PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 7 May 2020

REVISED EDITION

Thursday 7 May 2020

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

QUESTIONS ON NOTICE

Mrs Hiscutt (by leave) tabled and incorporated the answers to questions upon notice 31 and 32.

31. HOUSING LAND SUPPLY (HUNTINGFIELD) ORDER 2019

Ms WEBB asked the Leader of the Government in the Legislative Council, **Mrs Hiscutt** -

The Housing Land Supply (Huntingfield) Order 2019 was passed on 17 September 2019 for the purpose of fast-tracking the rezoning of the Huntingfield site, despite significant community distress and opposition to that fast-tracked process.

(1) Briefings provided to MLCs at the time indicated that a master plan would be released in October 2019. Given that it is now March 2020, what progress has been made on the master plan for the Huntingfield site since the Huntingfield land supply order was made in September 2019?

(2) When will the draft master plan be made available for public consultation?

(3) How will the community and other stakeholders be made aware of the consultation on the draft master plan and what avenues will be available to provide comment?

(4) What opportunity will there be for community and stakeholder feedback to influence or make change to the master plan?

(5) When does the Government expect an application for subdivision plan for the Huntingfield site will be lodged with Kingborough Council?

(6) When does the Government expect the first houses on the Huntingfield site will be available for residents to move in?

(7) Since September 2019, what work or research has been undertaken or commissioned by the Government on the impact of the proposed density of new houses at the Huntingfield site on existing -

(a) roads and traffic;

(b) public transport services;

(c) health services; and

(d) education facilitates?

The incorporated answer read as follows -

(1) Finalisation of the draft master plan and supporting information is now nearly complete. Release of the plan and supporting information to the Kingborough community has been contingent on finalisation of measures to protect natural and Aboriginal heritage values on the site.

(2) The draft master plan and information package will be released over coming weeks.

(3) Residents and key stakeholders will receive correspondence and an information pack with the draft master plan and additional information. They will be invited to access additional online resources with the opportunity to provide direct comment on key features of the plan via a website and online social interaction tool. Alternatively, feedback can be provided directly to the project team via email or surface mail.

(4) The consultation process will consider all feedback. If appropriate, changes will be made to the master plan prior to lodging a development application with the Kingborough Council.

(5) A development application will be lodged with the Kingborough Council following the public consultation process and endorsement by the council of the master plan. It is expected this will occur in the second half of this year.

(6) It is hoped civil works on the new roundabout off the Channel Highway could commence in early 2021. Construction of new homes will commence once civil works are complete and titles have been issued. This will most likely be in 2022, pending all statutory approvals and civil construction.

(7) The road network, public transport services and other government services such as health and education, have been thoroughly considered during the development of the draft master plan. The development of the master plan will be supported with expert information including a traffic impact assessment that supports the proposed plan. There has also been significant consultation with relevant bodies with respect to public transport.

32. TASWATER CAPITAL DEVELOPMENT OFFICE - TENDERING AND HIRING PRACTICES

Ms ARMITAGE asked the Leader of the Government in the Legislative Council, **Mrs Hiscutt** -

(1) (a) What are the CDO's engineering workforce needs and how does it plan to recruit and develop this workforce?

(b) What information does the CDO have on the numbers of engineers needed as it relates to the operations of TasWater?

(c) Are there any diversity objectives, including targets or quotas?

(d) What is the primary source of qualified engineers for the CDO from local employers or from interstate?

(2) (a) Does the CDO take steps to engage local, Tasmania-based engineers and engineering firms in their recruitment processes.

(b) If not, why not?

(3) What is the expected contribution of TasWater and the CDO, as an organisation which develops large capital works with significant engineering aspects, to the development of an engineering workforce in Tasmania?

(4) If contracting local businesses remains a priority of the CDO, as the TasWater website states, what percentage of work goes to large, multidisciplinary firms from interstate?

(5) Can TasWater and the CDO justify the financial cost of hiring larger firms and paying them to undertake work in Tasmania?

(6) How does the CDO assess and maintain high-quality competence and capability for its engineers?

(7) Does the CDO understand the negative impact that overlooking local, Tasmania-based engineers has on the engineering sector in Tasmania?

The answers to these questions from the honourable member are provided by the Government, taken on advice from TasWater, which as members would be aware is almost entirely owned by shareholders in local government, with a 2 per cent equity owned by the Tasmanian Government.

The incorporated answer reads as follows -

The core business of the TasWater Capital Delivery Office - CDO - is to ensure cost-effective and timely delivery of quality capital works projects for TasWater that will meet the needs of TasWater's business and those of the Tasmanian community for years to come.

TasWater established the CDO to manage its capital works program from inception to completion, including the planning, design, procurement and delivery phases. The TasWater CDO appoints consultants and designers to assist with the pre-construction stages and construction contractors for the implementation. The TasWater CDO does not carry out the actual construction work at project sites; this is undertaken by contractors with the appropriate skills and capability.

Following a competitive tender process, an alliance was formed between TasWater, CPB Contractors Limited, UGL Limited and WSP Australia Pty Limited to form the TasWater CDO. Most of the roles within the CDO are filled by TasWater employees.

(1) (a) TasWater's CDO forecasted requirements for engineers are based on projects identified for completion by TasWater throughout the initial four-year agreement.

The engineering opportunities comprise a broad range of engineering disciplines. The number of engineers required will reflect TasWater's capital works program project requirements.

It should be noted that TasWater has recently embarked on an engineering recruitment campaign via a recruitment agency. The vacancies were initially advertised in Tasmania before being advertised, and filled, nationally. This highlights the current shortage of available, suitably qualified, engineering applicants within the Tasmanian engineering sector.

Initially all TasWater CDO vacancies are advertised internally within TasWater and each of the other alliance partners. If this is unsuccessful, a nominated alliance partner will advertise externally irrespective of location although naturally preference will be given to suitably qualified Tasmanian candidates. The TasWater CDO wishes to promote opportunities for suitable local professionals to build a sustainable TasWater CDO team with a shared long-term vision that meets the projected water infrastructure needs of the Tasmanian community.

Hiring local candidates wherever possible is in the interest of the alliance as it is more cost-effective and supports the local economy. However, the TasWater CDO does not wish to engage in headhunting or poaching local talent - i.e. engineers who are already contributing to the Tasmanian economy via the work they currently do.

(b) The engineers required for the TasWater CDO do not impact on the broader operational requirements of TasWater.

This is a program of projects, and therefore the number of engineers required will fluctuate through the life of the capital work program. Consequently, not all engineers will be required throughout the initial four years of the alliance agreement and some may be engaged to work on specialised project-specific requirements.

(c) **Diversity and inclusion**

The TasWater CDO employs a diverse team and is committed to improving the diversity and gender balance within the engineering workforce and the wider CDO. The engineering profession continues to exhibit a predominantly male profile both in Tasmania and elsewhere.

The TasWater CDO is in the process of finalising its Diversity and Inclusion Strategy which includes targets to increase the number of females employed, including engineers. Currently 21 per cent of the workforce is made up of women, including female engineers with a commitment to increasing female representation in this industry.

The Diversity and Inclusion Strategy includes proactively employing engineers of both genders and then supporting them by offering flexible working arrangements, mentoring support and professional development opportunities. Efforts focused in this area will be particularly helpful to attract more women into the industry.

TasWater CDO's Social Responsibility Plan defines how sustainable employment and economic development opportunities are created to support disadvantaged groups within Tasmania.

The TasWater CDO commits to equipping employees, trainees, contractors and other businesses it works with the necessary capability and skills for deployment on -

- Future projects within the CDO.
- Opportunities within TasWater more broadly.
- Other employment and project opportunities within Tasmania.

CDO graduate program

There is a longstanding and close relationship with University of Tasmania, through the TasWater scholarship program that has been in place for over 20 years. The CDO currently employs one scholarship recipient who is an engineer.

