



PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 29 October 2020

REVISED EDITION

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The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

TABLED PAPER

Special Report on Resolution to Commence Inquiry

Mr Dean presented the special report of Government Administration Committee B in relation to an inquiry initiated by the committee on its own motion.

Report received.

LEAVE OF ABSENCE

Member for Montgomery

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) (by leave) - Mr President, I move -

That the member for Montgomery, the Leader of the Government in the Legislative Council, Mrs Hiscutt, be granted leave of absence from the service of the Council for today's sitting.

Motion agreed to.

RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020 (No. 37)

**BUILDING AND CONSTRUCTION (REGULATORY REFORM
AMENDMENTS) BILL (No. 2) 2020 (No. 39)**

ARCHITECTS AMENDMENT BILL 2020 (No. 6)

Third Reading

Bills read the third time.

TEACHERS REGISTRATION AMENDMENT BILL 2019 (No. 50)

Second Reading

[11.05 a.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

The objective of the Teachers Registration Act 2000 is to regulate the registration of teachers in Tasmania. A person must not engage in any teaching activities or services unless authorised by registration, limited authority to teach, or under the direct supervision of a registered teacher.

To grant registration, or a limited authority to teach, the Teachers Registration Board must be satisfied of a number of things, including that the applicant is of 'good character' and is 'fit to be a teacher'.

The purpose of these assessments and screening requirements is to ensure, as far as possible, the safety and wellbeing of children in Tasmanian schools and TasTAFE.

This Government has a strong track record of prioritising the safety of Tasmanian children.

As members will be aware, the Registration to Work with Vulnerable People Act 2013 created a centralised regulatory system that provides for the background checking and registration of people who work, or want to work, in various regulated activities with children and vulnerable people in Tasmania.

The aim of the act is to keep children and vulnerable adults as safe as possible, by reducing the incidence of sexual, physical, psychological and emotional harm or neglect.

Since January 2017, Tasmanian teachers have been required to be registered under the Registration to Work with Vulnerable People Act.

A teacher cannot be registered under the Teachers Registration Act, or indeed be legally employed as a teacher, if they do not have a current registration to work with vulnerable people, nor should they be.

It has come to our attention that if a person has their registration to work with vulnerable people, suspended or cancelled by the registrar, or they choose to voluntarily surrender it, the Teachers Registration Board currently does not have the power to immediately suspend or revoke that teacher's registration, despite the fact it is a requirement in the act to have a current registration to work with vulnerable people to be registered as a teacher.

Rather, the board is required to conduct a time-consuming and resource-intensive disciplinary process to remove a teacher from the register, despite the fact that the person cannot fulfil an essential precondition for teacher registration.

Meanwhile we could have teachers - in classrooms - placing Tasmanian children at risk of harm.

Likewise, an individual could be offered a job by an employer who is unaware of their status due to the time lag in removing them from the register of teachers.

Mr President, this bill will close the loophole and ensure greater protection for children by allowing the Teachers Registration Board to immediately suspend a teacher's registration if that teacher no longer holds registration to work with vulnerable people in Tasmania, or the equivalent check in any other jurisdiction.

In this scenario the bill does not require the Teachers Registration Board to hold an inquiry or to give the teacher a right to respond prior to suspending teacher registration. This is because there is a need to act quickly to remove a teacher from the register.

Natural justice is served by the requirement under the Registration to Work with Vulnerable People Act that procedural fairness is afforded to a teacher in determining whether to suspend or cancel registration to work with vulnerable people.

The registrar under the Registration to Work with Vulnerable People Act must give a person written notice, if intending to suspend or cancel a person's registration. The notice sets out the grounds for the proposed suspension or cancellation, and gives the person 10 days to provide written reasons as to why their registration should not be suspended or cancelled. This process will have happened prior to the Teachers Registration Board taking action to remove the teacher from the register of teachers.

Mr President, this bill also amends the Teachers Registration Act to allow the Teachers Registration Board to participate in a range of important data-sharing initiatives for educational, research and other purposes as set out in the regulations.

To date, there have been no appropriate mechanisms in the act to allow such sharing.

The Government is committed to taking action to deliver a quality education workforce for Tasmania.

Education is an essential foundation for Tasmania's future prosperity and for sustainable community and social outcomes. Teachers are one of the biggest influencers of student success; therefore, quality teaching practices are critical to improving student learning and education outcomes in Tasmania.

We know we need to work collaboratively to attract people with the right capabilities to Tasmania's education system, to prepare students to become teachers, and provide our current teachers with opportunities to enhance their careers and develop skills to respond to the challenges of a rapidly changing society.

One initiative which will help us achieve these outcomes is the Australian Teacher Workforce Data Strategy, led by the Australian Institute for Teaching and School Leadership. This important research will compile and link data on initial teacher education and the teacher workforce, providing, for the first time, national data on, and insight into, the characteristics of the Australian teacher workforce life cycle, from pre-service to retirement.

It will provide a national, de-identified dataset of the teaching workforce for use by state and territory governments and the Commonwealth Government. The data will allow the Government to understand current and potential gaps in the teacher supply chain and inform workforce planning now and into the future.

Once Tasmanian data is uploaded to the Teacher Workforce Data Strategy, the Department of Education and the Teachers Registration Board will be able to analyse it and access tailored reporting for the state.

Having a greater understanding of the teaching workforce will deliver a wide range of benefits. It will allow the Tasmanian Government to better support teachers and the profession; drive improved educational outcomes for our learners; manage capacity and capability in the workforce and better focus on our investments.

Mr President, there are a range of other initiatives for which data sharing may be required in the future. These include -

- implementation of the recommendations from the National Review of Teacher Registration;
- development of the National Teacher Workforce Strategy, agreed through the National School Reform Agreement; and
- continued implementation of the responses to the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Data may also be shared for research or educational purposes, or for any other purposes that are prescribed in regulations, and the bill requires the relevant authorities with whom data may be shared to be prescribed in regulation.

The bill includes appropriate safeguards to ensure data protection and security.

Before sharing data, the Teachers Registration Board must be satisfied that the authority it is sharing with has procedures in place to protect the data from misuse, theft, loss, unauthorised access, modification or disclosure.

Mr President, this bill supports the extensive measures already put in place by this Government to protect children and vulnerable persons by ensuring that a teacher who no longer holds registration to work with vulnerable people can be promptly removed from the register of teachers.

Further, it will allow the Teachers Registration Board to participate in a range of significant and beneficial data-sharing initiatives with long-term benefits for our learners and teachers, our education system and ultimately for the people of Tasmania.

Mr President, I commend the bill to the House.

[11.16 a.m.]

Mr WILLIE (Elwick) - Mr President, protecting children is one of the most important jobs of government. The thought going into this bill is positive - the current Government and previous governments have made strong reforms in that area.

As the Deputy Leader said, this bill addresses two things. First, it allows the Teachers Registration Board to cancel teacher registration without conducting an inquiry, if the teacher no longer holds a working with vulnerable people card. Second, it allows the TRB to share data with an appropriate authority or authorities.

I appreciate there was a consultation process. The Australian Education Union - AEU - and the Independent Education Union - IEU - made some submissions in which they expressed

worry about the procedural fairness with cancellations. After reading their submissions, I contacted them to discuss that with them, and I know the Government made some adjustments and they are quite comfortable about it, which was also raised in the briefing we had this morning. Procedural fairness was outlined in the second reading speech given by the Deputy Leader, so I will not go into that too much.

I have some questions. The member for Mersey raised a matter in the briefing that I also have as a question for this debate.

What protections are in place if vexatious claims are made against a teacher? We know that working with people is extremely difficult in some environments. Often complex situations and relationships are involved. Could the Government outline what sort of protections are in place for teachers when those claims are made?

We would not want someone innocent to lose their working with vulnerable children card and lose their registration for a time just because somebody in the community had it in for them.

Another issue is raised quite regularly with me - I am sure the Government is aware of it - but since 2017 teachers have had to have working with vulnerable children checks and cards in place and also must have a Police Check.

I know these are two different clearances - working with vulnerable children checks look at different background history and character, while Police Check can look at a broad range of possible previous crimes, whether something like drug dealing or assaults, which might not be picked up under the other clearance.

It would be good, if the Government could turn its mind to streamlining both those processes, because, as mentioned in the briefing, it is out of kilter and frustrating for teachers to have to do the working with vulnerable children check and then do the Police Check to maintain their registration. Some streamlining would be good for the workforce.

That said, I note teachers get plenty of notification around all those issues, whether from the TRB board, the Department of Justice around the working with vulnerable children checks and, obviously, the Police Check is linked to the registration. That said, there are some teachers who forget. I remember working with a teacher who was stood down; it was quite traumatic for him at the time, but he did get plenty of notification.

There were some initial concerns regarding data sharing and personal information. Under the principal act - and I will read this, because it is quite relevant - the TRB is able to collect and maintain very detailed information. Section 25(2) of that act says -

Each register is to contain the following information in respect of each registered teacher or holder of a limited authority:

- (a) full name;
- (b) any former name;
- (c) residential address;

- (d) date of birth;
- (e) qualifications;
- (f) teaching experience at the time of application for registration or limited authority;
- (g) registration number or limited authority number;
- (h) in the case of a registered teacher, whether fully registered, provisionally registered or specialist vocational education and training registered;
- (i) date on which registration or limited authority takes effect;
- (j) expiry date of registration or limited authority;
- (k) any conditions to which the registration or limited authority is subject;
- (l) in the case of a holder of a limited authority, particulars of the limited authority;
- (m) particulars of any suspension of registration or limited authority;
- (n) any other particulars the Board considers appropriate.

That is quite broad and detailed. The Government has said it will be presented in a de-identified way. Could the Government talk us through that process - how the information will be shared and how the teaching workforce personal information will be protected?

It is interesting that we are talking about workforce development with data sharing because there is some history to this. It has been raised in budget Estimates a number of times. It became clear in 2018 that the Government was conducting an audit into specialist teachers and teachers teaching out of area. I have the transcript here - Mr Rockliff said in 2018 -

The department of Education is currently working with an external provider to develop an interim tool to improve our access and ability to report against the qualifications held by teachers. This is part of the broader project related to a repository for data about the qualifications and skills of department of Education's employees.

Work has commenced to support and improve strategic workforce planning capability, which includes improved access to data across systems. Information from the workforce scan will help to identify areas of targeted development to ensure appropriately qualified teachers. Currently over 100 teachers have commenced and/or completed a postgraduate qualification with the University of Tasmania as part of our developing our workforce strategy, and these qualifications are in priority areas identified by the department, including early childhood specialisation, inclusive education-

I think that graduate certificate is being evaluated at the moment -

... mathematics, science and technologies. The work that's been undertaken in respect to -

The honourable member for Pembroke asked, 'Sorry, and when would that one be finished?' to which the minister, Mr Rockliff, replied, 'The end of the year.'

That was 2018. In 2019, I was sitting on that committee. I changed to Estimates Committee A at one stage and I came back to Estimates Committee B, but -

Ms Forrest - We were tired of you.

Mr WILLIE - You were tired of me? You would not be the first person. In 2019, when I was on Estimates Committee B, I also raised this issue. I have read through the *Hansard* for the last two Estimates - 'There was a review into specialist teaching, has that been completed now?', and the minister, Mr Rockliff, said, 'No, it is still underway.' I asked when it was expected to be completed. He said - he was secretary at the time; he still is secretary - 'It will be commissioned for next year. There was a commitment that it would be ready for Estimates next year.'

I am assuming either some of that work has been done by the department, or it is going to rely on data sharing at a national level to help it strategically plan for the workforce.

This is important because at the last election the Government committed to 250 new teachers, which I absolutely support. I know from working in a classroom that it is very difficult when there are high class numbers, and we need to make sure there are human resources in our schools to support children's learning. I certainly support the 250 teachers. I know the Government will say there have been roundtables, it has worked with the Peter Underwood Centre and that it has offered graduate certificates to teachers - all really good stuff. However it appears to me that recruitment strategy got underway before either the department or the minister knew about the system, so they are recruiting teachers, essentially, at a school level.

The Government no doubt will say that schools are best placed to address the skills gaps in their schools. That is a perfectly reasonable argument from year to year. The point is that teachers are employed by the department at a system level, not necessarily a school level, and there is a transient workforce and they move in and out of schools. It is important at a system level that we understand what the qualifications are, how many teachers have been teaching out of area and what weight we give that, and how we develop the workforce.

We have been recruiting teachers. I am not sure how much of that work the department has done internally; maybe it has done the audit and there have been some initial reports, but it has not been finalised. I checked on this at a later date with an RTI. I knew when I asked this question that they might not be able to answer it. The question was -

The number of teachers employed by the Department of Education who hold a degree in mathematics, science, information technology, English.

There are teachers who have generalist teaching degrees as well and these are specialisations within that, but quite a number of them come from other degrees first and do a master of teaching. The answer I received was -

You are advised the department does not currently have a system that would enable the information requested to be captured and reported. Therefore, in order to provide a response each teacher's personal file would need to be analysed.

So the department needs to go into each teacher's file to analyse it and then the results compiled -

With over 5000 teachers employed currently by the department, we estimate the time entailed to provide this answer would be over six months.

I find that interesting. We are talking about workforce development, skills gaps, all important things to consider. On the one hand we have government recruiting more teachers, which is good, but my question to the Government is, how strategic is it? I know you will talk about the work with the Peter Underwood Centre and the workforce roundtables, but can the department currently look at the teaching workforce at a systemic level? Can you look at the qualifications of teachers at a systemic level? Can you look at the teachers who have been teaching out of area, and is there some weight system that has been given to that? For example, you might have a teacher who has taught mathematics for 20 years but who might be trained as a generalist primary school teacher. It would not be uncommon. Some teachers move from primary to high school and vice versa, but you would have to give some weight to that teacher for teaching that subject matter for 20 years.

Mr Valentine - Is this to do with data?

Mr WILLIE - It is the background to this bill I am talking about. We are talking about workforce development and data sharing. I am interested in what the department has been doing up until this point and whether it is going to rely on this national data-sharing system to give them the answers. I am interested in what the Government has to say on some of those matters I raised.

