than double the market price, without a subject-to-rezoning plan, which suggests to me that there is an expectation that this will go through. I do understand that Labor lobbyists have been hired by the proponents to actually lobby the Labor councillors in Kingston City Council to drive this through, so I call on the minister to make sure that the decision on this proposal is made outside of and before the caretaker period kicks in.

Electronic land transfer

Mr DAVIS (Southern Metropolitan) (18:16) — My adjournment matter tonight is for the attention of the Minister for Planning in the other place, and it concerns the state government's decision to mandate electronic transfer of land from 1 October. There are significant concerns. There are concerns that we heard at the Environment and Planning Committee in its inquiry into the commercialisation of the land titles office. Parallel with that there are concerns that both commercialising and, further than that, forcing the mandated arrangement where only electronic lodgement of title changes will be allowed at the one time carries significant risks.

But there are other risks involved as well, and I note that the New South Wales government has in recent days made some important steps to say, 'Actually, we need further changes in place. We need further assurances'. In New South Wales the state regulator's registrar-general, Jeremy Cox, has written to Property Exchange Australia (PEXA) saying that he will require it to provide a guarantee to consumers to reimburse vendors for fraud they suffer due to the system and that it must get approval for any move to expand beyond settlements to other services along the property transaction chain. He said:

> It is important for the NSW government that true competition emerges in the electronic lodgement network operators —

that is, ELNOs, for those who are not familiar with the jargon. New South Wales Minister for Finance, Services and Property, Victor Dominello, wrote in an accompanying letter to PEXA:

> This means developing a model for multiple ELNOs to interoperate, in a secure way.

This is an important intervention, and Victoria is of course going ahead with this without the security that is necessary and without the competitive arrangements that are part of having more than one ELNO. At the moment there is only the one.

> NSW is not alone —

the article in the *Australian Financial Review* today says. It continues:

> The Australian Competition & Consumer Commission last week said it had 'significant competition concerns' about PEXA.
>
> The NSW intervention may also prompt other states to act, especially PEXA's home state in Victoria, which has mandated use of the platform from October.

Victoria has been very resistant in this regard. There seems to be a locking in. The Minister for Planning is, I think, not listening to the conveyancing industry, and the Law Institute of Victoria has also expressed concerns about the 1 October mandate date. I think with the Australian Competition and Consumer Commission (ACCC) now expressing concerns about competition here, there is a risk that higher costs for consumers and greater risks are involved, so I seek from the Minister for Planning that he act and review this and remove that 1 October date and also satisfy the ACCC about the concerns that it has.

Responses

Mr JENNINGS (Special Minister of State) (18:19) — There are four written responses to adjournment matters raised previously by Mr Finn on 23 May, by Mr Ondarchie on 26 July, by Mr Ondarchie again on 27 July and by Mr Ramsay on 27 July made available to the chamber.

This evening Ms Lovell raised a matter for the attention of the Minister for Regional Development extolling the virtues of her preferred candidate for Macedon, Amanda Millar, and occasionally referring to a rail trail

in that municipality. Ms Pennicuik raised a matter for the attention of the Minister for Roads and Road Safety identifying her desire for a 1.73-metre-wide land bridge to be increased to 5 metres.

Ms Pennicuik interjected.

Mr JENNINGS — Ms Pennicuik, you do not need to interject on me. I know full well that you asked for a 3.27 metre extension of width of that land bridge. She wants the Minister for Roads and Road Safety to deal with that matter and commit to funding between now and the election for the incoming government in the next term to provide for it in the budget.

Mr Finn raised a matter for the attention of the Minister for Education. Whilst he indicated that he anticipates remedying the issue that Ms Zahra has raised in relation to her son Michael in terms of his schooling by saying that the government that he will be associated with after the election will fix this problem, he wants us to do what we can to actually provide greater choices for Michael in his schooling options and to address the inconvenience of his travel arrangements that actually has adverse impacts on his studies and for us to address that in the interim.

Mr O'Sullivan raised a matter for the attention of the Minister for Public Transport seeking her agreement to meet with a constituent, Mr Galena, and other taxi licence holders in relation to ridesharing arrangements in Bendigo. Mrs Peulich raised a matter for the attention of the Minister for Planning seeking a decision from him, which would give, obviously, her property and other properties in the municipality a preferred outcome for —

Mrs Peulich interjected.

Mr JENNINGS — That's exactly what you said.

Mrs Peulich — On a point of order, President, that is not what I said. What I said was there have been 5000 objections lodged against this proposal, and I am raising it on behalf of my community. In the interests of transparency I put my connection to this proposal on the record so that no underhanded motives could be imputed, as you are doing, and I ask that you withdraw that.

The PRESIDENT — Mr Jennings, I do accept that Mrs Peulich put that information to the house on the basis of transparency rather than any pecuniary interest or suchlike. I know that you did not say something like that, but there was certainly an impression that people could draw from the remark that you made.

Mr JENNINGS — On the point of order, President, Mrs Peulich did indicate what her clear preference was for the planning rezoning decision, and the clear planning rezoning decision was something that she as a property owner and other property owners in the area — in fact 5000 of them, perhaps — were actually expressing as their preferred outcome. Now, in that context I can understand why there is a sensitivity to this matter, but in fact I was very surprised that Mrs Peulich chose to draw attention to her potential conflict of interest in the context of what she was advocating for in the particular time frame of the adjournment debate. I know that it may cause her some discomfort if I call it out, but that is what I was doing.

Mrs Peulich — On the point of order, President, by using the words 'calling it out' he is actually continuing to impute improper motives. If you actually check the *Hansard*, Mr Jennings — the minister for integrity! — I certainly laid my views on the table, but what I called for is for the minister to make a decision ahead of the state election. I did not say what decision he should make.

Mr JENNINGS — Yes, you did.

Mrs Peulich — No, I did not.

Mr JENNINGS — Go back and check.

Mrs Peulich — No, I did not. Check the *Hansard*. I was very mindful not to do so. I was very mindful. I said what my personal preference was — that the Labor government and the Labor minister should make a decision ahead of the election and not bury it within the election campaign or after the election. I still demand the imputation to be withdrawn.

The PRESIDENT — Order! I will not seek a withdrawal on the basis that I do believe that an impression could be drawn — and I hasten to say that that impression should not be drawn — that Mrs Peulich was advocating on her own behalf. She in fact expressly pointed out that there were some 5000 people who had expressed views on this matter, and I think in that context she has no greater benefit than many other people in that community and she shares that benefit or disbenefit with them, so I do not see that she is advocating specifically on her own position. She did convey the views of that community, but the action was explicit and did not direct the minister to make any particular decision —

Mr Jennings — Check. She definitely did.

The PRESIDENT — I will check *Hansard* in that respect and report back in the next week of meeting. At any rate the matter is before the minister, and I think the minister is referring that on to the planning minister.

Mr JENNINGS — Absolutely; I will refer it on rather than kick it on. In relation to Mr Davis, Mr Davis raised a matter also for the Minister for Planning relating to his review and consideration of the electronic transfer of land matter and to delay the implementation of it.

Mrs Peulich — On a point of order, President, I did take an objection to the words 'calling her out', because Mr Dreyfus and Mr Pakula also opposed this proposal. So is he calling them out as well?

The PRESIDENT — Let me have a look at *Hansard* and I will make a determination on it in the next week. The house stands adjourned.

House adjourned 6.27 p.m. until Tuesday, 4 September.