There is also a TasWater internship program in place. The CDO internship program is a subset of the TasWater program. The CDO has employed five interns, three of whom have been retained as ongoing casual employees. Two out of the five were Tasmanian Indigenous students.

TasWater's graduate program is being refreshed; graduates will be canvassed later this year with a view to placement in 2021. TasWater CDO currently employs six graduates.

Migrant internship program

Prior to the COVID-19 pandemic the TasWater CDO was working with the Department of State Growth and the Tasmanian Employment Networking Service - TENS - to develop and implement an internship program for migrant engineers.

The migrant internship program will be revisited when the COVID-19 situation is resolved. It is envisaged that participating engineers can potentially access 'on the job' paid experience in several areas of the TasWater CDO. This is similar to the current undergraduate internship program. This initiative would benefit individuals and align with government policy and TasWater's commitment to diversity.

(d) The primary source of engineers upon the set-up of the TasWater CDO was the transfer of internal TasWater employees, and these remain the majority of engineering staff within the CDO. Since then, TasWater's CDO has welcomed additional local engineers along with others from outside Tasmania.

As previously stated, TasWater's CDO alliance partners are appointing local Tasmanian candidates to vacancies within the CDO where suitable local professionals are available at the time the roles are advertised.

(2) (a) If a suitable candidate is not found within the alliance, which includes TasWater, TasWater's CDO advertises each vacancy within the Tasmanian marketplace irrespective of which alliance partner has been nominated as the hiring entity.

(b) See answer above; this does not apply.

(3) TasWater and TasWater's CDO aim to contribute to the development of the engineering workforce within Tasmanian by:

- Providing employment opportunities to Tasmanian candidates within the engineering sector where suitably qualified candidates can be found.
- Providing structured personal and professional development pathways for all TasWater CDO employees, including engineers, which increases the skills and capability of individuals.
- Building future leaders.
- Continuing with the successful graduate, internship and migrant internship and scholarship programs.
- As part of TasWater's long-term investment plan, TasWater CDO provides employees, including engineers, with exposure to, and experience in, delivering a diverse range of projects from small value, less complex projects, to highly complex, major projects.
- Providing a workplace that encourages and promotes diversity, inclusion and social responsibility.

TasWater's CDO is committed to working with its supply chain of designers, consultants and contractors to deliver TasWater's long-term investment plan to the benefit of TasWater's customers.

(4) Of the contracts awarded by the TasWater CDO to date, 84 per cent of the business has been awarded to local Tasmanian firms. The TasWater CDO remains committed to providing local employment opportunities.

This high percentage of locally awarded works reflects the fact that local Tasmanian firms should have natural cost advantage. As is the case with the rest of the world, local firms tend to be more cost-effective to employ so will always be considered if the appropriate skill sets are available.

The alliance is committed to leaving a legacy for TasWater, related workforce providers and suppliers as well as TasWater customers. TasWater CDO is introducing new technologies, sharing knowledge and upskilling delivery partners by sharing expertise, increasing safety, quality and environmental standards throughout the project life cycles.

(5) TasWater and TasWater CDO are conscious of establishing an appropriate balance to ensure that TasWater's capital works program can be delivered cost-effectively.

In this larger capital works program, some of the projects are of a scale not previously undertaken by TasWater e.g. the Bryn Estyn Water Treatment Plant Upgrade to the value of circa $200 million. Therefore, it is appropriate that TasWater, by way of its CDO, utilise the services of the most highly capable service providers who demonstrate proven expertise and experience in delivering projects of this complexity and scale.

The justification for utilising the services of these providers is that ultimately, this benefits the TasWater workforce by way of exposure to new and improved work practices the benefit of which flows on to Tasmania in future endeavours.

(6) **Assessing competence and capability**

TasWater CDO conducts a rigorous recruitment process. The selection panel typically consists of an engineering leader, an engineering subject matter expert and a human resources professional.

Applicants are assessed on their technical skills, appropriate experience and their educational qualifications but also on their cultural team fit.

Maintain competence and capability

All TasWater CDO team members participate in an annual performance and development review process. Any competency gaps are identified, individual development plans are formulated and applied.

Developing our engineering leaders

TasWater CDO engineering leaders, existing and emerging, can undertake leadership development programs, including participation in the broader TasWater leadership and coaching programs.

Other professional development activities

The TasWater CDO team is supported to undertake various technical training programs including courses offered through Engineers Australia such as 'Safety in Design.'

Employees also participate in internal professional development programs such as 'Lunch & Learn' sessions where for example, Engineers Australia has provided guest presenters. A competency matrix for all teams within the TasWater CDO is currently under development. This includes engineers and non-engineers.

TasWater CDO is also developing career pathways to include technician level roles.

(7) Does the CDO understand the negative impact that overlooking local, Tasmania-based engineers has on the engineering sector in Tasmania?

As demonstrated in the previous responses, the TasWater CDO is constructively seeking to recruit and develop local engineers and other contracted services.

Two-thirds of the existing organisations on the TasWater CDO consultancy panel are local Tasmanian companies.

The CDO is preparing a local industry participation plan to aid in the support of local businesses.

The desired outcome is to build, develop and maintain a highly skilled engineering workforce. A concerted effort is made to maintain a balance between giving opportunities to local talent without disrupting or harming the local engineering sector.

TABLED PAPERS

Legislative Council Select Committee - Final Report on AFL in Tasmania

Mr Dean presented the Legislative Council Select Committee on AFL in Tasmania final Report.

Report received and printed.

Parliamentary Standing Committee on Subordinate Legislation - Scrutiny of Notices Issued under the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 - Reports 2 and 3

Ms Rattray presented the following reports -

- Parliamentary Standing Committee on Subordinate Legislation Scrutiny of Notices Issued under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2002 - Report 2
- Parliamentary Standing Committee on Subordinate Legislation Scrutiny of Notices Issued under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2002 - Report 3

Reports received and printed.

LEAVE OF ABSENCE

Members for Huon and Rumney

Motion by **Mrs Hiscutt** agreed to **-**

That the member for Huon, Mr Armstrong, and the member for Rumney, Ms Lovell, be granted leave of absence from the service of the Council for this day's sitting.

SUSPENSION OF SITTING

[11.10 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for the continuation of our briefings on the COVID-19 Disease Emergency (Commercial Leases) Bill 2020 (No. 19).

Sitting suspended from 11.11 a.m. to 2.30 p.m.

QUESTIONS

COVID-19 - Regulations - Appropriate Work Practices

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

I assume we will be able to extend question time again today if we need to. I do not know how many questions there are. We will see how we go.

(1) With regard to the regulations being drafted to prescribe the appropriate work practices to remote social distancing and prevent risk of spread of COVID-19, which workplaces will these regulations apply to?

(2) Will the regulations apply to all retailers. If not, why not?

(3) Who is being consulted in the drafting of these regulations?

(4) Will the regulations be in place before any further restrictions are lifted?

ANSWER

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

(1) The regulations will apply to all Tasmanian workplaces.

(2) The regulations will apply to all retailers operating workplaces in Tasmania.

(3) The regulations have been developed through advice from public health experts and Worksafe Tasmania. The development of COVID-safe workplace guidelines is taking

place in consultation with industry bodies. The guidelines will demonstrate to businesses how to achieve compliance with the regulations.

(4) The regulations will be in place before restrictions are lifted.

COVID-19 - Prison and Remand Centres

[2.36 p.m.]

Mr VALENTINE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

The outstanding question from last week with respect to a COVID-19 pandemic -

> What particular procedures and processes is the Government putting in place in our prison and remand centres to reduce the opportunity for the transmission of COVID-19 at those centres?

ANSWER

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

Mr President, because the answer is lengthy, I seek leave to table the answer and have it incorporated into *Hansard*.