We also heard in the briefing from the Government that the Teachers Registration Board is a very lean organisation. There was a remark from one of the members that that is a good thing. If we are talking about highly personalised data that is going to be shared at a national level, what capability is there within the Teachers Registration Board to ensure the relevant authorities have the capability to say that the information is protected from misuse, theft, loss, unauthorised access and modification or disclosure? If we are talking about a very lean organisation that is responsible for this data collection at a state level, what capabilities are within the TRB to ensure the relevant authorities that they are going to share that information with have those capabilities?

Mr Valentine - Doesn't it say it is supposed to be de-identified data that is going across?

Mr WILLIE - Yes, I asked that question before - how they are going to modify that data but also there are questions around how it is protected. It might be de-identified, but are they sharing it holus-bolus de-identified to the national authority or will they do the de-identifying?

Then there are the questions about the capability of the TRB to de-identify it if that is what they are doing to share it. I am interested in that process. Who is doing what?

As I said, the Government is doing some very good things in this space. As a former teacher, I support that. We need more teachers in our system. We need to be strategically planning the workforce, offering them further education opportunities if needed. We need to address the skills gap so our kids get expertise in the classroom. We need to make sure that is done in a strategic way.

[11.31 a.m.]

Mr VALENTINE (Hobart) - Mr President, I will declare an interest - my wife is a teacher, but the cohort of teachers being over 10 000 in the state means I probably do not have to walk out of the Chamber in relation to this. She also holds a working with vulnerable people card as far as I am aware - if she gets a little letter, we will know it is not the case - and I do, too.

I am aware that the Teachers Registration Board handles over 10 000 teacher registrations for the state, both public and private. It is not just the public system, I believe. Correct me if I am wrong. I believe there is somewhere in the vicinity of 130 000 working with vulnerable people cards. Quite a significant group of people outside the teaching workforce also hold these cards. There would be a huge volunteer cohort included in that 130 000, working in all sorts of sectors. This card system is important to cover the contact that volunteers have with vulnerable people. They are good systems.

I believe the Department of Education has over 10 000 staff, it might even be closer to 11 000, many of whom are also required to hold the working with vulnerable people card. Many who are not teachers would still have to hold a working with vulnerable people card. It is a very important mechanism to protect children, as the member for Elwick pointed out earlier, and we have to do what we can to ensure our children are not exposed to people who have ill intent toward them.

It is good to see the board gaining that increased power to deal with those who end up not having a card for whatever reason, whether it is by rejection or simply not completing the process to have it renewed. As long as there is enough time for those teachers whose card may have run out to renew their card because I notice in here it says about 10 days. The notice sets out the grounds for the proposed suspension or cancellation. That is a different story. That is when somebody has some misdemeanor or there is a reason their card ought to be cancelled, and they get 10 days notice. I hope those in the profession who simply need to renew their card are getting a sufficient time to do that. We get letters in the post and sometimes they get lost under paperwork in the kitchen or on the shelf somewhere, and are forgotten. You cannot afford to forget this one because it means you will be suspended. It is serious stuff.

It is also important there is a good connection between the Department of Justice's system that runs the working with vulnerable people card administration, and the Teachers Registration Board, in this case. Maybe some software connection could happen so those who inadvertently forget have plenty of time to be queried and have their card renewed.

In the other instance, with somebody who has breached, or who has been charged and convicted of a particular crime, meaning they are no longer suitable for a working with

vulnerable people card, the Teachers Registration Board should be notified as soon as possible. It is critical.

As the member for Elwick was saying, it is important those systems are in place. I hope the administration systems are in place to stop inadvertent non-renewal, and to enable the quickest alert to the registration board of someone who has been convicted of a crime and needs to have their card cancelled.

We know it makes sense for the data to be shared, but it is critical that it is de-identified. The questions raised by the member for Elwick are good questions and it will be interesting to hear the response.

I support the bill.

[11.38 a.m.]

Mr DEAN (Windermere) - Mr President, I thank the minister for the briefing this morning, and for the answers to a number of questions. Like the member for Hobart, I declare an interest, inasmuch as my son is a schoolteacher. It needs to be on the record.

The member for Elwick is right: the protection of our children is critical. We must do what is humanly possible to ensure that is the case. They are vulnerable, and we need to ensure they are being supported in the right way, and they can live the life they want with the assurance of that protection.

I want to talk on two issues. First, the working with vulnerable people card - the criteria required to get it ensure, in a small way, that some added assurance can be given. It is not the ultimate. Some people seem to think if they have the card, we can be absolutely 100 per cent assured that person will do the right thing in all the circumstances. The card is just one part of the whole thing.

There have been cases, quite a few cases, where these cards and the authority and requirements that go with them have been abused. Is the due diligence process strong enough in all the circumstances for a person to get one of these cards? Has that been considered? Has it been looked at since this became law to work with vulnerable children or vulnerable people? Has it been reviewed? Have we looked at it? Have we made any changes to it? Has the due diligence process been reconsidered in any way at all?

I am not attacking any department when I say this. For instance, I have recently renewed my card. I am not sure what background processes are in place. Perhaps there are many that I am not aware of. In my case it was simply a matter of me being asked if I wanted to renew it, or words to that effect, in a written form. I reapplied, said, yes, I did, simply because I may need it in my position as a member of parliament - that is the only reason for it - and my card was reissued. I am not sure what happened in the meantime, whether due diligence was done on where I have been, what I have done, and whatever else. If that was the case, is it happening in all other cases as well, or is it automatic? Once you get the card, you simply then reapply for renewal and it is given to you? I would like to know a bit about that process.

Teachers work with children for long periods. They are very vulnerable, aren't they, when you look at a teacher and their position. Teachers in many instances are working with children on their own, not only in the school but out of the school domain as well. We should

never believe we have teachers doing the wrong thing. I do not know what the percentage is, 99.9 per cent perhaps, but teachers are honest, trustworthy, and will always do the right thing by our children, and they are hardworking. They are a bit like us to some degree. Many of us do not understand exactly what they do do. The member for Hobart certainly would.

Mr Valentine - I certainly do.

Mr DEAN - I certainly do with a son, whom I often visit, who has his head stuck in an iPad or whatever. I ask him what he is doing. He will say, 'I am doing school reports, or I am doing this, I am doing something else.' We do not understand much of the work they do, but they are honest, trustworthy people. We should never, in my view, get that attitude, that feeling, of 'Are they doing the right thing? Are they looking after my child in the right way?', and all the rest of that. That should never -

Mr Willie - I think many of the public have a new-found respect for teachers after what they have dealt with this year, having to do remote learning at home.

Mr DEAN - They do. My next comment was going to be that teachers are very high on the status rungs of the ladder, and so they should be, certainly a lot higher than what we are. I do not want to mention the rung we are on, because it is not even on the ladder - sadly, it is below the bottom rung of the ladder.

Mr Willie - Overnight I went from near the top of the rung to the bottom, when I was elected.

Mr DEAN - That is exactly right. That is what I said to the member for Huon. As a doctor, he went from a couple of rungs above the top to two rungs below it. It is a mighty drop. It really is upsetting, quite frankly; it is not something to make fun of. We need to do a lot more to increase our status. We let ourselves down at times.

Mr Valentine - Or not give reason for it to be lowered.

Mr DEAN - A matter raised in the briefing has been referred to today. That is where a complaint is made to police, and complaints are made. I want to make it clear, as I did in the briefing, that police do not get a complaint, rush out and grab the person who is complained about and start a full-fledged investigation. They do not do that. Their investigation starts immediately they receive a complaint. As to whether that complaint is real or vexatious, there are reasons a complainant would make this allegation. That is where the police start from - from all of that to see whether any allegations have previously been made, for instance, by this person against others or what have you.

Police go through a process where they have to be satisfied before they commence an investigation. I asked a question, and ask it again here, about the stage and time a complaint is made, is being investigated and the police are satisfied there could be something in it, what is the requirement of police to talk to the Department of Justice or whomever to advise these allegations have made? That is, 'Yes, it does require a police investigation and, yes, we are doing it.'

Where does all that start? I have been advised that legitimate complaints have been made about notifications that have not gone through as quickly as some people would have liked. Mr

President, what is the position? The sad situation across all walks of life and in every area, is that at times innocent people will be caught up in these situations.

It does happen. I have been there and have investigated matters where the person has been absolutely innocent. It leaves a bad taste in your mouth when you get to the stage you realise that is the case and how to undo it all. It does affect these people. I have been through it myself. I had a very serious allegation made against me - and I am not going to say what it was about here - which caused me immense trauma at the time. I was able to get myself out of it simply because at the time I happened to be on the mainland doing a police job.

That was the clear thing, indicating and identifying that it was an absolutely false, vexatious, silly, stupid complaint made by a person who was suffering mental problems at the time. There was more in it. It is not a good thing to have a complaint made, but as long as we have the processes in place.

Our teachers are vulnerable from time to time and we need to support them in the best way we possibly can. The working with vulnerable people card is a small part of the whole process, but I certainly support the bill.

[11.49 a.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I start by addressing the member for Elwick's questions.

First, the member asked a question about procedural fairness. When a registered teacher no longer holds current registration to work with vulnerable people, it is critical that the Teachers Registration Board is able to act quickly to remove the teacher from the register. Procedural fairness and the right to a hearing is still afforded to individuals by the Department of Justice in the administration of the registration to work with vulnerable people process.

If the registrar under the Registration to Work with Vulnerable People Act has grounds for suspending or cancelling a person's registration, they provide written notice of the intention to suspend or cancel under section 50 of the act. That person then has 10 days to respond with reasons as to why their registration should not be suspended or cancelled before a decision is made. Suspension or cancellation of registration to work with vulnerable people only occurs in very serious cases under the Registration to Work with Vulnerable People Act, including if -

- a person has breached a condition on their registration and the registrar reasonably believes suspension or cancellation is appropriate;
- the registrar determines there is a need to conduct an additional risk assessment, and registration can be suspended while this is done;
- a risk assessment has been conducted and the registrar is satisfied the person poses an unacceptable risk of harm to children and vulnerable people, regardless of the fact that having a current registration to work with vulnerable people is an essential precondition for teacher registration.

Streamlining the process to minimise delays in removing those persons from the register of teachers is necessary to manage risks to children and ensure those who do not hold a registration to work with vulnerable people cannot be employed to teach.

Second, it is a simple administrative process to amend the register of teachers and reinstate a teacher registration quickly on provision of their registration to work with vulnerable people registration as long as they are of good character and fit to teach.

Protections for vexation claims: the Department of Justice conducts a background check and risk assessment process for people working with vulnerable people and children to reduce the risk of sexual, physical and emotional harm. The background checks take into account a number of matters, including criminal history; relevant offences the applicant has been found guilty of; the non-conviction history of the applicant, such as allegations or pending charges; whether the individual has been subject to restraint, family violence or child protection orders; past reportable behaviour that indicates persons pose a risk of harm to vulnerable persons, such as neglect or abuse, refusal, suspension or cancellation of registration in Tasmania or any other jurisdiction; employment history, including misconduct or disciplinary actions taken; relevant personal information about the applicant, for example, individuals who have multiple changes of name or address; whether the individual has provided false or misleading information or failed to provide relevant information; and any other matter the registrar considers relevant in the circumstances.

In concluding the risk assessment process, the Department of Justice registrar considers a number of factors relating to the conduct of the applicant or registered person. Factors relating to the conduct include the gravity or seriousness of the matter, the length of time since the conduct occurred, the age and vulnerability of the victim, the relationship between the offender and victims, age difference between the offender and victims, and the impact on the victims.

The Department of Justice also considers the applicant or registered person's conduct since an offence or alleged offence, the likelihood of the offences being repeated and whether there is a pattern of concerning conduct.

These are not trivial or insignificant matters taken lightly by either the Department of Justice or the Teachers Registration Board. Why are there two processes - the Registration to Work with Vulnerable People and the National Police check - as part of the teachers' registration process?

We all agree that having the most robust system in place is important to ensure the safety of our young people. Two separate processes work together to ensure this. The teacher registration process works in this way: a person applies to the board for registration; they must demonstrate they are qualified, of good character and fit to teach, hold a current Registration to Work with Vulnerable People and be proficient in the English language. The TRB board conducts a national record of conviction check as part of this process.

The RWVP is conducted by the Department of Justice. Relevant offences may have been taken into account as part of the background check process and defined in the Registration to Work with Vulnerable People Act 2013. These include offences under the Poisons Act 1971 or the Misuse of Drugs Act 2001, sexual offences, an offence against a person, an offence involving violence, dishonesty or fraud, an offence relating to property, a driving offence or an offence against an animal. We all agree these are some of the safeguards we need.

Mr Willie - Mr President, my question was not why are there two processes, it was about streamlining them so their cycles would be the same and teachers could deal with them in the same period of time.

Ms HOWLETT - How will the data be shared and protected? The bill specifies the data held by the TRB may be shared with the relevant authority or member of a class of relevant authorities as set out in regulations.

A relevant authority is defined in the bill and includes other state and territory government and Commonwealth Government agencies, corresponding teacher registration authorities, a statutory authority and a person or body specified in regulations.

Data may be shared for educational research or other purposes prescribed in regulations. Data sharing will align with the DPAC data exchange protocol. Most of the other states and territories have already made the necessary legislative or policy amendments to ensure they are able to share the data they hold on teachers and participate in national initiatives.

The Government is highly alert to the need to ensure any data we share is shared only in the interests of the Tasmanian community and child safety. Further to this, we are acutely aware as data custodians that adequate protections must be in place to ensure our data cannot be misused. The bill therefore contains several safeguards to ensure any data shared is protected. These include the reasons that data may be shared, such as educational research, or other purposes that will need to be prescribed in regulations. Likewise, the bodies whose data may be shared will also need to be prescribed in regulations.

The requirement to prescribe these protections in regulations gives this parliament the opportunity to further scrutinise this process in advance of any data being shared. Additionally, the bill requires the Teachers Registration Board, before sharing any data, to be satisfied the body with which it is sharing data has procedures in place to protect information from misuse, theft, loss, unauthorised access, modified or disclosure.

In addition, the National Data Strategy will ensure only de-identified data is included in the data. Personal information is not included and is stored securely offline. Only highly aggregated statistics and conclusions will be reported on. Individual teachers and organisations cannot be identified.

In relation to your question 'Does the TRB have skills to appropriately extract data', the TRB has staff to extract data who are supported through the process by IITSL and will follow the protocols outlined on the DPAC website.

Mr Willie - Mr President, my question was whether they had the capability to assess whether a relevant authority had the processes in the place to protect to the data.

Ms HOWLETT - Member for Elwick, in relation to your question on streamlining, we can certainly look at reducing duplication and can raise that with the department and also the TRB to consider future practices.

The TRB currently has a policy under development to put in place a simple, administrative process to amend the register of teachers, and reinstate a teacher's registration

quickly on provision of their registration to work with vulnerable people as long as they are of good character, fit to teach and still within their payment cycle.

Member for Hobart: your question about teachers who forget to renew their registration to work with vulnerable people. For anyone whose registration to work with vulnerable people is going to expire, including teachers, the renewal window is 30 days before the expiry date.

The Department of Justice sends out reminders to renew via both an email and a text message. A series of three reminders is sent 10 days apart.

Member for Windermere: I may have answered quite a few of your questions previously, but as far as police notification to employer, it is an unusual practice. A notification will come from the Department of Justice when they have been made aware of an investigation or charges; the Department of Justice undertakes a risk assessment, and if they suspend or cancel RWVP, the Department of Education is notified.

The second notification is through the TRB. If it receives a complaint, which could be through the police, and decide to suspend a teacher's registration, this notification will occur overnight. In both scenarios, employee - that is, DoE - would then act immediately to suspend the teacher and they would be removed from their workplace.

To clarify, member for Windermere, it is usual practice for notification to come from the Department of Justice.

Ms HOWLETT - Mr President, I thank all members for their contribution.

Mr Willie - You did not respond to my workforce audit question - has that work been completed by the department, and what they have been using to recruit new teachers?

Mr Dean - Are you going to answer my questions on the criteria for the working with vulnerable people card - have the criteria been reviewed, have any changes been made, how is it all done? Do we need to ask someone else? I will put my questions on the Notice Paper for the DoJ. I wish the minister to answer in relation to the working with vulnerable people card.

Ms HOWLETT - Thank you. We will try to find that information for you now; if we cannot, we will certainly take it on notice.

Member for Elwick, I will provide an update on the work of DoE on workforce specialisation. As you would appreciate, a number of projects have been delayed due to the impacts of COVID-19 and the need to prioritise our work to support students, teachers and our schools.

To be able to deliver a system, the department has undertaken a significant body of work. This has included consultancy work on current data sources and the data on which any solution will be based. DoE has recently been through a procurement process for a system and a solution has been identified. This solution will commence implementation in term 4 this year and the department will be in a position to analyse this data during 2021.

Mr Willie - Will that be publicly available?

Ms HOWLETT - I will take that on notice.

Mr Willie - Al right. I will follow up in budget Estimates.

Ms HOWLETT - I have no doubt the member will.

Member for Windermere, the Registration to Work with Vulnerable People Act has been updated since introduction in 2013. In 2015 immediate suspension was introduced.

The immediate suspension under section 49A of the act was introduced in November 2015 because it was found that when there was a need to suspend, it was, in most cases, immediate and there was too much risk involved to prepare paperwork with reasons for the decision. The Department of Justice serves notice of immediate suspension and notifies the employer.

The immediate suspension is not subject to review in the Magistrates Court, but is never issued without registrar clearance. In the recent amendment to the act, which has not yet been proclaimed, the immediate suspension would be subject to internal review after six months on application.

Bill read the second time.

TEACHERS REGISTRATION AMENDMENT BILL 2019 (No. 50)

In Committee

Clauses 1 to 5 agreed to.

Clause 6 -

Section 17BA inserted

Mr DEAN - Madam Chair, I take it that where registration has been suspended by the board, the person's position within the department is totally suspended as well - they no longer remain within the department anywhere?

In relation to proposed new section 17BA(3)(b) -

without giving the teacher an opportunity to be heard by, or to make a submission to, the Board -

I am interested to know the union's position. Have we any idea on record as to what the union said about that part? It rather surprises me that the union did not want at least an opportunity for a teacher to have a say in the circumstances. Do we know what the union said about that?

Ms HOWLETT - Member for Windermere, as far as a suspension, we will need to take extra advice on that. As far as cancellation, they are not at work and they are stood down. I will need to seek some advice on your question relating the unions and their response.

Mr VALENTINE - I turn to clause 6, proposed new section 17BA(4), which says -

On deciding to suspend or cancel under subsection (2) the registration of the registered teacher -

For the member for Windermere's benefit, it is any teacher in the state, not just state teachers; they are also private schoolteachers -

the Board is to serve notice, in writing, of that decision on -

(a) the teacher;

It is 10 days and the way the post system goes these days, it could take five days to get to the individual. The individual then takes a couple of days to work out how they are going to respond to it, and then it might take another five days to get back if they are sending it by post. One expects it would go by email, which would be the quickest route, but if by chance it is relying on something in writing, I am wondering how the 'in writing' is transferred, whether it is by post as well as by email. I want to make sure a person is given fair and reasonable opportunity. I know the member for Windermere raised the issue of vexatious complaints. I want to make sure there is natural justice in terms of the time frame for them to respond, and if their post is held up, whether it will totally and utterly disadvantage somebody from being able to get their response back in time.

Ms HOWLETT - Everything is done in a fair and equitable way. There is correspondence via mail and also correspondence via email.

Mr Valentine - So it is done both ways. It is not only by mail.

Ms HOWLETT - Correct, yes. Both ways. Not only by mail - by email and by mail.

Mr Valentine - So the chances of them getting it is high?

Ms HOWLETT - Correct.

Clause 6 agreed to.

Clauses 7 to 9 agreed to.

Clause 10 -
Section 26A inserted

Mr DEAN - This clause reads -

(1) The Board may make available to a relevant authority that is prescribed, or that is a member of a class of relevant authorities that is prescribed, any or all of the following:

(a) information.

That would be particulars on the reason for which registration has been suspended. Is that information provided on a confidential basis to these other organisations and places? Is it recorded where it says -

... a member of a class of relevant authorities that is prescribed, any or all of the following ...

Who fits into that category? Do you have some information on that? Is it provided on a confidential basis at this stage until the whole thing is finalised? Where does it go, because it could be said to be injurious to a person if at the end of the day the registration is reinstated?

Ms HOWLETT - Member for Windermere, it is really important to know very strict confidentiality processes are in place. A subcommittee reviews and carries out an investigation that adheres to the confidential process. The relevant authorities are -

- a corresponding registration authority and a department or unit of administration of the state, another state, a territory or the Commonwealth;
- and a person or body acting on behalf of the state, another state, a territory or the Commonwealth; and
- a statutory authority and a person or body that is prescribed or is a member of a class of persons or bodies that is prescribed.

Mr WILLIE - I have a question on proposed new section 26A(1)(b) -

any other information in relation to a person who is or was a registered teacher or who is or was the holder of a limited authority -

for educational purposes or research purposes, or any other purposes that are prescribed.

That proposed new section is quite broad. Can the Government can give some examples around any other purposes? We talked in the summing up of the oversight of parliament and the regulations, but could Government provide what it has in mind there or whether it is just a catch-all in case something arises?

Ms HOWLETT - I would like to take that question on notice, member for Elwick.

Clause 10 agreed to.

Clause 11 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for the next day of sitting.

VEHICLE AND TRAFFIC AMENDMENT (ROAD VEHICLE STANDARDS) BILL 2020 (No. 8)

Second Reading

[12.25 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read the second time.

This bill is to align the Tasmanian road vehicle standards framework with the recently changed Australian road vehicle standards framework. The Australian Motor Vehicle Standards Act 1989 has created the national regulatory framework for the importation of motor vehicles into Australia, and the safety standards that vehicles in use on Australian roads should meet. Tasmania has adapted these standards through the Vehicle and Traffic Act 1999 and subordinate legislation.

In 2018, the Commonwealth passed the Road Vehicle Standards Act 2018 to replace and extend the framework created by the Australian Motor Vehicle Standards Act 1989. The new Commonwealth act received royal assent on 10 December 2019, although the parts of the act that create the new regulatory framework will commence by proclamation on or before 1 July 2021.

The Road Vehicle Standards Act 2018 will apply to all vehicles provided for the first time. The use of the word 'provided' is intended to cover vehicles that are sold for the first time in Australia, and vehicles that are used for the first time in Australia but which have not necessarily been sold prior to use. Examples of the latter include when the vehicle has been made available through exchange, gift, lease, loan, hire, hire purchase, or giving a party access to the vehicle.

The major effect of the new Commonwealth act is to remove the need for a physical compliance plate to be fitted to road vehicles provided for the first time in Australia. The compliance plate is currently used to show that the vehicle to which it is affixed met all the necessary safety standards at the time, that it was provided for use on Australian roads.

The role of the compliance plate is replaced by an electronic Register of Approved Vehicles. If a road vehicle is on the Register of Approved Vehicles it was assessed as being compliant with the necessary standards when it was provided for the first time in Australia. The Register of Approved Vehicles will be maintained by the Commonwealth and will be freely accessible through an internet portal. In this way, people can find relevant details about vehicles that are of interest to them. The Commonwealth has chosen this approach because it found that moving on to an electronic register provided a significant positive benefit to motor vehicle manufacturers, importers and the Australian market.

The Tasmanian vehicle standards framework created in the Vehicle and Traffic Act 1999 should be amended to reflect the changes in the national framework so that Tasmanians can continue to receive maximum benefit from the national road vehicle standards while maintaining coverage for the existing Tasmanian vehicle fleet.

The proposed amendments accommodate the loss of the physical compliance plate, the introduction of the Register of Approved Vehicles, and the proposed repeal of the Australian Motor Vehicle Standards Act 1989. Consequential amendments are also proposed to the Taxi and Hire Vehicles Industries Act 2008, which refers to the repealed Commonwealth act, to ensure the safety of Tasmanians that use the services of taxis, and for other hire and chauffeur-driven vehicles.

Finally, amendments are proposed for the Motor Vehicle Traders Act 2011 so that consumer protections through a statutory warranty for eligible vehicles continue to be available.

Mr President, I commend the bill to the House.

[12.30 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I made a few comments in the briefing on this amendment bill and I thought I should make a couple of comments on the public record. I very much appreciate the briefings, Deputy Leader. I have said it once already this week but they are very helpful and there is an opportunity to think through what we are dealing with.

I sometimes feel that I am being dragged kicking and screaming into this new digital age. I have never thought there was a problem with having compliance plates on vehicles so that everyone knows they have gone through a process and they comply with the standards this country expects. I was quite surprised to read this and I thought, 'What on earth do we need this for? Is this just another part of moving to what the Commonwealth believes we all should be doing?' Have we completely lost the ability to make our own decisions in this state? Obviously, we have to comply. There has been a Commonwealth act and the minister of the day has decided that we should be involved.

I said in the briefing that I admire Western Australia because they make choices about what they believe is best for their state and they do not mind standing up to the Commonwealth on a number of occasions and saying, 'No, that is not for us', and they work it out themselves. I admire that because I am not entirely sure that all these requirements being put upon us as states are necessarily that useful - in particular, this one. If you want to look up the compliance of a vehicle, it is freely accessible through an internet portal. Well, not everyone I know has an internet portal and not everyone has access to an internet portal and even a close one. Not everyone has a smartphone and they certainly do not all have iPads and PCs. They may still want to see if the vehicle they are thinking about purchasing or -

Mr Valentine - Perhaps they could go to Service Tasmania. Would they have that service?

Ms RATTRAY - If you live in a more rural area, Service Tasmania has reduced its hours. It is not always possible to get into Service Tasmania. I believe some of these imposts we are putting onto our community are not absolutely necessary. I am not going to vote against the bill because that would be silly - it would not be very useful, anyway, because nobody else would be doing it, I am sure - but I make the point that sometimes we need to stop and think about why we really need to be doing this.

I did not support taking registration stickers off vehicles. I liked to see a rego sticker on a vehicle. I know they come in the post usually about three weeks or thereabouts before they are due, but it reminds you that you need to get yourself organised for that. I did not mind that. I did not think it was such a terrible thing to have to do - putting a sticker on your car. I know a lot of other people thought like that.

But, no, we do not have them now; we will not have compliance plates after this. I find it interesting that we, as a society and as a state, feel we need to go down this path.

We talked this morning about the portability of teacher registration. I suggest we should have that portability. We do want to be involved in a national approach to that. I am not sure that compliance plates not being required on vehicles once they have met first-time-in-Australia standards is such a bad thing. I am not grumpy about it. I just find it interesting that we continue to need to do these types of things, particularly when we do not have a completely digitally savvy community. That is what I am making the point about.

[12.35 p.m.]

Mr VALENTINE (Hobart) - Mr President, what the member for McIntyre has raised is interesting. I suppose it is an unintended consequences as a result of changing something like this. She mentioned the registration sticker. I had a person come to me in a great state of distress because they had the Motor Accidents Insurance Board after them for something in the order of \$200 000 as a result of an accident that had occurred. A person had been in hospital, they were out of hospital, and were told by the medical people they were able to drive. They happened to have a small accident, not realising that they may have caused the accident.

It just so happened that their car registration had run out while they were in hospital. They had failed to re-register their vehicle until 11 days after. In the investigation of the accident, which happened some time later, MAIB found out that their car was not registered. In fact, the people involved in the accident had incurred significant medical costs where the MAIB had to recover something in the order of \$200 000. Because their registration was not current at the time, they were not covered by MAIB as a driver. This person was 80-odd years old. It caused a good deal of stress, which could have so easily been, I suppose, avoided if stickers had been in place. They would have known that their car was due for a change. It was a very unusual circumstance. As it turns out, things were turned around. Certain amounts were paid, it was nowhere near the \$200 000, but the house was looking like it was going to go for this elderly couple. It was most distressing.