Mr VALENTINE - With regard to that, it is always important that members of the community who are watching get the opportunity to hear the answer. Unless the answer is really lengthy, I would appreciate it being read if possible. I do not know how long it is, but it would be nice to think that if it were only a couple of pages, it would still be possible to read it into *Hansard*.

Mrs HISCUTT - I am happy to do so but we have 27 questions, and I was hoping to deliver as many questions as I could to as many members as possible in the half hour allowed. I did not want to extend question time today because we do have this bill in front of us and I was hoping not to sit too late tonight.

If members are inclined to vote against the motion, I will be happy to read the answer in.

Mr DEAN - I support the position of the member for Hobart. We ask these questions and we like the questions to be answered if at all possible. Hopefully, we can get through the session we have today; I do not want to extend it any further on this part of it but I certainly support the member for Hobart.

Leave granted.

The incorporated answer read as follows -

The safety, security, and health and wellbeing of Tasmania Prison Service - TPS - staff, inmates, and visitors is a top priority for our Government.

That is why, in conjunction with corrective services across Australia, the Tasmanian Government has been continually reviewing and implementing measures to prevent and manage the COVID-19 risk in prison facilities.

Notably, there are currently no known cases of COVID-19 in TPS facilities and none have previously been detected.

We are implementing a range of measures to best deal with the COVID-19 pandemic and its potential impacts on the health and wellbeing of prisoners and staff. Some specific measures include -

- isolating all new receptions into custody for a 14-day period;
- screening processes by medical personnel;
- identification and separation of prisoners deemed to be at highest risk;
- the number of persons entering the prison is limited to key personnel;
- the implementation of static team rosters for staff;
- the introduction ·of social distancing protocols, where possible, in both staff working areas and in prisoner accommodation;
- additional health and sanitary provisions provided to prisoners, as well as regular advice regarding good hygiene practices; and
- additional cleaners have been employed and enhanced cleaning schedules are in place, including advice for staff and prisoners.

To further strengthen these measures, from Monday, 27 April, all prisoners and remandees received into custody have been placed in mandatory isolation, separate from the rest of the prison population, for a period of 14 days. This is a precautionary approach to minimise the risk of COVID-19 in our prisons.

Previously, isolation was mandatory for anyone coming into custody from the north-west of the state, or where considered appropriate in response to COVID-19 screening questions.

The Tasmanian Government has also determined it is appropriate to temporarily suspend all personal visits across the Tasmania Prison Service.

This decision has not been taken lightly and the Government recognises the importance of family and community connections in the rehabilitation and reintegration of inmates.

That is why the TPS has increased telephone access for prisoners where possible and appropriate, with additional phone credit provided to all prisoners, and put extra resources into alternative communication measures, such as video calls, to ensure that prisoners can continue to connect with their families and friends.

Importantly, essential professional visits such as legal practitioners on official business will continue at this time with many opting for virtual visits.

Programs, work and rehabilitation in the prisons will continue and my department will continue to follow the Public Health hygiene guidelines for these activities.

Personal visits will recommence as soon as practicable and safe to do so, and the TPS will continue to follow the advice of Public Health in this regard.

Over the next week, the TPS will also install fixed non-contact temperature scanners at entry points to all TPS facilities to improve detection of persons who may be infected with COVID-19.

Once the devices are installed, anyone entering TPS facilities will be required to submit to a non-contact temperature scan before they are permitted entry. Anyone whose temperature exceeds 38 degrees Celsius will be denied entry and instructed to seek medical advice. Where a person has been denied entry, they will not be permitted to return to a TPS facility until they have received written clearance from a medical practitioner.

These initiatives complement a range of other measures the TPS has already taken to increase the safety of correctional staff, prisoners and the community, and reduce the likelihood of the transmission of COVID-19 between persons within TPS facilities.

Taxi Licences - Withdrawal of New Licences

Mr DEAN question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

My question relates to the withdrawal by the Government of the intent to issue any new taxi licences in 2020. This question will require yes or no answers so it will be very quick.

(1) Will the Leader please advise that the Government has decided not to issue any new taxi licences in 2020?

(2) What will happen to the 43 taxi licences not sold during 2019?

(3) Will the licences still be available for sale or will they be withdrawn?

(4) If they are not being withdrawn, why not? Is it because it would be a nonsense in relation to the legislation we passed last week?

ANSWER

Mr President, I thank the member for Rosevears very much for his question.

(1) to (4)

The Government has a range of measures in place and the measures are:

Extending the maximum operating age of taxis by six months where the vehicle has reached or will reach its maximum operating age between 1 March 2020 -

Mr Dean - That is not what the question was about.

Mrs HISCUTT - I know, but this is the answer I have.

Mr President, perhaps I should seek leave to table the answer? No?

The dates were -

1 March 2020 to 30 September 2020.

Providing registration relief for taxi operators with registration expiring between 1 March 2020 and 30 September 2020.

Deferring accreditation audits due between 1 March 2020 and 30 September 2020.

Waiving the annual administration fee for 2020 and stopping the tender in 2020 to release owner-operator taxi licences in the taxi area.

Stopping the tender in 2020 will mean that the advertisement and promotion process to make additional owner-operator taxi licences available by tender will not go ahead, as is required each year under the Taxi and Hire Vehicle Industries Act 2008, called 'the act'.

The current legislation also requires that at the completion of the annual tender process, all unsold licences are offered for sale at the reserve price. As a result, the 43 owner-operator taxi licences not sold during 2019 remain available for purchase at the reserve price by legislation.

Under section 23(6) of the act, unsold licences as a result of a tender in the prior year can only be removed from the market by the calling of a subsequent tender.

Similarly, wheelchair-accessible taxi licences continue to be available for issue by the Transport commission.

It is considered unlikely that an operator will purchase a new owner-operator taxi licence, as taxi licences are available for lease or sale in the secondary marketplace. This is also demonstrated as one owner-operator taxi licence has been issued since the calling of the tender in 2018.

COVID-19 - Quarantine Exemptions - Work-Related Essential Travellers

[2.41 p.m.]

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

(1) With regard to work-related essential traveller quarantine exemptions, how many essential traveller quarantine exemptions have been granted for workers into Tasmania?

(2) What sites have workers been working at who have been granted exemptions?

(3) How many exempted workers have been at each site?

(4) What conditions, requirements or measures have been imposed on the above worksites to minimise the potential risk exposure on other workers?

ANSWER

Mr President, I thank the member for Murchison for her question. As the answer is just a little bit shorter, I will read it -

(1) On 29 March 2020 the State Controller, in exercise of his powers conferred under the Emergency Management Act 2006, made a direction relating to the arrival of persons into Tasmania from departure points outside the state. Category 8 of the schedule, in this direction, allows for other persons, or class of persons, approved by the State Controller. At the close of business on 5 May 2020, 656 workers have been confirmed as approved by the State Controller, from 1855 submitted requests.

However, it should be noted that not all exempt workers seek a confirmation letter, and letters can cover more than one individual. For example, a single application may be made on behalf of a group of tradespeople or technicians.

(2) and (3)

This information is not recorded. Applications have been received from workers across many locations in Tasmania and from a broad range of workplaces.

(4) When granting an exemption under these circumstances, Annexure A of the direction provides conditions as determined by the Director of Public Health, which must be followed at all times. It is understood that different workplaces and occupations have also implemented their own risk management/exposure measures, often determined by their state/national industry bodies. All other mandated measures stated in directions issued under the Public Health Act 1997 are also required to be followed.

COVID-19 - Prisons - Tests

Ms WEBB question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With reference to the COVID-19 disease emergency -

(1) (a) How many COVID-19 tests have been carried out in Tasmania's prisons and other detention facilities?

(b) What have been the results for staff and detainees?

(2) What additional measures have been implemented for providing health care in places of detention?

(3) (a) What sanitation and social distancing measures have been implemented in Tasmania's places of detention?

(b) What facilities does this apply to?

(4) What special measures have been implemented in Tasmania's prisons and other detention facilities to protect vulnerable people, such as elderly individuals and those with existing health conditions?