There can be unintended consequences dealing with things like this. I cannot think that this compliance plate issue would be in the same area as the MAIB issue, but one never knows what might happen. My concern is that for those who have special vehicles, who pride themselves on being able to demonstrate that engine numbers and frame numbers are identical and those sorts of things, that can continue. I was told in briefings that, yes, that is not going to be affected, and that is good.

I hear what the member for McIntyre is saying - if somebody can simply lift up the bonnet, look at the compliance plate, they have the answer there and then. If you take this away, it means they are going to have to try to get the information from some other source.

Ms Rattray - From the portal.

Mr VALENTINE - From the portal. I shared that story about the registration sticker because there can be unintended consequences. I think it needs to be re-looked at in some way with respect to car registration. But that is for another day.

I support this having a national approach. I wonder, if we go down this path too long, whether we might find ourselves redundant because there is no legislation left to deal with.

Ms Forrest - We do not want the Commonwealth running our health system. They do not run hospitals very well.

Mr VALENTINE - It is not its core work, one would say.

I support this bill. I raise those issues as something that needs to be considered every time we look at changing a system.

[12.40 p.m.]

Mr DEAN (Windermere) - Mr President, I appreciate the briefings this morning, Deputy Leader, and thank members for the information they provided. It was quite in-depth information and it covered many areas that I had some concerns with.

In this case we have to support the legislation. There is a Commonwealth requirement and it is national legislation and so on. I believe Western Australia, for the member for McIntyre's information, will have no option but to come online as we were told this morning. They will have to be there this time.

Ms Rattray - When the national heavy vehicle legislation was brought in and they were told then 'You have to be on board, you have to be in it and the sky will possibly fall on the whole state if you don't' - guess what? They are not in it. I could be wrong. I have been wrong before.

Mr DEAN - So, vehicles coming here and going to Western Australia, new vehicles, will have to be treated differently and so on. I raise the issue: At what stage is the record made in the national database? When will that happen? Does it happen at the time a new vehicle arrives here, or does it happen at a time when the vehicle is purchased by some other person?

I raise the issue with the compliance plate: the first thing you do or should do - some probably do not - if you are buying a vehicle, new or second-hand, is go straight to the compliance plate. We did this very recently, or my wife did it, with a new vehicle we were purchasing. You look at the compliance plate to see when that vehicle was put together and to look at its age of it at the time you are going to buy it. The compliance plate tells you where it was manufactured, it gives you the date it was put together and made et cetera. Then you work it out with the date you are going to purchase the vehicle. In one instance, the vehicle we were going to buy, a motorhome, was two years old. It had been made two years before the date of our purchase agreement. How do you do that now? When this is all in place, would we be required to go online -

Ms Forrest - Pull your phone out of your pocket and look it up.

Mr DEAN - Yes, but how do you relate the vehicle you are going to get to what is in the database? How do you get that connection? Do you put in there -

Ms Forrest - Didn't they tell us that you look up the VIN?

Mr DEAN - I guess that is the way is done. I do not know what information you have to get to check it. The vehicle identification number is provided on the vehicle. I think it is on the chassis and probably in a number of places. The compliance plate had the chassis number on it. It also had the block number, I think, on it. You could check all these things. That was the big thing about rebirthing. That is where many of these rebirthing crooks came unstuck. When they removed the compliance plate from one vehicle to put it on another one of a similar

colour and same make et cetera, they came unstuck because it did not correspond with the chassis number or the block number on the vehicle.

I asked the question in the briefing and I ask it again here: will this make the rebirthing of vehicles easier, or will it make it much harder for that type of situation to occur? I take it that older vehicles will go onto this national database as well, but their record will be against a compliance plate - is that what will happen, or will all of that change? I would like some information on that point. Registration has been raised. It is probably not really a part of this bill, but the fact is it has caused some problems and traumas. A good example of this is a farmer at Mount Direction.

He and his wife came into me because they had a lot of vehicles registered and some vehicles had fallen out of registration because of a mix-up by them and also by the department. I understand it was accepted a mix-up had occurred, but at the end of the day, it cost them quite a bit of money because they were caught on road with unregistered vehicles - unregistered for quite a long time, unfortunately. It was one of those mix-ups that happen.

I understand this also applies to all vehicles registered to go on road - farming machinery, tractors, headers, balers, all these other things that are allowed on roads, will be included in the national database. I would like some information on that point. I have no option but to support the legislation and I will do so, thank you Deputy Leader.

[12.48 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I thank all members for their contributions.

In response to the member for Windermere's questions -

- vehicles are placed on RAV when the vehicle has been deemed to comply with Australian design rules;
- with supply to market requirement, RAV information is for guidance only;
- the VIN location is on the chassis or body of the vehicle as it is now and there is certainly no change there;
- the compliance plate is a secondary identifier once the vehicle is supplied to the market;
- the RAV requirement is for road vehicles only; and
- agricultural vehicles are not catered for under the federal legislation and Australian design rules.

Member for Windermere: in relation to rebirthing, the federal National Motor Vehicle Theft Reduction Council requires a secure vehicle identifier, which is basically the VIN and a manufacture trademark for the identification. This does not affect rebirthing.

Bill read the second time.

**VEHICLE AND TRAFFIC AMENDMENT (ROAD VEHICLE STANDARDS)
BILL 2020 (No. 8)**

In Committee

Clauses 1 to 5 agreed to.

Schedule 1 -

Consequential amendments

Ms RATTRAY - Madam Chair, I did not mention this in my second reading contribution; however, I am interested to know whether the Commonwealth expects any contribution from states towards the ongoing management of the portal, or is it all free? We know it is free to anyone who accesses it. I am interested in the maintenance of that portal.

Ms HOWLETT - I thank the member for McIntyre. I am advised that it is a self-funded cost recovery - that is, it is a user-pays system. The RAV entry involves a nominal fee.

Mr VALENTINE - Schedule 1 mentions the Passenger Transport Services Regulations 2013 in respect of compliance seatbelts. Does that mean seatbelts have to have the tags on them to indicate they comply with safety and so on? I want to double-check that - that by taking the compliance plate away, it is not also taking those sorts of tags away on things like airbags, seatbelts and the like.

Ms HOWLETT - Tags remain; no change to any tags. It simply refers to compliance seatbelts - that is, compliant with Australian design rules under the Road Vehicle Standards Act.

Ms RATTRAY - To follow up on the answer the Deputy Leader gave to my question, will the nominal fee be paid by vehicle companies bringing the vehicles into the country? Is that who will be paying?

Ms HOWLETT - That is right - the manufacturers will pay.

Ms RATTRAY - So we will be paying, yes.

Mr DEAN - This is one of those bills, where probably not a lot of consultation took place because it really has to happen. However, were dealers spoken to about the bill? Who has been spoken to about this bill? The big industry people, the trucking companies? Has there been much consultation on it? If there has, what sort of feedback has there been in relation to that consultation?

Because the schedule picks up just about anything and everything, in relation to the Taxi Industry Regulations 2018, what is the real impact on that industry and vehicles within it? Is there an impact? Again, has the industry been spoken to about it? Does it know these changes are occurring? What sort of publicity will be given to this? It is not as though it actually impacts too much on people, but what information and evidence has come back?

Ms HOWLETT - The Commonwealth had very extensive consultation and the Tasmanian bill is reactive to the Commonwealth. As far as taxis are concerned, there is no impact on taxis; it aligns with the current requirements.

Mr DEAN - When we say that Commonwealth had consultation on this, what sort of consultation did the Commonwealth have on it? Are we aware the Commonwealth went out to the industry, to people involved in the sales of vehicles, new dealers and all those people? Did they go to all those people? Are we aware of any feedback information?

Also, with all new vehicles coming in, what sort of consultation took place with the manufacturers of these vehicles - say, in Korea, Japan, Germany? What sort of feedback was given the Commonwealth on that as to how they see this legislation -

Sitting suspended from 1.00 p.m. to 2.30 p.m.

QUESTIONS

Colonoscopy and Endoscopy Waitlists

Ms ARMITAGE to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

[2.31 p.m.]

Could the Deputy Leader please advise -

- (1) The current waiting list for colonoscopy and endoscopy categories 1, 2 and 3 at the North West Regional Hospital, the Royal Hobart Hospital and the Launceston General Hospital?
- (2) How many cases are over boundary in each category across the state and the above-mentioned hospitals?
- (3) What is the length of time they have been over boundary?
- (4) What is the 75th percentile wait for these categories at each hospital?
- (5) What are the medium wait times for category 1, category 2 and category 3 patients at the North West Regional Hospital, the Royal Hobart Hospital and the Launceston General Hospital?

ANSWER

Mr President, I thank the member for Launceston for her question.

The Government has provided additional resourcing for colonoscopy and endoscopy procedures in recent years, including \$5 million in 2019-20, which has provided more than 2000 additional colonoscopies thanks to the funding from the federal government. The Tasmanian Endoscopy Care Network has also been established to improve, optimise and sustain endoscopy services in Tasmania.

The following waiting list data includes various procedures -

- Colonoscopy (Bowel Cancer Screening Program)
- Colonoscopy (non-surgical)
- Direct Access Colonoscopy (Bowel Cancer Screening Program)
- Direct Access Colonoscopy non-surgical
- Direct Access Upper GI Endoscopy
- Upper GI Endoscopy
- Direct Access Gastroscopy and Colonoscopy
- Gastroscopy and Colonoscopy
- EUS Endoscopic Ultrasound (total 325) -

Ms Armitage - I do not know what to know what is in them, I simply want to know category 1, category 2 and category 3.

Ms HOWLETT - I have all that information for you. Can I seek leave to table the document?

Ms Armitage - I would prefer it not tabled if possible, please.

Leave granted; see Appendix 1 for incorporated document (page 59).

Ms Armitage - Is there further information to come on this answer, though? That is all right; I want to make sure because I have been given limited answers in the past.

Ms HOWLETT - I will seek further information, but the member will find the information required incorporated in the *Hansard*.

Aged Care Workforce

Ms SIEJKA to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

[2.34 p.m.]

Much has been discussed in the media and in the community about the preparedness of Tasmanian residential aged care facilities - RACF - in these uncertain times of COVID-19.

One of the issues raised is the insufficient medical workforce, including general practitioners, currently employed or available to work in these homes.

For example, in order to be admitted, many homes require a resident to have a GP. However, family and social workers are finding this difficult because often GPs are not

available. Residents who are waiting to be admitted are taken to hospital, which puts further pressure on hospitals, which also need to maintain readiness for any further COVID-19 outbreak.

Given the Premier has outlined on numerous occasions his priority of keeping our aged care facilities safe, what is the Tasmanian Government doing to ensure a sufficient medical workforce - including GPs and nurses - is available to aged care residents?

ANSWER

Mr President, I thank the member for Pembroke for her question.

Staffing of Tasmanian residential aged care facilities is the responsibility of the provider, and is funded, overseen and regulated by the Australian Government. However, the Tasmanian Government maintains a strong interest in the sector, and we are committed to supporting local facilities and providers wherever possible.

We recognise aged care as a priority setting, and continue to work with the aged care sector and the federal government to strengthen our aged care preparedness and responsive measures. This is why we have established an aged care emergency operation centre, to undertake a system-wide, coordinated function in preparing for, or responding to, a COVID-19 outbreak in an aged care facility in Tasmania.

Residential aged care facilities employ nurses and care staff; however, general practitioners are traditionally visiting medical officers and are not directly employed by RACFs. GPs visit residents as per their care plan and upon request in addition to their substantive practice arrangements.

In supporting planning and preparedness in the aged care sector, the Department of Health is working with the Commonwealth department, providers, peak bodies and other stakeholders, to strengthen the decision-making process and governance mechanisms. This work will support the best practice care of COVID-19 cases and residents of affected facilities.

This includes a collaborative approach to ensure that staffing of RACFs can be sustained and the ongoing preparedness of the sector is supported. The Tasmanian Government welcomes the federal budget support for the aged care sector, providing \$617.7 million over six years from the 2019-20 Budget.

Key priorities within the budget include targeted support for aged care providers to meet additional costs associated with COVID-19, including funding for additional surge staff for emergency deployment when needed.

We recognise that further funding has been flagged to be provided following the completion of the final report of the Royal Commission into Aged Care Quality and Safety. That report is due to be released in the first quarter of 2021.

While the state Government is not responsible for private GP services, we know that GPs are the backbone of our primary healthcare services. In addition to supporting our RACFs in Tasmania, they play an important role in caring for our whole community. As a government, we always want to see more GPs calling Tasmania home, and we are committed to working

closely and assisting the primary healthcare sector as necessary to ensure Tasmanians are able to access the care they need, where and when they need it.

Ms Siejka - Mr President, I consider parts of that question were not adequately addressed. I may submit a second question.

Ambulance Tasmania - Response Times

Dr SEIDEL to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

[2.39 p.m.]

In Tasmania, a call for an ambulance is dealt with by an emergency medical dispatcher. The time stamp recorded when the emergency medical dispatcher creates a case in the dispatch system is used as a measure of when the call is answered by the ambulance service. This is the earliest time stamp in the dispatch system and is a good match with the national definition.

This measure applies only to emergency incidents. These are immediately life-threatening incidents, for which on-road resources must mobilise as soon as possible and respond using emergency warning devices. Incidents attended by fixed or rotary wing response vehicles are excluded.

The health system dashboard lists a median emergency response time of 13.6 minutes in June 2020, which is the most recent published data. Can the Government provide the median response time, specifically with regard to the Modified Monash Model, which defines whether a location is in a city, rural, remote or very remote area for each month of the year 2020?

ANSWER

Mr President, I thank the member Huon for his question.

Ambulance Tasmania does not report median emergency response time using the Modified Monash Model - MMM - as utilised by the Australian Bureau of Statistics.

The MMM was developed to assist in targeting national health workforce programs, including bulk billing incentives, workforce incentive programs and bonded medical programs, to attract health professionals to rural and remote communities across Australia. The model was updated in 2019 and from January 2020 has been applied for the purpose of informing national health workforce programs.

Ambulance Tasmania reports median emergency response times at the state and regional level through a number of mechanisms, including the Tasmanian health system dashboard, Department of Health annual report, and the Report on Government Services.

Plenty River - Pollution - Biosolids Processing Spill

Mr DEAN to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

My questions relate to an environmental pollution spill - liquid waste and biosolids - into the Plenty River, which is suspected to come from a Glenfern property. A similar biosolids processing project is being considered for the property 'Dunedin' at St Leonards, virtually in the middle of my electorate, which is of great concern to me and my constituents.

Ms Forrest - Not great that it is in your electorate.

Mr DEAN - Will the Deputy Leader please advise -

- (1) What is actually being distributed on the Glenfern property?
- (2) What volume of the products/biosolids are being delivered onto the property?
- (3) What volume has been approved for the site?
- (4) What checking and/or inspections are being undertaken relative to the quantities of the product/s being delivered onsite?
- (5) What precautions, if any, are required or have been taken to ensure there is no run-off of product from the receiving property?
- (6) What penalties, if any, apply to any pollution resulting from the products delivered to the site?

ANSWER

Mr President, thank the member for Windermere for his question.

With respect to the September 2020 Plenty River pollution incident, the Environment Protection Authority - EPA - has issued an environmental protection notice requiring clean-up of residue from the incident and that the landowner cease acceptance, storage or disposal of controlled waste on the land.

The EPA has commenced an investigation into the pollution incident. I note comments by the Director EPA that it is not appropriate to comment further about this ongoing investigation.

Two types of waste may be received and applied to the Glenfern land - namely, biosolids from the wastewater industry and biomass from the paper manufacturing industry. The approved management method - AMM - for reuse of biosolids allows for the low-rate application of biosolids on agricultural land. Application undertaken in accordance with the AMM is not usually regulated by EPA, and can be undertaken after consultation with local council. In addition to controls on application rates, the AMM also specifies controls to minimise the risk of contamination of waterways.

An approval under a permit condition has been granted to Norske Skog for land application of biomass, a waste product produced from paper manufacturing. This approval includes a management plan for the stockpiling and spreading of the waste, including recommended application rates, and measures to prevent contamination of waterways.

A composting facility is also located on the Glenfern property. This is considered a level 2 activity under the Environmental Management and Pollution Control Act 1994 and is regulated by EPA under permit No. 162/09, as verified by EPN No. 8894/1. This facility is approved to receive a range of organic waste, including biosolids and biomass. Compost leachate irrigation is permitted on Glenfern land subject to quality testing and monitoring. The permitted production capacity of the composting activity is at 9900 tonnes per annum.

The EPA routinely undertakes compliance checks on the composting activity and has conducted an audit on the activity since the September 2020 Plenty River pollution event.

Penalties in relation to a range of environmental and waste offences are set out in the Environmental Management and Pollution Control Act and subordinate regulations. Offences include contravening a permit condition which, for a body corporate, carries a fine of up to \$172 000. The offence of causing serious environmental harm may result in a fine of up to \$430 000, or more if the offence is committed intentionally or recklessly.

Department of Health - Human Resources

Mr DEAN to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, MS HOWLETT

[2.47 p.m.]

Will the Deputy Leader please advise -

- (1) Is recruiting within the department carried out independently at each regional centre - that is, Hobart, Launceston and Burnie - and, if so, to what levels?
- (2) If applicable, are the local processes and/or conditions regarding recruiting common throughout the regions - that is, the same procedures and circumstances applying throughout?
- (3) Why does the department continue to operate three separate pay offices in the state?
- (4) Is consideration being given to having the Hobart office operate as a central office within the state as applies with the police and many others?
- (5) Why does the department continue to operate a paper-based system for processing overtime, penalty rates et cetera?
- (6) In the financial year 2019-20, what amount of overtime was worked within each region - that is, the Royal Hobart Hospital, the Launceston General Hospital, and the North West Regional Hospital?

ANSWER

Mr President, I thank the member for Windermere for his question.

- (1) The Human Resources area, led by the Chief People Officer, provides expert support and advice on all workforce-related matters across the Department of Health, including the Tasmanian Health Service, and provides leadership in recruitment.

HR unit offices that provide support for each region work closely with other units across the state. Managers conduct all recruitment processes in accordance with the State Service legislative framework and are supported by the human resource and relevant units. Some statewide campaigns such as Doctors-in-Training are coordinated from one office.

- (2) Recruitment is undertaken in accordance with the State Service legislative framework and Department of Health processes. There may be different approaches and strategies applied by the human resource units for specific or targeted recruitment processes. However, they must remain compliant with the legislative and department processes.
- (3) Regional units provide ease of access to human resource advice and support for all departmental and THS staff across the state, including our regional and rural health and Ambulance Tasmania facilities. This model also ensures a business continuity strategy across the department, while providing flexibility for local businesses requirements.
- (4) In accordance with the Health executive governance structure, the Human Resource area for the department is led by the Chief People Officer, who is based in Launceston. The department is not considering changing the region-based human resource unit approach at this time.
- (5) A project is currently underway to consider and explore options to allow for automated processing and a more contemporary and integrated human resource information system.
- (6) Overtime compared to the average fortnightly paid FTE for the 2019-20 financial year equated to: 3.42 per cent of total FTE at the Launceston General Hospital; 3.65 per cent of the total FTE at the North West Regional Hospital; and 1.98 per cent of the total FTE at the Royal Hobart Hospital.

Mr Dean - I think there will be some further questions coming. They are running a very archaic system.

**Launceston General Hospital - Survey - Queensland Consulting Firm
Tasmanian Planning Scheme**

Ms ARMITAGE to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

[2.51 p.m.]

Before I ask my question I ask the Deputy Leader when I might expect a follow-up answer to my previous question regarding why a Queensland firm was engaged to do a survey at the Launceston General Hospital. I was quite insulted by the previous answer and I had a follow-up question. When I had asked why a Queensland firm was engaged, the previous answer the minister signed off was -

I'm advised that if emergency department staff are required to attend to the distribution, collection, collation and reporting of ED surveys it is estimated that it would cost approximately \$30 000 to \$40 000.

I am not sure why I received an answer like that. I was quite insulted by it. I was simply asking why they had not used a Tasmanian firm. If that follow-up question, which I forwarded over a week ago, could be provided, I would be grateful.

Mr Dean interjecting.

Ms ARMITAGE - Member for Windermere, it was an insulting answer - that I would expect the emergency department to do it themselves.

Ms Howlett - I am waiting for the minister to sign off on the answer. Unfortunately -

Ms ARMITAGE - It was a very simple follow-up question.

Ms Howlett - Unfortunately, I cannot respond to that without the minister's authority.

Ms ARMITAGE - I felt it necessary to raise this matter, given it was over eight days ago that I forwarded it.

Ms Howlett - Point taken.

Ms ARMITAGE - Will the Deputy Leader please advise -

- (1) What specific progress has been made towards bringing the statewide planning scheme applicable to Tasmanian local councils to fruition?
- (2) Per the local planning schedules, how many of the 29 Tasmanian councils have lodged their assessments with the Tasmanian Planning Commission? Which councils are yet to submit one, and is there a set time frame by which they must be submitted?
- (3) Given this process has been going on for a number of years now, does the Government have plans to expedite the progress being made towards enacting the Tasmanian Planning Scheme?

- (4) Does the Government have a date at which it expects the Tasmanian Planning Scheme to be fully implemented and functional? If not, why not?

ANSWER

Mr President, I thank the member for Launceston for her question.

A total of 27 out of 29 councils have lodged their draft Local Provisions Schedules with the Tasmanian Planning Commission for consideration. Ten councils' Local Provisions Schedules have been publicly exhibited and five of these have been subject to public hearings.

The Burnie Local Provisions Schedules have been gazetted and the Tasmanian Planning Scheme is in effect in that local government area. The Devonport Local Provisions Schedules are expected to come into effect in coming weeks, and it is expected that the Tasmanian Planning Scheme will come into effect in a number of other local government areas in the coming months. The King Island and Dorset councils are yet to lodge their draft Local Provisions Schedules with the Tasmanian Planning Commission. A set time frame for these councils to lodge has not yet been imposed.

In terms of expediting the implementation of the Tasmanian Planning Scheme, the Government has already taken steps. The Tasmanian Planning Commission has been provided with additional resources to assist in the assessment of draft Local Provisions Schedules. Both the Tasmanian Planning Commission and the Department of Justice's Planning Policy Unit have provided councils with assistance in the preparation of their draft Local Provisions Schedules through the LPS acceleration project, implemented last year.

The Government intends that the Tasmanian Planning Scheme will be fully implemented and operational during 2021.

Greyhound Numbers

Ms RATTRAY to MINISTER for RACING, Ms HOWLETT

[2.55 p.m.]

Minister, do you have any figures on how many greyhounds have been bred for the last financial year? I am concerned about the number of greyhounds being bred and the viability of the industry. We need to have some idea of what is happening in an important industry.

ANSWER

Mr President, I thank the member for McIntyre for her question.

We are updating some statistics at the moment. I will have a definite number for the member by the end of Monday.

Greyhound Industry - Ongoing Training - Funds

Ms RATTRAY to MINISTER for RACING, Ms HOWLETT

[2.56 p.m.]

Minister, I note in the report the Government has redirected its funding to registered training organisations and the programs are no longer viable for RTOs in Tasmania. What has been done when we need ongoing training, because it is mandatory, for those both current and new participants in the greyhound industry? Thank you.

ANSWER

Mr President, I thank the member for McIntyre for her question. I will take her question on notice and get back to her with that.

VEHICLE AND TRAFFIC AMENDMENT (ROAD VEHICLE STANDARDS) BILL 2020 (No. 8)

In Committee

Resumed from above.

Schedule 1 -

Consequential amendments

Madam CHAIR - I believe the member for Windermere was talking about consultations.

Mr DEAN - I had just about finished the question. That was about the length of the consultation and, in particular, with businesses that will be impacted to some degree. The main thrust of my question was: What has been the feedback on this from the makers of these vehicles and the dealers in the state and where do they sit on it? The extent of any consultation, including by the Commonwealth, whether that is known or not?

Ms HOWLETT - I thank the member for his question. Because that is Commonwealth information, I will need to take your question on notice and provide you with that information.

Schedule 1 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

STATE SERVICE AMENDMENT (VALIDATION) BILL 2019 (No. 52)

Second Reading

[3.01 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

This bill addresses matters related to the accrual of recreation leave for State Service employees under Regulation 21 of the State Service Regulations 2011.

Regulation 21 currently limits the amount of recreation leave that can be accrued to a maximum of two years of entitlements. If an employee is unable to take recreation leave for two years due to the operational requirements of the agency, the head of agency is to make arrangements for the leave to be taken in the third year.

Although Regulation 21 formally limits the accrual of recreation leave, it has been longstanding custom and practice across agencies for recreation leave to be accrued on an ongoing basis and flexibly taken or paid out without this limit being applied.

Agencies have leave management plans in place that aim to keep leave liability below two years of accrued leave entitlements, for financial liability and health and wellbeing reasons, but no mechanisms have been put in place to manage accrual once the limit has been reached.

Under Regulation 21 as it currently stands employees have no entitlement to accrue additional leave, once the maximum limit is reached, and therefore any granting of leave and payment by agencies for such leave has been contrary to Parliamentary authority.

The purpose of this bill is to reduce inconsistency between awards and the regulations and to protect past and present employees who have been permitted to accrue, take or have been paid for recreation leave in excess of the maximum limit.

All awards provide for recreation leave entitlements, but there is some inconsistency as not all awards mirror Regulation 21. The proposed bill will rescind Regulation 21 and therefore allow the accrual of recreation leave to be governed by awards.

If an employee is not covered by an award or agreement, or if an employee's award or agreement does not set out a provision in relation to recreation leave accrual, section 47AE(8) of the Industrial Relations Act 1984 will apply.

The bill will also validate past conduct of agencies in contravention of Regulation 21. Past and present employees who have previously taken or have been paid in lieu of taking leave which accrued above the maximum limit will have such leave legally validated, to eliminate the risk that those payments may need to be recovered.

The proposed bill is an effective solution to past payments made to employees. However, it does not recognise current balances held by employees but not yet paid above a two-year limit. It is important current leave balances held by employees are validated as this ensures the bill fulfils the intention of validating past actions on contravention of Regulation 21 and protects employees who have accrued leave beyond the limit. It is especially important that current leave balances held by employees are validated as COVID-19 has impacted on the amount of planned leave taken by many staff.

The Premier moved two minor amendments in the other place which were agreed and have been incorporated into the bill. Amendment to clause 5 of the bill was required to give full effect to the bill's intent. The amendments will operate to increase the scope of validation

to include accruals for an employee who immediately before the commence date of the validating legislation has accumulated recreational leave that is greater than the employee's maximum entitlement to recreational leave.

The bill with the addition of the proposed amendments resolves the issues relating to Regulation 21, as it protects past and present employees and reduces inconsistency and duplication.

I commend the bill to the House.

[3.06 p.m.]

Mr VALENTINE (Hobart) - Mr President, I can see what the Government is trying to achieve here, but has any consideration been given to the fact that leave might accrue at one level but then is taken at another level? For example, a Level 8 clerk might have had an advancement and take their leave as a Level 12 clerk: what impact might that have on the budget if you lengthen the time frame? The original two-year time frame was put in place to stop that happening. Why would the Government want to go down this path?

Ms RATTRAY (McIntyre) - Mr President, I know my colleague and seat buddy over here has not been reading my notes, but the same matter crossed my mind, and I have been pondering on that. I have re-read the second reading speech - because it is only one page, it is pretty easy to read more than once - and the maximum limit is there for a reason, so why would the Government be looking to alter this? Not only for the reasons the member for Hobart talked about, but also because people need to have leave because they burn out. How many times have we been told about that, particularly when we talk about people's mental health, wellbeing and all of those aspects? The reason a limit was put in place originally was so people take their annual leave and holidays and do not accumulate it.

At this time, I am not convinced we should be doing this. I have never been a fan of retrospectivity. If there are some issues for people employed in the State Service, sort those issues out - do not bring in a piece of legislation to try to solve your issues.

Mr Valentine - Obviously the Government wants to align it with awards, so one would expect the awards would take all those sorts of things into account, but your point is well made.