(5) (a) What measures have been taken to minimise the impact of restrictions on prison visits (for example, alternative opportunities to communicate with family online)?

(b) How many video visits have taken place since the Attorney-General announced them on 1 April 2020?

(6) As lockdown measures are lifted in stages, is it anticipated that people in detention facilities will be able to receive visitors, with physical distancing as necessary, in the earlier stages of lifting restrictions or will that be a later stage in lifting restrictions?

(7) (a) How many prisoners and remandees received into custody have been subject to mandatory 14-day mandatory isolation since the Attorney-General's announcement on 29 April 2020?

(b) What measures are in place to minimise the physical and psychological harm of this isolation?

(c) To what extent has this mandatory isolation complied with the Nelson Mandela Rules, the United Nations' Standard Minimum Rules for the Treatment of Prisoners - for example, in terms of access to fresh air exercise and contact with the outside world?

(8) (a) What has been the impact on the official visitors program?

(b) Have any special arrangements been put in place to allow the program to continue to check on the treatment of prisoners and detainees, and to receive complaints from them?

(9) (a) What has been the impact on rehabilitation and education and training programs for prisoners?

(b) What measures have been taken to minimise these impacts?

(10) What additional support has been given to Community Legal Centres, Legal Aid, Aboriginal legal services and other agencies to support prisoners during this time?

(11) What measure have been implemented to reduce the number of people in prisons and other detention facilities - for example, by supporting bail applications and parole applications where possible, especially for elderly and vulnerable prisoners?

(12) Will the Government follow the example of some other states and jurisdictions around the world by introducing legislative measures to reduce the number of people in

prisons and other detention facilities - for example, to require bail and sentencing courts to consider COVID-19 risks in their decisions, to provide for the early release of vulnerable prisoners who present low risk to the community and to facilitate remote supervision of bail and community corrections?

ANSWER

Mrs HISCUTT - Mr President, I have five pages of answers to those 19 questions; I seek leave to table the answers and have them incorporated into *Hansard*.

Ms WEBB - Mr President, my preference would be for some of them to be read out,. I think that is reasonable. Perhaps the Leader could read the first page and table the rest.

Ms FORREST - Mr President, I understand the time imperative. Normally, when we have quite succinct questions they go on the Notice Paper. I understand the desire not to have these on the Notice Paper, so I will support the motion to seek leave to table the answers because of the length. I would do the same for any of my questions. I do not have a problem with that if they are lengthy answers at this time. If it were a different time, it would be a different story.

Mr DEAN - I cannot support the motion, given what happened with the previous motion. The previous answers were much shorter than this. It would be an absurd situation to go down that path.

Leave granted.

The incorporated answer read as follows -

With reference to the COVID-19 disease emergency

(l) (a) Advice received from Correctional Primary Health Services is that 26 tests have been conducted within Tasmanian prison facilities (as at 5 May 2020).This figure does not include individual staff members who may have individually sought to be tested outside of the TPS.

(b) There have been no confirmed cases of COVID-19.

(2) Health care for prisoners is provided by Correctional Primary Health Service, and healthcare services are provided on a case-by-case basis.

The Tasmania Prison Service is working closely with Correctional Primary Health Service to implement a range of measures to ensure the health, safety and wellbeing of both prisoners and staff. Some specific measures implemented already include:

- isolating all new receptions into custody for a 14-day period;
- screening processes by medical personnel;
- thermal imaging testing of all persons accessing prison facilities;

- contingency planning - business continuity plans and pandemic action plans are in place;
- identification and separation of prisoners deemed to be at highest risk;
- clear and regular communication with prisoners and staff;
- temporary cessation of personal visits - introducing virtual visits to maintain contact with family and friends;
- the number of persons entering the prison limited to key personnel;
- the implementation of static team rosters for staff;
- the introduction of social distancing protocols where possible in both staff working areas and in prisoner accommodation;
- PPE equipment and hand sanitising products in place with information sheets on usage;
- additional health and sanitary provisions provided to prisoners, as well as regular advice regarding good hygiene practices, including cleaning communal telephones after each use;
- additional cleaners have been employed and enhanced cleaning schedules are in place, including advice for staff and prisoners;
- prisoner movement is limited;
- ongoing psychological support for prisoners; and
- alternative activities for prisoners.

The decision to temporarily suspend social visits has not been taken lightly and the Government recognises the importance of family and community connections in the rehabilitation and reintegration of inmates.

(3) (a) As mentioned above, additional health and sanitary provisions have been provided and extensive cleaning regimes have been put in place across all areas of the Tasmania Prison Service with additional external cleaners being contracted. Both staff and prisoners continue to receive the most appropriate health care and up-to-date advice about the COVID-19 threat.

Applying social distancing practices within a prison environment has its challenges. However, this has been implemented and continues to be implemented.

Some measures taken include imposing limitations on the number of staff and prisoners congregating in areas (this includes the cessation of social visits, some educational and training courses, closing of shared gyms and the cancellation of other group sporting events), maintaining, where possible, the standard 1.5 metre distance between people, the

implementation of varied work arrangements for staff including where available working from home options, and putting in place temporary restricted walk groups and limited movements of prisoners.

(b) All TPS prison facilities and staff working areas.

(4) The most vulnerable prisoners have been identified through collaboration with Correctional Primary Health Service and the appropriate management of these individuals has been determined based on individual needs. The Tasmania Prison Service has a designated area within the Ron Barwick Prison which is designed to primarily house aged and infirm prisoners. Since the emergence of the COVID-19 threat, this area has been isolated from the general prison population.

(5) (a) The following measures have been taken -

- Extra resources have been put into alternative communication measures, including the introduction of the Email a Prisoner system, which allows families and community members to contact prisoners through email messages, and the introduction of virtual visits across all prison sites (further information below).

- To assist prisoners communicate via phone, greater access has been provided where possible and all prisoners have been provided additional $20 of phone credit (approximately 100 minutes of phone credit), in addition to a further 60 cents per week (about one phone call).

- Mail communication continues to be available.

While personal visits have changed to a video format, these additional measures have resulted in prisoners having access to more avenues to contact their family and friends than before the COVID-19 pandemic. The uptake in this regard has been very successful with positive feedback.

(b) As at 5 May 2020, a total of 253 'personal' virtual visits had occurred. These are visits between prisoners and their registered visitors - i.e. family and friends. Virtual technology is also being used to facilitate other necessary functions, including with the courts and Parole Board hearings.

(6) The appropriate timing and extent of a lift of visit restrictions will continue to be assessed in accordance with health advice. It is noted that prisoners can still communicate and visit with loved ones and professionals in alternative formats that mitigate the risk of transmission of COVID-19 into the prisons.

(7) (a) Mandatory isolation of all new reception prisoners commenced on 27 April 2020. Since that time, 26 new receptions have been placed into mandatory isolation (as at 5 May 2020).

(b) The Tasmania Prison Service has issued an operating manual to ensure the appropriate management of prisoners within isolation areas and which includes the provision of set routines for prisoners. These routines have been developed to address the requirement to isolate prisoners from others,

similar to people isolated within the community. The provision of equal out-of-cell time for each prisoner has been included within the routines, noting that this will often be limited as it has to be distributed fairly and safely for all accommodated in the area.

It is recognised that physical isolation can have a negative impact on a prisoner's health and wellbeing, and that is why Health and TPS staff will regularly check in and monitor them.

Additionally, there is a significant focus on support services available to prisoners who may require assistance with their mental health and are experiencing heightened anxiety regarding COVID-19. Internal services within the Tasmania Prison Service that provide counselling and support to prisoners include the Therapeutic Services Team (seven-day coverage onsite), the Prison Chaplaincy Team, the Indigenous Offender Team, and Planning and Reintegration staff.

Isolated prisoners are able to maintain contact with their families and social supports by mail and telephone, and where possible, by virtual visits. They continue to be offered a range of materials and equipment to keep them engaged and active.