Ms RATTRAY - If there are issues with what is happening within whatever it is, sort those matters - do not expect a piece of legislation to be put into the parliament to sort out what I believe was there for a reason and a purpose in the first place, and a very good purpose for that matter.

Again, health and wellbeing, and people not accumulating heaps and heaps of leave and the impact on the budget. Every dollar in this budget will be needed. Every dollar - not that they have ever not been needed, but more so in this time.

Every time we talk about something in this place the Government has provided millions and millions of dollars to support all manner of things -

Mr Dean - A briefing would be probably good in this case just to understand it all.

Ms RATTRAY - If that is the will of the House, of course I will attend a briefing, but certainly at this time I have no intention of supporting this legislation. A very strong argument is needed to convince me on this. We need to fix up problems - but not with a piece of legislation and not when it brings in retrospectivity and not when it would impact on the health and wellbeing of those people. Fix the problems, but not with legislation.

[3.11 p.m.]

Mr DEAN (Windermere) - Mr President, I do not want to lose my place, but I ask we go to a briefing on this, because I am between a rock and a hard place in relation to this bill. I want to do what I think is the right thing by the employees and the employer, as well so I move -

That the debate stand adjourned for the purposes of a briefing.

Let us see where that goes. I do not want to lose my spot because this is a separate issue.

Motion agreed to.

Debate adjourned.

SUSPENSION OF SITTING

Briefing on Bill

[3.12 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells for the purpose of a briefing.

Sitting suspended from 3.12 p.m. to 3.42 p.m.

STATE SERVICE AMENDMENT (VALIDATION) BILL 2019 (No. 52)

Second Reading

Resumed from above.

[3.43 p.m.]

Mr DEAN (Windermere) - Mr President, I am pleased the briefing session was supported because it has made it fairly clear to us why this bill is necessary. I have always been a strong supporter of the worker, and I have always supported the person who is economically challenged and doing it tough. That has always been my position. In my view, if we did not support the bill, if it is controlled in the way in which the legislation says it should be, through the regulations, those people could miss out on entitlements. It might be entitlements that they have really not had a big say in as well. I remember when I was in my department, I used to often say to an employee - 'Can you not take your annual leave this year because of the pressures we are under? Can you leave it until another year?' - so I am guilty of having done

that. I suspect not too many other senior people in organisations would not be guilty with some regard to similar changes.

That could see an employee losing leave if it has accrued beyond the two-year period. We are told about 3000 employees could fit into this category at this time. I do not see that they should miss out.

The member for McIntyre is absolutely right - leave is taken for the purposes of letting people unwind, manage stress and manage all sorts of issues that come with employment.

Ms Rattray - We are talking here about over two years.

Mr DEAN - Yes, we are. We are talking over two years.

Ms Rattray - We are not just talking about one year.

Mr DEAN - No, we are talking about over two years. There are times when employees want to accrue leave to take an extended holiday. Normally that fits in with long service leave and that is why long service leave is three months for 10 years or thereabouts. It may even be a bit less now, so that is why some employees want to accrue leave beyond one year, or even beyond two years.

That is normally with the support of their senior people, and senior people are pretty astute at gauging the working capacities of the employees they are in charge of. They will normally see if somebody is doing it tough and really does need a holiday - and therefore they would not be likely to approve the extension beyond two years, or three years, or one year if that was the position.

Having said that, I have no problems at all in supporting this bill because I would not like to see any employee miss out on an entitlement - in some cases, an entitlement they might not have been responsible for incurring. I will support the bill and I urge all members to support it.

Mr Valentine - It is also the disparate nature of what is in the awards and what the Government is legally able to do. If it is not passed, I suggest it puts the Government in a significant bind.

Mr DEAN - It does. It is the difference in the two that is creating the issues and anomalies. It needs to be fixed, and this is the way of doing so. I certainly support it.

[3.47 p.m.]

Ms FORREST (Murchison) - Mr President, when I received this bill and read through the second reading, I understood we need to protect workers' leave. It seemed to me there could be a threat of loss of leave, and there are many times - particularly in the health sector - when people do not take leave at a certain time because too many people want it or something has happened.

We have seen a clear example this year with COVID-19, particularly with many nurses, but also with other hospital-related workers, including cleaners and medical orderlies and others who were forced into quarantine, and rightly so. There is no criticism of the requirement,

but it meant anyone else in that area had their leave cancelled unless they were actually away at the time. People could not travel anyway, so what was the point?

I am sure people were caught up in that. We heard in the briefing - and I appreciate the Deputy Leader providing that briefing - that this could apply to about 3000 workers, but that has blown out because of the impact of COVID-19 and the inability to take leave.

It is not only nurses over that period. We have seen situations in which people might have been going to take leave, but were seconded to a Public Health role or some other Biosecurity role, for example.

I agree with the member for McIntyre - it is not good practice to have a large amount of accrued annual leave. It is bad for budget management and it is not good for the health and welfare of workers. However, there are times when it does occur, and if you had some really officious senior public servant who saw some workers had accrued leave, they may say, 'Well we cannot pay for that, it is outside the scope.'. That could happen as this stands.

Mr Valentine - That is where the problem comes in with the unions and what is in the award.

Ms FORREST - Yes, the award has that arrangement, but we need to be sure that people do not lose their entitlements. We also heard in the briefing about some workers who are on extended periods of workers compensation leave, and physically cannot take recreational leave. Why should they lose annual leave when in fact that they cannot take it?

Mr Dean - They could be on sick leave as well.

Ms FORREST - Yes, workers compensation or sick leave or extended sick leave could be involved. We do not need to disadvantage workers here, because there is a blitz on untaken annual leave at times in various departments - and there should be. The nurse in charge or the director of nursing - depends how big your unit is - will come round and say, 'You have untaken leave, you have two years accrued, when are you taking it? Here is the schedule, I am going to put you in now.' You have leave scheduled, then COVID-19 happens, although I hope we do not have that happen too often. We need good management of it, but I support this legislation to fix an anomaly, acknowledging these regulations will be reviewed in full next year - I understand that is the 10-year review period. In the interim, we need to be sure that workers are not disadvantaged in any way.

Employees may have correctly accrued leave during the COVID-19 period, but at the request of their employer, they have not taken their leave. It is not ideal to have to facilitate something that perhaps should not happen, but it is necessary to ensure workers who do accrue their leave do not lose it through some mechanism that this could create.

[3.51 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I thank the member for Windermere for asking for a briefing. I think it was extremely helpful and beneficial to all members of the Chamber. I also thank the members for McIntyre, Hobart and Murchison for their contributions.

I will state, on *Hansard*, the reason for this bill. The past misapplication of regulation 21 must be validated by legislation, to ensure that current and past employees are not disadvantaged in relation to leave that has been taken or paid out above the maximum limit. The bill prevents agencies from potentially having to undertake recovery. The bill seeks to validate all past payments made from leave accrued above the limit in regulation 21, prior to the commencement date of this act. The proposed amendment will increase the scope of validation, to include current leave balances accrued above the maximum limit prior to the commencement of the date of the act.

Bill read the second time.

STATE SERVICE AMENDMENT (VALIDATION) BILL 2019 (No. 52)

In Committee

Clauses 1 to 4 agreed to.

Clause 5 -
Section 5A inserted

Ms RATTRAY - Given this is the only opportunity I have, because I have already made my contribution, I make it perfectly clear that my opposition in my second reading contribution on this bill was not about not supporting workers. My concern was to make the point that agencies need to get themselves into gear. I completely understand some aspects of people's work has fallen outside workers compensation. However, in the briefing, I asked how many State Service employees would come under the workers compensation banner for being unable to take their entitled leave.

I am interested in how many that might be of the 9 per cent, which we learned was about 3000. Also, how many past employees are there who might have been caught up had this legislation not been passed. That is just for the completeness of records.

Ms HOWLETT - Member for McIntyre, we will take that on notice and get the information at a later date.

Ms Rattray - How much later? Will it be before the third reading?

Ms HOWLETT - Yes.

Mr DEAN - My question is along a similar line in relation to -

(3) A period of recreation leave taken by an employee or former employee , ...

I take it no former employee has missed out on any entitlements for accruing above the two year period?

If this amendment does not go through, or the rescinding of regulation 21 does not occur, they could be asked to return that money to the department. They could be; I doubt if they would be. For clarity and to have that clear, it would be certainly helpful.

Ms HOWLETT - Member for Windermere, no former employee has missed out on any leave entitlement at all.

Mr VALENTINE - I am reading on page 5, the definition of 'maximum entitlement to recreation leave'. It says -

... in relation to an employee, means the maximum amount of recreation leave that, immediately before the commencement day, the employee was entitled to retain under the regulations.

We are talking about the regulations. Is there is anything in the regulations? I am presuming the regulations are to be amended if this goes through. Would that be right? Because the regulations have to basically comply with the act, so is there in the regulations something that would have to be amended to enable what you are trying to achieve in this amendment? Is there any change going to be needed to the regulations or do they stay the same?

Clause 5, proposed new section 54A(5) says -

For the avoidance of doubt, the revocation of a regulation under the *State Service Amendment (Validation) Act 2019* does not prevent the regulations from being amended to include, or being remade with, a regulation on the same subject matter and to the same, or substantially the same, effect.

Once this is passed, are you are going to have to change the regulations before you can actually put this into force?

Ms HOWLETT - This legislation will be implemented at royal assent. All State Service regulations will be reviewed next year, as they are every 10 years.

Mr DEAN - I think I know the answer to this, and the member for McIntyre raised it during her second reading contribution. Where leave is accrued - and it could be accrued beyond three years in some emergency situations - is leave paid out at the salary rate at the time the leave is taken and not at the time it is accrued? That is the first question.

Has this matter been raised as a discussion point? That would - I know the police used to talk about it - be an incentive for a person to take leave when it actually accrued, not trying to bank it to take it at a later stage. If accrued leave was paid out at the salary they were entitled to at the time of accruing it - has it been discussed, is it being discussed, and what has happened? That is where it is a choice of the employee.

Ms HOWLETT - Member for Windermere, the leave is paid out at the time you actually take the leave, not when you accrue the leave.

Clause 5 agreed to.

Clauses 6 and 7 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted

Third reading made an Order of the Day for tomorrow.

ANZAC DAY TRUST WINDING-UP BILL 2020 (No. 33)

Second Reading

[4.03 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read the second time.

The Anzac Day Trust was established under the Anzac Day Observance Act in 1970 to provide grants to service organisations that support the welfare of members of the Australian Defence Force and their dependants.

This followed an agreement between RSL Tasmania, horseracing authorities and the Tasmanian government to allow horseracing and other sporting events to take place after midday on Anzac Day.

The RSL successfully negotiated for a portion of profit made at those race meetings to be provided to a fund, administered by the trust, to assist ex-service personnel and their dependants. It also provided for the trust to receive and disburse bequests and gifts. However, there is no record of the trust having received these.

It was rare that Anzac Day race meetings resulted in a net profit. This led to a change in the act in 1981, to allow an annual payment to the trust of any amount determined by the Treasurer, in lieu of the sum derived from race meetings.

In 1996, the then treasurer agreed to index the amount in line with the consumer price index which the former premier, the Honourable Will Hodgman MP, endorsed in 2015.

The act established the trust consisting of four trustees, appointed by the Governor on the recommendations of the minister responsible for administering the act.

The act was reviewed in 2010 and, based on the feedback received, the trust was retained.

The cost of providing secretariat and administrative support is high compared to the size of funding available (\$25 000 in 2019-20) and the number of recipients.

Since 2011, only four eligible organisations have received funding. In recent years, Hobart Legacy has been the only eligible applicant under the arrangement with Launceston Legacy, where Hobart Legacy applies on behalf of both organisations and 50 per cent of the amount disbursed by the trust is remitted to Launceston Legacy.

The bill provides for the following -

- The winding-up of the Anzac Day Trust and Fund.
- The transfer of any assets and liabilities of the trust to the Crown.
- The responsibility for dealing with any current or future legal proceedings and related matters.
- The repeal of Part III of the act that established the trust.

If the trust is wound up, a new approach will be implemented consistent with the purpose of the trust to provide funding to organisations that provide welfare services to veterans and their dependents.

Under the new approach, annual funding of \$40 000 per annum will be provided to Legacy (Hobart and Launceston) through four-year grant deeds.

This approach will provide certainty for Legacy Hobart and Launceston and be consistent with the purpose of the trust. It will also minimise administrative costs associated with the trust for the Government and Legacy Hobart and Launceston.

To ensure any other welfare organisations that provide services to veterans or their dependents can seek funding support, the guidelines for the Teddy Sheean Memorial Grants Program will be amended to make welfare activities and organisations eligible to apply for funding.

I would like to thank the current Chair of the Trust, Mr Ricky Bott, and Trustees Mr Paul Crew and Mr Wayne Luttrell and all previous members of the trust for their commitment to the welfare of Tasmanian veterans.

I commend the bill to the House.

[4.08 p.m.]

Mr VALENTINE (Hobart) - Mr President, I wonder about this. I see a statement that says -

However, there is no record of the trust having received these.

That causes me concern. It is as if we have gone to the books, but we cannot find where any payments have been made. It would be better if we could hear that the people involved in receiving these funds, or at least providing the funds, from the race meetings could say there were none to provide. It seems odd there is no record of the trust having received these. Is it the fact that we simply do not know or is it the fact that it is not only the books we have checked with, we have actually checked with the people who were involved and it definitely is the case they never made a profit to be able to distribute some funds back to the trust?

I would like some greater clarification about that because it is a concern - 'However, there is no record of the trust having received these'. The funds could have gone missing or been

misappropriated if we do not have any firm understanding as to (a) the generation of the funds, and (b) the transfer of the funds to the trust.

I can fully understand why they may want to go down this path and provide some funds to what is ultimately Legacy because Legacy does some tremendous work. I understand that but it concerns me that we do not have a solid understanding as to whether funds were ever generated. It is simply a statement - 'There is no record of the trust having received these'.

I am interested to know whether it can be looked at carefully and we can be assured that funds simply were not generated and, therefore, they were not paid.

[4.10 p.m.]

Ms FORREST (Murchison) - Mr President, this is a sensible move. I know what the member for Hobart is saying. The trust is a costly thing to run; money is soaked up doing that. There could be a better use for veterans. I hear what you are saying and I hope the Leader can just shed some light on this.

If the trust is such that there is no clear record of it receiving any funds but its books have been audited each year - I assume its books would be audited, if that could be clarified - we can be sure that the auditors looked at that and that is okay. I think it is strange wording to use in a speech; I agree with that. To me it says there has been no record of funds coming in. That would have been checked by the auditor, but this also says - 'provided for the trust to receive and disperse bequests and gifts'. A gift may be something other than money. If they are getting a gift for the purposes of supporting veterans, some of these things are so small that you probably would not necessarily note them.

It gives greater transparency and accountability to have this managed in the way it is being proposed in the second reading speech and through the legislative process here. There is a process set up for dealing with any current or future legal proceedings. I am quite confident and happy that this is an appropriate step. There is obviously funding now being allocated annually to support Legacy. That is appropriate because Legacy provides very important services to veterans. It takes the cost out of it; it is a much more sensible approach. It was set up at a time in 1970 when things were different. We can all remember the games of two-up, or some of us can perhaps - some of us might have been still in nappies at that time - and the races that used to go on as part of that whole day. Things move on and I think it is more appropriate to do it this way.

I support the bill. I am sure the Deputy Leader can clarify a couple of those matters for us in her reply.

[4.13 p.m.]

Ms SIEJKA (Pembroke) - Mr President, this is a simple and procedural bill that has the support of Legacy. It was discussed at length by the trustees of the Anzac Day Trust as well. I had a briefing and any questions I had were answered, so thank you very much for that.

We all know the good work of Legacy; I spoke about it a couple of weeks ago. I spoke to it about this bill and it supports the changes. Legacy assured me it had been informed and consulted through the process. I also spoke with the RSL to gather its thoughts as well. The RSL was quite satisfied and thought it was a sensible move.

Legacy's only concern was whether the four-year guaranteed grant would be supported in the future. I said to them it is hard to necessarily get those sorts of commitments, but they were keen to know whether it would be a rolling grant. I would be interested to know the intentions in that regard.

The other matter was with regard to proposed changes to the Teddy Sheean Memorial Grants round. When will those changes be implemented? Given that a broader range of applicants will then be eligible, I wonder whether the grant will be sufficient to meet demand, given that there is already a significant number of applicants.

[4.14 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I support the intent of the bill and place on the record my support for Legacy. The Ringarooma Anzac Day service always takes the opportunity for an offering from those many people who gather and it is for Legacy and it is always well received. I agree with the members for Pembroke and Murchison and others who have talked about the good work of Legacy.

There is no guarantee that they are going to be able to continue those funds into the future. Governments come and go. I am not sure how this Government will be able to commit to the future past its four-year term, but I feel sure that with any members of the parliament who are here in four years, if that seems to be missing from a budget line, there will be a bit of dancing around. If I am here, I will be dancing around if it is not on that line item. I support the bill.

[4.16 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I accept the concerns raised regarding the strange wording but that happens sometimes. At the end of the day, most of us would say that this is good legislation. It will fix an anomaly. I will support the bill and think we should vote on it and move on.

[4.16 p.m.]

Mr DEAN (Windermere) - Mr President, as a returned serviceman, you would expect that I would have an interest in this and an interest in Legacy. I always have done and I have always provided support to them wherever possible.

I sent this bill out to my sub-branch. It came back with a positive position on it, saying it is a good way to move, provided any funds there are given to Legacy and remain with Legacy within the state.

This question may have been asked - I apologise if it has - but where it says that the bill provides for the 'transfer of any assets or liabilities of the trust to the Crown', are there any? What are they if there are any? That is, assets and other liabilities,

At the bottom of the speech it reads - 'Under the new approach annual funding of \$40 000 per annum will be provided to Legacy Hobart and Launceston ...'. I suspect that would be in equal amounts. It is probably \$20 000 to each area. It says here, '... through four-year grant deeds'. Does that mean that every four years, it will be extended for a further four years? Is that what happens at the end of the fourth year? It reads, '... through four-year grant deeds'.

Ms Siejka - I asked a similar question about whether that would be ongoing.

Mr DEAN - Okay. If you have, that would be helpful. Legacy does great work. In the main they are supporting veterans, returned servicemen, widows and families. I attended a luncheon on Sunday of the Gunners Association, of which I am a patron, where we contributed to Legacy. We do that each year so there is strong support for what they do. These people need support, I can assure you of that, and it is a very worthwhile cause. I will certainly support the bill.

[4.22 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I thank all members for their contribution.

In relation to the question from the member for Pembroke, under the present legislative requirements it is possible for the allocation of the trust to be zero dollars. The proposed new approach will ensure certainty of funding with a four-year grant agreement being entered into providing \$40 000 per annum; that is \$20 000 to Hobart Legacy and \$20 000 to Launceston Legacy. It is our strong expectation this funding will be continued beyond the initial four-year grant.

The strongest commitment that could be made regarding this would be made by the support of those present during this debate, noting that the bill was unanimously supported without amendment in the other place. I also note that the Treasurer has committed to continue to make available funding currently provided to the trust to support Tasmanian veterans.

In relation to the trust having any current assets and/or outstanding debts, no, the trust does not have any current assets or outstanding debts.

Mr Valentine, in relation to your question, the wording in the second reading speech was to indicate that the trust has not received any bequests or gifts to disperse, although the act has allowed for this to occur.

Regarding future applications, it is anticipated that amended guidelines will be ready for the first grant round scheduled for February/March 2021.

Regarding future applications to the grants, the Teddy Sheean Memorial Grants Program. It is not expected a significant increase will occur given the low numbers of applicants seen from organisations with a focus on veterans' welfare to the trust. I note there has only been one applicant to the trust in the past four years.

Bill read the second time.

ANZAC DAY TRUST WINDING-UP BILL 2020 (No. 33)

In Committee

Clauses 1 to 9 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

**RAIL SAFETY NATIONAL LAW (TASMANIA) AMENDMENT
BILL 2020 (No. 7)**

Second Reading

[4.26 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read a second time.

The purpose of this bill is to remove a reference to an overlapping provision from Tasmanian state law following the recent introduction of a national offence with the same intent.

The Rail Safety National Law applies in Tasmania through the Rail Safety National Law (Tasmania) Act 2012.

In 2018, Transport and Infrastructure Council ministers agreed to make it an offence for a rail safety worker to obstruct or hinder drug or alcohol testing. This offence commenced nationally in 2019.

The same offence already exists in Tasmanian rail safety law through reference to a provision in the Road Safety (Alcohol and Drugs) Act 1970.

This amendment addresses the conflict of the overlapping provisions by removing the reference to local state law from the principal act. The national offence is retained.

This amendment will help to clarify local enforcement and will ensure national consistency in the application of the Rail Safety National Law.

Mr President, I commend the bill to the House.

[4.30 p.m.]

Ms RATTRAY (McIntyre) - Mr President, our favourite subject. I could not let the opportunity pass, Mr President, not to make a least a contribution, because I would have not only been letting myself down, I would have been letting your good self down, because you are the most passionate rail enthusiast I know.

Mr PRESIDENT - I was thinking of getting up on clause 1.

Ms RATTRAY - Before I actually address the bill, it is the first time in my 16 years in this place that I have ever seen a fact sheet and a second reading speech with the same quantum of words. First time ever, so we have a few things happening.

Ms Forrest - Not much to it, let us face it.

Ms RATTRAY - There is not a lot to it, exactly. Obviously, I cannot talk about some of the rail issues we would like to talk about. I will just confine my comments -

Mr PRESIDENT - Why not? I am pretty open.

Ms RATTRAY - I am mindful some other things hopefully might be going on perhaps today, so I will confine my comments to the fact that while I am not always a fan of a nationally consistent approach, I am in this instance.

While I like to see the Tasmanian Rail Safety National Law reference in the Road Safety (Alcohol and Drugs) Act removed - because that is taking away our own law - we are replacing it, obviously, with one already approved, back in 2018, by the good old Council of Australian Governments. Those ministers get together, have a nice lunch and come up with a lot of good ideas. National Cabinet now, in the past it was COAG.

I understand why, because we have already this nationally consistent approach, when it comes to rail safety, and I absolutely agree is not a bad thing in this instance. I am happy to provide my support to the bill. Next time we have a rail bill, Mr President, I will make a much longer contribution and we will talk about some things that really interest us.

[4.33 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I thank the member for her contribution on this. I am sure, Mr President, you would like to leave the Chair and contribute to the debate - so thank you, member for McIntyre.

Bill read the second time.

RAIL SAFETY NATIONAL LAW (TASMANIA) AMENDMENT BILL 2020 (No. 7)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -

Section 10 amended (Testing for drugs and alcohol)

Mr DEAN - This clause removes from our legislation these areas and they become part of the national legislation. Am I interpreting this correctly? Just an explanation on that. No, I have how that is working all wrong - I might take another call, Madam Speaker.

Ms HOWLETT - I thank the member for his question. This provision is now part of national law and this is now removed from our local law.

Mr DEAN - Thank you. That was the point I was making - it becomes part of the national law. That is what we are saying, national law, so what is the position now with any charges that might be taken? Are they heard in similar courts or do they still relate as they did when it was in our own legislation? Does any of that change?

Ms HOWLETT - No, none of that changes.

Mr DEAN - Right, it remains as it is.

Clause 4 agreed to.

Clause 5 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

TABLED PAPERS

Answers to Question on Notice

On motion by **Ms Howlett**, Deputy Leader of the Government in the Legislative Council, the following answers to questions were tabled -

- Registration fees for architects (member for Windermere)
- Greyhound pups (member for McIntyre)
- Status of registered training for thoroughbred, harness and greyhound racing codes (member for McIntyre).

MOTION

Adjournment of the Legislative Council

[4.41 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That at its rising, the Council adjourn until 9.00 a.m. on Friday, 30 October, 2020.

Ms FORREST (Murchison) - Mr President, I note the hour: we are back tomorrow - it is not unusual for us to sit on a Friday - to try to progress a bill. I have had a discussion with the member for Mersey about his willingness to proceed some way further with the End-of-Life Choices (Voluntary Assisted Dying) Bill 2020 to get a bit achieved this evening, while there is still a reasonable couple of hours left before we get to that silly hour.

I would prefer that the Deputy Leader consider doing whatever measures she needs to do to enable that to be brought on for debate before 9.00 a.m. tomorrow to enable us to get some of the debate underway. We still have a not insignificant amount to get through with that bill. Members hopefully will support that. I think members may need time to go and get their bits and pieces from their offices, which can be done. I am sure the Deputy Leader will address that. I think it would be a better use of time.

[4.42 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I am more than happy to continue with the debate, but I put on the Floor that the only clause I am ready to debate is the commission clause. We have a new clause tomorrow, which is to do with the entities. There is another amendment from the member for Nelson. I am more than comfortable dealing with the commission clause, which is the member for Rumney's, but then I will seek we adjourn for the night, to come back fresh in the morning because the remaining two clauses or the amendments are quite significant in time. I am quite happy for this to happen. I know we will need a 10 to 15 minute break to get our stuff together, but I am happy for that to occur.

Ms RATTRAY (McIntyre) - Mr President, I support the member for Murchison's request to continue. This is a really sensible thing to do, given it is only 4.40 p.m. Given what we have experienced with clauses and amendments to clauses, that would be very useful. I do not plan to need to be here past 1 o'clock tomorrow afternoon. If we can do something today to allow members to get back to where they come from, it would be very useful.

Mr PRESIDENT - Honourable members, as this is the member for Mersey's bill, he has carriage of it and if he is happy to continue, the Deputy Leader will need to move to seek leave to withdraw the motion to adjourn.

Ms HOWLETT (Prosser) - Mr President, from the Government's perspective, the passage of the Government's legislative program shall always be the priority consideration on non-private members' days. As members are aware, it was my intention to progress through the Government business list as outlined in the sitting schedule until dinner, then sit tomorrow if necessary to complete the VAD bill.

I note the significant progress we have made this week in dealing with Government business and understand the desire of members to complete the VAD bill as soon as reasonably possible.

The will of the House will determine whether we further deliberations of the VAD bill now. The views of the member in charge of the bill are obviously important in my mind.

Mr President, I seek leave -

To withdraw the motion.

Leave granted; motion withdrawn.

SUSPENSION OF SITTING

Briefing

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

The sitting be suspended until the ringing of the division bells for the purpose of deliberations on the VAD bill.

Motion agreed to.

Sitting suspended from 4.45 p.m. to 5.18 p.m.

**END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING)
BILL 2020 (No. 30)**

In Committee

Resumed from 27 October 2020 (page 207).

New clauses C and D -

To follow clause 108, in Part 17

Ms LOVELL - Madam Chair, I move -

That new clauses C and D be now read a second time.

These are the clauses that will be inserted into the bill to establish the requirements for the make-up of the Voluntary Assisted Dying Commission.

I thank members for their latitude and understanding on how we have progressed through to this point, in regard to the commission and the amendments we required. Members can be fairly comfortable that we have debated the principle of the commission, and these clauses establish the make-up of the commission.

The clause as drafted is based on existing structures that are in place with similar commissions and boards - primarily the Guardianship and Administration Board and the Integrity Commission. The operation and make-up of the commission has been drafted in a way that is relatively standard and commonplace in Tasmanian legislation. It is consistent with other similar boards, and nothing is particularly out of the ordinary. Hopefully members can take some reassurance from that.

Members have had this for some time to consider. If there are any questions, I am very happy to discuss and address them now.

Subclause (3): the members of the commission are to be appointed jointly by the minister and the Attorney-General. This was a deliberate inclusion, and it came from discussions I have had with the member for Murchison about maintaining a level of accountability over who is appointing members of the commission, and ensuring there is input from more than one member of the Government in that process. Provisions relating to the meetings of the Commission are fairly standard .

I move that the new clauses be read a second time.

Mr GAFFNEY - I congratulate the member for Rumney on bringing this forward.