(c) As in 7(b), plus external communication addressed above and below.

(8) (a) The official visitors voluntarily suspended their visits in March 2020. The Tasmania Prison Service is still facilitating professional visits, where requested.

(b) Prisoners may still correspond in writing and by phone with the official visitors and other external bodies, such as the Office of the Ombudsman and Custodial Inspectorate.

(9) (a) The Integrated Offender Management Unit continues to provide rehabilitation and reintegration support to prisoners, including case management, program deliverance and release planning. However, in some instances the way that such services are provided has had to be altered. For example, program delivery is sometimes done on an individualised basis rather than through large group program delivery. IOM staff are also maintaining contact with prisoners through alternative means including via phone, virtual visits or via the prisoner computer system.

On Monday, 30 March 2020 face-to-face TasTAFE delivery of education and training for prisoners was suspended. Prisoners are still able to access individual support and educational resources and materials from prison education and training staff. Tertiary and private study students will continue with their courses through the use of issued laptops.

(b) As above.

(10) The Attorney-General and the Department of Justice continue to actively work with the Commonwealth Government to consider what additional support can be provided by both levels of government to support the legal assistance sector during this time.

Following discussions between the Commonwealth, states and territories, the Commonwealth has committed to providing the sector with an additional $63.3 million to make sure there is access to legal support for those Australians who need it during this difficult time.

Regarding access to prisoners, alternative methods of communication have been provided, including virtual visits, to ensure that legal practitioners continue to have access to their clients.

(11) The Tasmania Prison Service continues to ensure all prisoners can apply for bail and/or parole should they wish to do so. The Tasmania Prison Service facilitates prisoners appearing in person or by video link at court for bail applications (depending on what the court requires) and the Parole Board continues to assess prisoners via increased video link facilities at the prison.

Decisions as to outcomes on bail applications is a matter for the courts and parole applications for the Parole Board, and policies around supporting applications of these kind are also not in the discretion of the Tasmania Prison Service.

(12) This is not currently being considered by the Tasmanian Government. The Tasmanian Government and the TPS have been continually reviewing and implementing comprehensive measures to manage and combat the COVID-19 risk in prison facilities, but will always ensure the safety of our community remains a priority.

COVID-19 - Aurora - Estimated Meter Readings

Ms RATTRAY question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Due to the COVID-19 situation, TasNetworks has advised Aurora customers that estimated meter readings will be conducted until further notice.

(1) Given meter reading is undertaken by individuals without the need to engage with customers - for example, in rural areas a meter reader arrives at a property in a vehicle, accesses the switchboard outside a building, records the reading, likely sees no-one and gets back into the vehicle and leaves the property - can the Government please explain how this is considered high risk and why is the measure considered necessary?

(2) The Aurora estimates are based only on power consumed and on last year's consumption but are not estimating the power and credit solar panel owners have as they return their power to the grid. Why has this one-sided estimate process been undertaken at a time when any savings are important to a household?

ANSWER

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

I hope honourable members understand what I am trying to do. I am trying to put as many answers as possible into *Hansard*, so we can get this bill done and not be here all night. It is not that I am trying not to read answers to questions - I am trying to work through as much business as possible.

This answer is considerably shorter, so I will go through that one.

(1) and (2)

In the unprecedented circumstances presented by COVID-19, TasNetworks suspended all meter reading in order to minimise the exposure of the meter readers and the public.

The measure is temporary and the quarterly meter reading program will be reintroduced in a timely and safe manner. TasNetworks will act on the advice of the Government in conjunction with the health authorities to reintroduce meter reading at an appropriate time.

TasNetworks follows a distinct set of national rules and metrology procedures for reading meters. These are prepared by the Australian Energy Market Operator and guide how to estimate the customer's consumption when an actual read cannot be taken. Whilst there is a set of rules for how to estimate consumption, there are no rules for export or generation by small distributor systems.

When meter reading is reinstated, the full credit occurred by the customer from exporting energy will be applied to their bill, following the actual read of a meter.

For any circumstances and experienced affordability issues, Aurora offers payment options including the option for a payment plan, or payment extension. Aurora has also committed not to disconnect any customers during the COVID-19 pandemic, and has established a $5 million fund to assist customers.

This support includes the waiving of fees and charges, freezing debt and helping customers manage their ongoing consumption through subsidised payment plans.

COVID-19 - Land Tax Waiver - Commercial Property

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Regarding the land tax waiver for commercial property for the 2020-21 financial year, where the business owner is liable for the land tax, and can demonstrate their business operation has been affected by COVID-19, where commercial property refers to property classified as such, for government evaluation purposes -

(1) Has the State Revenue Office released any further details regarding future administrative details to its application?

(2) Will those provisions apply like those announced for the payroll tax waiver?

ANSWER

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

(1) The Government is currently finalising the details of the land tax waiver. The State Revenue Office will publish details for taxpayers on its website outlining the process for the land tax waiver once they are available.

The provision of the Land Tax Act 2000 will continue to apply to the assessment of land tax for 2020-21 financial year. These include the provisions that aggregate the value of land tax where multiple properties in the same class are owned by a taxpayer, and the provisions dealing with related companies.

However, owners of commercial land under the Government's land tax waiver for commercial property, will not be required to pay the land tax for those eligible properties in the 2020-21 financial year.

COVID-19 - Identification of Accommodation Facilities

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to hotels and other accommodation properties that have been, or are being used for government-controlled or mandated quarantine of non-essential travellers into Tasmania, how have these hotels or accommodation facilities been identified as suitable for this purpose?

ANSWER

Mr President, I thank the member for Murchison for her question. I seek leave to table the answer and have it incorporated into *Hansard*.

Leave granted.

The incorporated answer read as follows -

On 29 March 2020, the State Controller, in exercise of his powers conferred under the *Emergency Management Act 2006,* made a direction relating to the arrival of persons into Tasmania from departure points outside of the State.

The direction requires all of those persons to enter in to quarantine at an accommodation facility specified by an authorised officer.

To date 18 government-funded accommodation facilities have been used for this purpose. Of these, five are currently in use, two in the south, two in the north and one in the northwest.

The requirement to source and establish government accommodation for quarantine purposes was implemented at short notice by Communities Tasmania, on behalf of the State Control Centre. The process and accommodation options have evolved over time and refined to minimise the number of sites used, ensure they meet a number of minimum criteria and reflect more efficient management processes.

In March 2020, a number of hotel providers offered their services to the Tasmanian Government. Other hotels, such as the Gateway Hotel in Devonport, were approached directly by Communities Tasmania, as a result of specific requirements such as capacity, onsite facilities and proximity to key arrivals points into Tasmania.

Identified accommodation sites were assessed for viability against a number of minimum criteria. They were required to meet a reasonable standard, have onsite meal or catering facilities, the capacity to accommodate the required government liaison officers and security personnel, and consideration of any security concerns around the venue. The accommodation facilities also needed to be located in an area that would facilitate appropriate rostering of police, compliance staff and other workers necessary to ensure the safety and wellbeing of people subject to controlled and mandated quarantine.

COVID-19 - Tasracing - Resumption

Ms RATTRAY question to MINISTER for RACING, Ms HOWLETT

It is a week since I asked this question -

How are the negotiations with Tasracing progressing in regard to opening up the racing industry again?

An update on that; it can be as brief as possible, or I am happy to have it in writing.

ANSWER

Mr President, I thank the member for McIntyre for her question, and for her interest in the industry.

I am pleased to be able to say, that after National Cabinet tomorrow, the Premier will be making an announcement later in the afternoon about the resumption date for the industry.

COVID-19 - PPE - Government-Controlled Accommodation

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to non-essential travellers arriving in Tasmania, who are being quarantined in government-controlled accommodation -

(1) Why are passengers not issued with basic personal protective equipment - PPE - prior to travelling on a bus where social distancing is not possible?

(2) Will basic PPE, including face masks, be provided to passengers, especially off the *Spirit of Tasmania*, who have practised social distancing on board, for use during transit to the accommodation?

ANSWER

Mr President, I thank the member for Murchison for her question. This is a bit lengthier than the last one, therefore I seek permission to have it tabled and incorporated into *Hansard*.

Leave granted.

The incorporated answer read as follows -

Buses used to transport passengers from their point of arrival in Tasmania to government quarantine hotels or accommodation facilities are provided by Redline Charters. The operational arrangements are managed and reviewed by Communities Tasmania, in cooperation with Redline Charters, on behalf of the State Control Centre.

Due to the increased risk of exposure to COVID-19 from working with different groups of arrivals and the potential of being unable to continually maintain good social distances, government staff onsite at arrival locations have been issued with PPE. Redline has also provided PPE gear for its staff.

As outlined above, in accordance with current national guidelines, passengers are not required to have PPE gear if they are not symptomatic. In addition, a number of measures have been put in place to reduce the risk to passengers and enable social distancing practices on the buses.

When loading the buses used to transport passengers the maximum allowable passenger total is not more than 50 per cent of the normal vehicle seating capacity.

There must be social distancing between all passengers, including the driver, on a bus unless they are traveling as a family/group.

Passengers seated on the buses are to have one row of two seats empty between them and another passenger not part of their family/group.

Effectively the row in front and behind of each passenger will be empty. This practice should alternate on both sides of the bus so as to create a zigzag effect on the bus. Redline is also required to clean each bus after each transfer to maintain a clean and hygienic environment for passengers.

Drivers of the buses are required to ensure the above standards are maintained and will work with members of Tasmania Police, present at each collection point, if they experience any issues. Prior to proceeding with a passenger transfer, Redline is required to contact the Communities Tasmania at any stage if the above measures cannot be achieved.

Legislative Council Elections - Postal Vote

[2.55 p.m.]

Mr DEAN question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

In relation to the position of a full postal vote in the upcoming Legislative Council elections, in an answer to a question from me, the Government indicated it was not considering a full postal vote for the elections in Rosevears and Huon this year. It was further suggested that the reasons set out by the Electoral Commissioner as to why a postal vote could not be held were compelling.

Will the Leader please advise -

(1) Is it not a fact that the reasons advanced by the Electoral Commissioner for not proceeding with the universal postal vote for the 2020 elections are narrow in the extreme, and fail to acknowledge that if by suitable amendment, the requirements of conducting an attendance poll were set aside, that most, if not all, of the commissioner's objections would vaporise, and a postal vote could hardly be contestable as suggested?

(2) Is it not a fact that postal voting will best address the Government's stated position that the elections are an important part of our state's democratic process, and that the strongest measures must be in place to minimise any risk of COVID-19 infection?

(3) What account has the Government taken of the fact that, for two decades, local government elections have been conducted in this state accounting for around 500 candidates each time, and in a non-compulsory environment that had high participation, and further, that the Queensland government is considering a postal vote in October for over 3 million electors? In addition to that, you will find that Eden-Monaro in the federal arena is also considering a postal vote in the election that is coming up.

ANSWER

Mr President, I thank the member for Windermere for his question. I did not see Eden-Monaro in your question.

Mr Dean - No, you did not, I just added it.

Mrs HISCUTT - In answer to question (1) -

The Tasmanian Electoral Commissioner is an independent statutory officer, and the Government does not intend to reflect on his reasoning. In any event, this is not simply a question of amending the Electoral Act 2004 to address very real concerns regarding the contestability of an election. It is about altering the core elements of the Tasmanian system of democracy.

(2) The Government has given careful consideration to this matter and is of the view that the approach that has been adopted is the most suitable way in which to deal with the upcoming Legislative Council elections. Tasmania's Electoral Act 2004 is founded on the expectation that an election is to be conducted by ballots at a polling place. This is not simply a matter of procedure. To conduct an election for the state parliament by postal vote alone would be to wholly disregard the ballot provisions which underpin the very notion of how elections are intended to operate under the act.

Further, even if the amendments that the member is asking about were made, the current restrictions on movement and campaigning by candidates would affect the ability to conduct an election.

In addition, the dominance of COVID-19 across Tasmania in all forms of communications has meant that there has been very little opportunity to date for any candidate to properly engage in community conversation and debate regarding the 2020 Legislative Council elections.

These are factors that cannot be overcome through amendments to the Electoral Act 2004.

(3) In terms of comparison with local government elections, as has been noted in previous answers, the question of whether a vote can be conducted by postal vote alone is not simply a matter of process, but goes to the fundamentals of how elections are conducted in Tasmania. There are also variable participation rates across municipalities.

How Queensland chooses to ultimately conduct its election is a matter for that jurisdiction.

As stated in answer to question (2), the Government has given careful consideration to the possible options available to it, and is confident that the approach that has been taken is in the best interests of Tasmania and the integrity of the elections.

COVID-19 - Residential Tenancies

Mr VALENTINE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Mr President, there has been quite a bit of movement since I put this question in, and it will probably give the Leader an opportunity to put the Government's position.

With respect to the COVID-19 pandemic, as there is no binding mediation on residential landlords in relation to rent setting -

(1) What plans does the Government have to implement mediation measures to support residential tenants who are experiencing significant income reduction as a result of COVID-19?

(2) Does the Government plan to extend the proposed mandatory code of conduct to residential tenancies for a specified period of time to protect a household's risk from eviction when the COVID-19 emergency ceases and the government lockdown is lifted?

ANSWER

Mr President, I thank the member for Hobart for his question. I would have liked to table the answer, but I will read it now.

(1) The Tasmanian Government was the first government in Australia to legislate protections for residential tenants to address the economic and health impacts of the COVID-19 pandemic. The emergency protections do not include mediation. However, there are some provisions for residential tenancy agreements to be varied by mutual agreement to allow for the reduction in rent.

Where a landlord and tenant reduce rent by mutual agreement, it should be in writing and signed by both parties. It is taken to form part of the residential tenancy agreement. Further emergency protections introduced through the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 include a halt to termination by notice to vacate, the ability to apply to break a lease if its continuation would result in severe hardship, and restrictions on inspections to support social distancing. The legislation was strengthened by a supplementary notice under the act, which further restricts evictions and prevents rent increases until 30 June 2020.

While the expiry date for the notices preventing evictions and rental increases is 30 June 2020, the Government has been open and clear that we would review this end date as we moved closer to it and, if the challenging circumstances due to COVID-19 continue to exist for tenants, that we would issue a new notice to extend the date.

While there have only been a small number of hardship issues raised by the Residential Tenancy Commissioner to date, the RTC is providing assistance to renters facing difficulties. In cases of extreme hardship, the Government will look to establish a small fund that can provide financial help with rent payments. The fund would only be available in cases of extreme hardship, when other forms of assistance such as the Commonwealth JobKeeper and JobSeeker programs are not providing the assistance required.

The Government will seek further information from Ben Bartl from the Tenants' Union and the RTC to achieve an outcome that is reasonable and fair for all parties. Through these actions, the Tasmanian Government has demonstrated its willingness to provide additional protections for tenants in need for the period they require it.

(2) The Government does not consider it necessary to extend the proposed mandatory code of conduct to residential tenancies. Financial support exists for eligible individuals who have been affected by loss of work or reduced hours due to the COVID-19 pandemic through the introduction of state and Commonwealth packages. However, the Government has undertaken to further discuss these matters with the Tenants' Union and the RTC regarding other measures for residential tenants who might suffer serious hardship as a result of the COVID-19.

For individuals who do not qualify for government financial support, such as migrants and temporary visa holders, the Tasmanian Government has made $3 million available. The financial support packages are intended to ensure individuals are able to continue to meet their household expenses, including rental obligations during the emergency period.