I have no objections to new clauses C and D. I will be raising an amendment to clause C, but I will leave my contribution until we reach that clause. I am supportive of all the other clauses, and congratulate her once again.

Ms RATTRAY - I place on the record my appreciation to the member for Rumney. It was a marathon effort to replace 'Commissioner' with 'Commission' throughout the bill. The member did an excellent job, particularly when it was getting very late earlier in the week. Well done.

I have one question on (3): the members of the commission are to be appointed jointly by the minister and the Attorney-General. You mentioned in your contribution that this is modelled on the Guardianship and Administration Board and the Integrity Commission. What is the process for the names being put forward to the minister and the Attorney-General for their deliberations? How does the member see that that will unfold? It would be helpful for us to have an understanding of that process, and whether it is the same as the two boards we referenced.

Ms LOVELL - I thank the member for Mersey and the member for McIntyre for their contributions.

I envisage the process for the names to be put forward could be developed further through the implementation stage. I consider the Government would determine the process as part of that implementation. My preference, and what I believe would be reasonable, would be to call for expressions of interest and nominations. That would be determined by Government, but it would be my expectation.

Ms Rattray - I agree.

Mr VALENTINE - I support the amendments in general. I will be interested to listen to the debate on new clause C amendment from the member for Mersey, because that may have merit; but we will see.

New clauses C and D read the second time.

New clauses C and D -

To follow clause 108, in Part 17

Mr GAFFNEY - Madam Chair, I move -

New clause C, proposed subclause (2), proposed paragraph (a) -

Leave out 'who is an Australian lawyer of not less than 7 years' standing as an Australian legal practitioner and'

Although the original EOLC (VAD) bill included a commissioner VAD, I did consider a variety of models not only in this state and other states - and indeed other countries - to see what I believed best suited Tasmanian law. I concluded I did not believe it appropriate, or necessary, to restrict or confine the selection of the most suitable person for the position by imposing a requirement such as this one in in legislation.

I will read a comment from Margaret Sing, Dying with Dignity Tasmania, which may help bring this into sharp relief. It is not a very long piece I have here. She felt -

It is unfair and inequitable to require legal qualifications and experience. The Chair/Executive Commissioner must be the best person for the job, there is no reason for that person to need legal qualifications and experience. In fact, there are strong arguments against a legalistic approach to VAD. It is not acceptable to limit the field of applicants in this way.

The Tasmanian Act should adopt the same approach as in the Victorian and WA VAD Acts and not specify certain qualifications or experience for the Chair.

For the benefit of members, if we consider the legislation from the states that have VAD, we can identify that the Victorian act describes in clause 98, Chairperson and Deputy Chairperson -

- (1) The Minister must appoint a member of the Board to be the Chairperson.
- (2) The Minister may appoint a member of the Board to be Deputy Chairperson.

There are no specified skills or abilities defined for either of these roles.

In the Western Australian act, the VAD board says in section 126 - Chairperson and deputy chairperson -

The minister must designate one member to be the chairperson of the Board and another member to be the deputy chairperson of the Board.

In both states there are no defined requirements for the head of either board.

Whilst my amendment leads to the suggestion that it should not be constrained to a lawyer of seven years standing, it does not exclude such a person from occupying that role when the Executive Commissioner is appointed jointly by the minister and the Attorney-General. It is my belief this will allow the appointment of the most appropriate person for this essential role.

I encourage members to support the amendment.

Ms LOVELL - As I outlined in my contribution to the new clauses, the modelling of this was based on the Guardianship and Administration Board, and this is a provision for the appointment of the head of the Guardianship and Administration Board. I understand the argument that some people would prefer a person in this role as executive commissioner who does not have a legal background.

Equally, I am sure there would be some people who would consider this to be a very necessary component, considering that the executive commissioner will be leading a commission that will hold some level of responsibility over a new piece of legislation that

crosses a number of different departments, and does involve some legal matters and principles. However, having said that, I am not opposed to this amendment and I will not be opposing it.

I will support the amendment because, as the member for Mersey has pointed out, it will not exclude somebody with legal experience. That will be determined by the minister and the Attorney-General, so I am comfortable with that being left more broad and to their discretion.

Mr GAFFNEY - I should add - if you go to (c), it says -

At least 3 other members as may be necessary for the proper functioning of the Commission.

The deputy commissioner and the three board members may in fact have the legal qualifications and experience needed to fulfil the board's role, so there is already capacity for the minister and the Attorney-General to determine that. I thank the member for Rumney for agreeing to support the amendment.

Dr SEIDEL - I refer to the comments made about the function of the board in Victoria and the function of the commission that is proposed for the Tasmanian legislation. Interestingly, one of the functions the executive commissioner would have here in Tasmania is actually performed by the Secretary of the Department of Health in Victoria.

The board in Victoria has a very different function compared to that proposed for the commission here and it is difficult to make a comparison. I appreciate the comments by Margaret Sing, former president of Dying With Dignity Tasmania, but you really cannot compare them. That is why our initial proposal was to model a commission based on the Guardianship and Administration Board of Tasmania.

A further point to note is the commission now is actually quite a powerful entity; because we moved an amendment relating to the diagnostic type of prognosis of six and 12 months, it is the commissioner who could give an exemption. That is potentially quite complicated. We said you need to have a prognosis of six to 12 months to be eligible for the assisted dying process, and with the amendment from the member for Murchison we now have an executive commissioner and a commission who can grant an exemption to that in quite a powerful way.

To ensure that, I would suppose that the commission would then seek further advice and further expertise. They probably would want to ask for third, fourth and fifth opinions. We have to ensure that the integrity of process to come to a decision is absolutely clear. That is why it may be beneficial to have an experienced legal practitioner in this particular role with some oversight from board members.

I am not going to strongly oppose the amendment from the member for Mersey, but I am mindful that we cannot compare the board in Victoria to the commission in Tasmania because they are actually very different in set-up and also in function.

I appreciate the comments made by the former president of Dying With Dignity Tasmania but the comparisons really can be quite difficult.

Mr VALENTINE - I have to say I think the Guardianship and Administration Board has a lot more legal aspects to consider when dealing with matters they might have before them. It

is important to have some legal experience on this commission. As acknowledged by the member for Rumney, and certainly requested by the member for Mersey, there is the opportunity for a lawyer to be on there if it is considered necessary. That seems to fit better rather than necessarily having them as the chair. I imagine guardianship boards would have to deal with more legal matters. I am happy with the amendment and think it fits.

Ms PALMER - I support the amendment to the amendment. There needs to be real flexibility in who is appointed to this position. I spoke to the member for Mersey about this earlier. Some might think it should be someone with a medical background, perhaps someone with an ethical background. It is important to note the amendment is not excluding a person of a legal background. It is keeping the door open and saying let us carefully consider who is the best person for this position.

It is very important. It is not excluding that. It is not saying we should not have that person with a legal background. It is saying let us be open; it could be from a number of different backgrounds as long as it is the best person for the position. I support this amendment.

Amendment agreed to.

New clause C, as amended, and new clause D made part of the bill.

Mr GAFFNEY - Madam Chair, I move -

That the Committee do report progress.

Ms RATTRAY - Madam Chair, I know the member for Mersey, in charge of the bill, said earlier he was not ready to proceed. If this was Tuesday when we were still debating the bill, we would have had to be ready on Tuesday. Why is there no option or any will to continue with the next amendment? I would appreciate the member for Mersey providing that information before I move to support reporting progress.

Mr GAFFNEY - I appreciate the question from the member for McIntyre. When we discussed this some time ago whether we were going to sit again, I made it fairly clear I would be willing to debate the commission clause because I am still getting information and feedback. Some of my supporters and people doing some work for me on the legalities of some of the other clauses thought this was going to come on at 9 o'clock tomorrow morning. That is why I said we could deal with this one because I had all my information ready.

I also acknowledge the member for Nelson has another amendment that has been forwarded. People will need time to research that. I have been put in a situation now where I thought that, in good faith, when I mentioned it before, that was the process we were going to undertake. I would like to think the members in this place would think that was fairly clear.

People should also understand that internationally, nationally and across Tasmania, people have been informed the debate was going on tomorrow at 9 o'clock and hopefully a vote. Those people have set their time and their schedules to be able to be involved. Many of those people have watched this all the way through. I even know some mothers that have been watching this very late at 12 o'clock at night. We would be doing that group of people, who have followed this journey, a disservice because tomorrow is a very important day for the bill.

I hope all members in this place would see what I presented earlier and we have set aside a day tomorrow from 9 o'clock on until it is finished to be able to do this bill. I believe we will get it done and encourage members to support what I thought was fairly clear before we came here. I hope people will support this motion to report progress.

Ms RATTRAY - I appreciate what the member for Mersey has said, but I come back to my point that had we reached the end, possibly on the Tuesday gone - I am interested in what the member just said that we would be sitting tomorrow 'until it is finished'. I would like some indication, if we are still here and it is not finished at 1 o'clock for instance: is there a plan for us to come back on the Tuesday given the member for Windermere is not progressing his T21 bill, which he was kind enough to do to allow the member for Mersey to be able to complete this bill? We saw on Tuesday how long it takes at times to debate amendments to amendments and the like. That is why I am interested in what the plan is because, I am not sure anyone is committed to past lunchtime on Friday.

Progress reported: Committee to sit again.

ADJOURNMENT

[5:44 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

That the Council at its rising adjourn until 9 a.m. on Friday 30 October 2020.

Motion agreed to.

Access to Medicinal Cannabis

[5.44 p.m.]

Mr DEAN (Windermere) - Mr President, I rarely make speeches on the adjournment. I did last night and I do tonight. I have raised this with the President because of the position taken by a very distraught and caring mother. I want to quote from an email provided to me. Some people will know this person very well.

Jeremy is twenty nine years old. He has severe refractory epilepsy and an acquired brain injury. He was diagnosed at age six, when he was hospitalised with Acute Viral Encephalitis and life threatening status epilepticus (continual seizures) which saw him placed in a drug induced coma.

Jeremy has trialled and failed over sixteen anti-convulsants, he was evaluated for brain surgery but was not a surgical candidate due to the fact he has too many seizure focal points over his entire brain. He was implanted with the Vagal Nerve Stimulator as a child, which was ineffective in controlling his seizures and is currently switched off due to severe side effects and malfunction of the generator.

Jeremy has endured many side effects from the prescribed anti-convulsants ranging from mild effects such gum disease right through to drug induced psychosis and respiratory distress.

In 2014, we started using cannabis when he was suffering from drug induced psychosis and the specialist wanted to treat him with strong sedatives. At that time, his neurologist didn't consider any anti-convulsants would safely control his seizures.

In 2017, that same neurologist applied to TMAAC for a cannabinoid medicine my understanding is that Jeremy had TGA Approval for this application. This was rejected by TMAAC on the basis that Jeremy had not trialled and failed all TGA approved anti-convulsants.

In 2017/18, we were advised by LGH executive director of medical services and then a TMAAC panel member, Dr Peter Renshaw to try and apply again, that he would assist in smoothing the way 'politically' We were also advised by Dr Renshaw that we should have Jeremy see a local neurologist - this was made difficult by the fact that at this time the LGH did not have a full time specialist. Eventually Dr Aaron deSouza took over his care in late 2019. He agreed to apply again and did so in June 2020.

On August 29th 2020 we were told that Jeremy had again been rejected because he must trial these other couple of drugs. There are three (I think) drugs - most of them come with warnings of agitation, behavioural issues and suicidal ideation. Jeremy is extremely medication sensitive and many of the drugs prescribed in the past have caused serious unwanted behavioural side effects. One comes with a possible side effect of blindness (Jeremy is non compliant and non verbal so any eye testing would be useless to monitor his eyesight in this case)

I know it is difficult to understand why a parent would be hesitant to use conventional drugs - but because he is diagnosed refractory, none of the medicines have ever been effective and many of them have caused him great harm I consider it to be cruel to put him through this process just so he can get a legal prescription.

What Jeremy needs now -

Our sole focus now is seeking an exemption for Jeremy, for his medicine and for us to cultivate and extract it without risk of confiscation and charges. We have taken advice, we have tried to access a legal prescription and he has been denied.

This question remains - do you want us to continue breaking the law? Is it right that a Tasmanian man with serious life threatening health conditions be forced into this position?

I do not want or expect Government to offer any medical advice. I know that you do not wish to interfere with medical decisions concerning Jeremy's care

but you can offer him an exemption so that we can concentrate on him rather than continually worry about police discovering his medicine where they will seize it which I am sure you understand would be very detrimental to his health.

After these failed attempts to access a legal cannabinoid medicine across more than three years we are now in the position of having no other option than to continue personally supplying Jeremy's medicine.

We respectfully ask, again, that Jeremy be provided an exemption, and that we be offered protection to cultivate, store and administer to him the medicine that is most safe and effective for him.

I look forward to your response.

Lyn Cleaver

It would be great for members here to be able to go to that home and visit Lyn and to visit her child and I think you would see this the way that she sees it. I have been there a number of times; I understand very well their position and it is an extremely sad situation. I will bring this matter back here by way of a motion so that other members can have a say in relation to it.

The Council adjourned at 5.50 p.m.

Appendix 1

*tabled & incorporated
into Hansard
J. Howlett
29 Oct 2020* *Widlers
deputy clerk*

*Seek
Leave to table*

*29/10/20.
TABLED
+ HANSARD*



1 As at 30 September 2020

	1	2	3
RHH	1 003	1 060	1 192
LGH	1 387	802	663
NWRH	29	27	2

2 As at 30 September 2020

	1	2	3	Total
RHH	612	891	345	1 848
LGH	1 111	619	186	1 916
NWRH	15	12	0	27

3 Average number of days at 30 September 2020

	1	2	3	Total
RHH	85	422	132	256
LGH	114	327	137	185
NWRH	24	143	0	77

4 Number of days as at 30 September 2020

	1	2	3
RHH	100	654	405
LGH	150	513	395
NWRH	42	196	162

5 Number of days as at 30 September 2020

	1	2	3
RHH	49	389	213
LGH	90	302	242
NWRH	31	49	118



Sarah Courtney MP
Minister for Health