The Government will continue to monitor the rental sector and may make further legislative amendments providing additional protections for tenants during the emergency period if necessary. However, the Government is confident the existing measures are appropriate.

Ms FORREST - Mr President, I note the time.

Mr PRESIDENT - It is now 3.04 p.m. We started at 2.34 p.m.

Ms FORREST - In light of that; I have a number of questions which I would be happy to read in and have their answers.

Mr PRESIDENT - Certainly.

Ms FORREST - I believe there are some questions that do not have answers, including one I sent through last week. I will read those.

Mrs HISCUTT - Can you read them one at a time? I will make sure I have the answers.

COVID-19 - Testing before Release from Quarantine

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

(1) Regarding the release of those complying with government-mandated quarantine, are all individuals tested for COVID-19 prior to release? If not, why not?

(2) Are all those in quarantine who tested positive on entry to quarantine or subsequent to being placed in quarantine tested prior their release from quarantine? If not, why not?

(3) Have there been any cases of people being released from quarantine without being tested and subsequently tested positive?

(4) In any cases referred to in question (3), were these people returned to quarantine? If so, how many were quarantined at home and how many were transferred or returned to quarantine in government-provided hotel accommodation?

ANSWER

Mr President, I thank the member for Murchison for her questions, and seek leave to table the answers and have them incorporated in *Hansard*.

Leave granted.

The incorporated answer read as follows -

(1) No. The current National Guidelines around the conducting of tests for COVID-19 recommend testing only those who are symptomatic.

If a person undertaking mandatory quarantine in a Government provided hotel or accommodation facility develops symptoms whilst in quarantine, they are referred to the public health hotline and testing will be organised for them.

(2) Should a person in a Government quarantine hotel or accommodation facility return a positive test for COVID-19, they will be relocated to an alternate site for isolation wherever possible. All individuals who test positive for COVID-19 have a thorough case interview to detect close contacts. A person's length of time in quarantine will be determined by their arrival into Tasmania, or by their last contact with a confirmed case.

Release from isolation of a confirmed case will depend on their clinical symptoms and is based on National Guidelines.

(3) There is no current evidence in Tasmania of someone being released from Government mandatory quarantine and subsequently testing positive for COVID-19.

(4) As per the above, there is no current evidence in Tasmania of someone being released from Government mandatory quarantine and subsequently testing positive for COVID-19.

COVID-19 - Quarantine Breaches

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Regarding the government-mandated quarantine requirements for non-essential or exempted travellers -

(1) Were there any known or reported breaches of our border quarantine processes?

(2) If so, how many breaches occurred and at what ports of entry to the state did these occur?

ANSWER

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

(1) and (2)

The State Control Centre has advised there have been no breaches of our border processes. A couple of alleged breaches have been investigated and subsequently discounted due to no evidence to substantiate the claims.

MOTION

Suspension of Standing Orders - Extension of Question Time

[3.07 p.m.]

Motion by **Mrs Hiscutt** agreed to -

That so much of standing order 49 be suspended for this day's sitting to allow for a further period of 10 minutes for questions without notice.

COVID-19 - HACC - Service Provision

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to people who receive Home and Community Care - HACC - services -

(1) How many of these people will have self-isolated and not be receiving services at the moment?

(2) How many of these people have had their service providers cease funded services?

(3) How many HACC service providers have ceased funded services normally received by HACC clients?

With regard to people who receive services under National Disability Insurance Scheme - NDIS -

(1) How many of these people have self-isolated and are not receiving services at the moment?

(2) How many of these people have had their service providers cease funded services?

(3) How many NDIS service providers have ceased funded services normally received by NDIS clients?

ANSWER

Mr President, I thank the member for Murchison for her questions. I have answers to the three HACC questions, which I seek leave to table and have incorporated in *Hansard*.

Leave granted.

The incorporated answers read as follows -

(1) I am advised that up-to-date and verified data on the number of people who have self-isolated and are not receiving services is not currently available. Anecdotally, some service providers have reported that initially there was a proportion of clients who elected to suspend their services; however, recently there have been increasing requests for services and support.

In addition, where clients have elected to cease services due to concerns regarding coronavirus, service providers have put in place mechanisms to remain in regular contact with those clients to support their wellbeing and need for social engagement. For example, this includes regular phone contact and working with clients and their support networks to provide supportive actions and services to meet their needs while in self-isolation.

(2) Data on the number of HACC clients who have had their service provider cease funded services is not currently available. Service providers have reported that where services have ceased due to guidance and requirements on social distancing and other coronavirus prevention measures as directed by Public Health Services, a system of welfare checks and monitoring have been put in place to monitor client health and wellbeing. The services most affected involve day centre, group and social activities.

(3) There are 14 organisations funded to provide day centre services affected by the coronavirus measures. These are using other media and processes to engage with their clients. One smaller transport provider has notified the program that it is temporarily ceasing service, and will resume as soon as it is able to do so.

COVID-19 - AFL - Money

Mr DEAN question to MINISTER for SPORT AND RECREATION AND RACING, Ms HOWLETT

During the period we are confronting now -

(1) What is the position regarding money the state Government is making available to AFL Tasmania in relation to supporting football in this state?

(2) Will the $500 000 be on hold? Has it changed? What is the current position in relation to this?

ANSWER

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

I thank the member for his question and also for his ongoing interest in football; I look forward to reading his report that will be tabled today.

I am advised the full $500 000 for 2019-20 has been paid to AFL Tasmania. The first instalment of $350 000 was paid in September 2019 and the second instalment totalling $150 000 was paid in April 2020. Both payments were made upon satisfactory reporting against approved purpose, that is, to support grassroots football in Tasmania. The KPIs for these grants are set by the Government and agreed to by the AFL and cover a broad range of activities, including activities in the following categories: sport, advocacy, club development, participation - including Auskick and school programs, womens' and girls' participation - and communications.

I know the member has previously requested a copy of the KPIs currently in place, and I am aware that AFL Tasmania has provided you with a copy of these KPIs.

COVID-19 - North-West Coast

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Mr President, I am happy to have my answers tabled. With regard to cases of COVID-19 on the north-west coast - listed separately by municipal areas for the west coast, Circular Head, Waratah-Wynyard, Burnie, Central Coast, Devonport, Latrobe, Kentish and King Island -

(1) How many positive cases have been detected in people who normally reside in each of the above municipal areas?

(2) How many of these cases are currently active?

(3) How many have been or are currently hospitalised with COVID-19?

(4) How many required ICU care? How many have recovered? How many have died?

ANSWER

Mr President, I thank the member for Murchison for her question and seek leave to table the answers and have them incorporated into *Hansard.*

Leave granted.

The incorporated answer read as follows -

Public Health Services has publicly released local government area - LGA - data relating to Tasmania's coronavirus cases.

LGA of a confirmed case is determined by their residential address.

The data does not include three cases of people from interstate who were managed in Tasmania after testing positive.

This data will be updated and released on a weekly basis. At all times, Public Health Services takes the confidentiality of patients extremely seriously, and therefore some locality data may be withheld by Public Health Services if in their view it may unnecessarily compromise a patient's privacy.

There are eight local government areas that have not had a confirmed case in a resident.

The Government publicly releases active and recovered case numbers by region, as well as deaths.

As at 7 May, statewide there are 8 COVID-19 hospital inpatients and zero COVID-19 ICU patients.

There have been 13 deaths statewide from COVID-19 (12 in the north-west and 1 in the south), and in the north-west there are 35 active cases and 102 recovered cases.

Region	Local government area	Number of cases
South	Brighton	2
South	Clarence	5
South	Derwent Valley	4
South	Glenorchy	3
South	Hobart	11
South	Huon Valley	6
South	Kingborough	12
South	Sorell	1
North	George Town	1
North	Launceston	20
North	Meander Valley	2
North	Northern Midlands	3
North	West Tamar	2
North-West	Burnie	63
North-West	Central Coast	35
North-West	Circular Head	7
North-West	Devonport	12
North-West	Kentish	2

Region	Local government area	Number of cases
North-West	Latrobe	4
North-West	Waratah-Wynyard	23
North-West	West Coast	2

COVID-19 - North-West - Support for Healthcare Workers

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

Mr President, with regard to questions I asked last week regarding contact with and support for healthcare workers in north-west Tasmania whilst in quarantine, the Leader responded that the quarantining process includes daily contact from Public Health Services, which are able to arrange any support or assistance required. Is the Government confident all healthcare workers in quarantine were contacted daily, and if not, how were these people supported?

I also asked how the mental health and welfare and personal safety of these workers was assessed and supported during this period. This question was not answered. Those questions I put again -

(1) How was the mental health and welfare of these workers assessed?

(2) How was the personal safety of these workers assessed and supported?

ANSWER

Mr President, I thank the member for Murchison for her question and seek leave to have the answer tabled and incorporated into *Hansard*.

Leave granted.

The incorporated answer read as follows -

Up to 1000 calls daily were undertaken during the quarantine of the NW staff. When a call was not answered, a text message was sent and a return call attempted.

Some staff indicated that they did not want to be contacted daily or that they were being supported through other means including their GP, their manager, or the Employee Assistance Program.

A small number of staff were unable to be contacted by Public Health Services during this period as they had not provided current contact details to the Department.

Assessment of individual concerns occurred via the daily call and the appropriate referrals were undertaken when required.

The daily call included questions about financial, social and personal welfare.

Ms FORREST - Mr President, I seek some indication from the Leader if she has any other answers for me?

Mrs Hiscutt - No.

Ms FORREST - I am going to read them all, Mr President. This is one that was put through last week. I would appreciate these answers being provided at the earliest opportunity, certainly less than three weeks.

COVID-19 - Remedial Deep Tissue Massage

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to the provision of remedial deep tissue massage - RDTM - therapy in Tasmania -

(1) (a) Can RDMT therapists provide RDMT in Tasmania, if the service is provided under referral from a registered health practitioner, within the meaning of the Health Practitioner Regulation National Law (Tasmania), or a person who holds accreditation as an accredited exercise physiologist with Exercise and Sports Science Australia Limited?

(b) If not, when is the provision for RDTM expected to be able to resume in Tasmania?

(2) Can the disparity in the ruling between myotherapists to operate in Tasmania but not RDTM therapists be explained, given that these two allied health professions are so similar?

(3) Is Tasmania the only jurisdiction in Australia in which RDTM therapists are unable to practise due to COVID-19 restrictions and, if so, why?

I appreciate the Health department has been very busy in public health, so I am asking that she might respond to when she could get these answers.

(4) With regard to PPE use for allied health and other patient-facing health professionals, what is the advice for workers regarding the use of PPE in both public and private sector facilities, in areas including pathology, phlebotomy and other collection of samples, radiology, nuclear medicine and pharmacy?

(5) (a) Are both public and private sector providers required to adopt the advice of the Director of Public Health?

(b) Is this advice consistent across all sites and sectors; if not, why not?

(6) (a) How many COVID-19 positive cases have been reported since 19 April 2020 to date?

(b) How many of these cases were self-isolating or in quarantine prior to being tested?

(c) How many were picked up through contact tracing?

(d) How many north-west cases were unaware of the link to the North West Regional Hospital when contacted for testing?

(e) How many, if any, remained unexplained as to the source of the infection?

(7) (a) With regard to the independent investigation inquiry into the North West Regional Hospital COVID-19 outbreak, how will the terms of reference for the inquiry be determined and set?

(b) When will the terms of reference for the inquiry be determined and set?

(c) Will State Service employees be empowered to provide evidence to the inquiry without fear of retribution or sanction under the State Service Act 2000 or any other mechanism?

(d) When does the Premier intend to actively progress this inquiry? I am disappointed that question was not answered.

A further question; regarding the reopening of the North West Regional Hospital and the North West Private Hospital in Burnie-

(8) (a) What requirements and/or protocols regarding the movement of inpatients within and between the two hospitals are in place? I am disappointed this cannot be answered because we talked about this in the briefing yesterday.

(b) What protocols and processes are in place relating to restriction of movement of staff to the area they are rostered to work within at the North West Regional Hospital?

(9) How are staffing levels in the North West Regional Hospital managed to ensure adequate nursing and other health staff are available?

There are two subsequent parts to that question -

(a) How many overtime hours have been worked by nurses at the North West Regional Hospital since reopening?

(b) How many double shifts have been worked by nurses at the North West Regional Hospital in the same period?

(10) (a) Have all staff completed the PPE update training prior to recommencement of duties?

(b) How are infection control measures being implemented, including movement of staff and patients overseen at the North West Private Hospital, since effective control has been handed back to the North West Private Hospital management?

According to our briefing yesterday it has not been handed back, so the answer will be that it has not been handed back as yet.

ANSWER

Mr President, I thank the member for Murchison for her questions.

It is very difficult for the Health department, as the member is very well aware. I have asked my adviser to pursue as many questions as possible before the end of the day. I will seek leave to table and incorporate any answers I receive in the afternoon into *Hansard*, maybe on the adjournment or at an appropriate time.

COVID-19 DISEASE EMERGENCY (COMMERCIAL LEASES) BILL 2020 (No. 19)

First Reading

Bill received from the House of Assembly and read the first time.

MOTION

Suspension of Standing Orders - Bill to Pass all Stages

[3.18 p.m.]

Motion by **Mrs Hiscutt** agreed to -

That so much of Standing Orders be suspended as to allow the bill to pass through its remaining stages at such time as the Council may appoint.

COVID-19 DISEASE EMERGENCY (COMMERCIAL LEASES) BILL 2020 (No. 19)

Second Reading

[3.19 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read a second time.

Today, I am pleased to introduce the COVID-19 Disease Emergency (Commercial Leases) Bill 2020. This bill is another step in delivering the Government's commitment to respond to the COVID-19 disease emergency and to manage the significant impact the pandemic has and is having on our businesses, our community and our economy.

As we continue with our plan to stop the spread of coronavirus and begin to turn our attention to rebuilding a stronger Tasmania, the best course of action remains to stay home and save lives. The Government's first priority is to keep Tasmanians safe and secure. That is why we made the tough decisions regarding temporary business closures, reduced trade, cancelled events and significant changes to how we work. There is no doubt that this has been challenging and has had significant impact on everybody.

To support business during this period, the Tasmanian and Australian governments have put in place a range of measures, including relief from taxes and charges, and loans and grants for businesses affected by the COVID-19 pandemic. The purpose of this support is to ensure that businesses are able to hibernate and survive, to be able to recover and drive growth and prosperity when the current restrictions are progressively lifted.

To further support these efforts, the National Cabinet committed to the implementation of the Mandatory Code of Conduct for commercial tenancies (the code). The purpose of the code is to govern the conduct of tenants and landlords and provide additional protections and rent reductions for tenants experiencing financial hardship. By working together, many tenants and landlords have already negotiated changes to their leasing arrangements including rent reductions and deferrals. These efforts are to be applauded.

The code complements these efforts and provides an avenue for tenants who require additional protection or have not been able to come to an agreement with their landlord. The code is being implemented by states and territories through legislation or other means, where available. To be nationally consistent as much as possible, this is being done in two stages in Tasmania, namely: the first stage being on 9 April 2020, when the Premier introduced a notice under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 to prevent termination or rent increases (except rent based on turnover) to commercial leases for certain commercial tenants; and the second stage is today, through the introduction of the COVID-19 Disease Emergency (Commercial Leases) Bill 2020. When passed, this legislation will give full effect to the Code in Tasmania.

The COVID-19 Disease Emergency (Commercial Leases) Bill 2020 provides the legal framework for implementation of the code in Tasmania. In particular, the bill outlines eligibility for the code, requires relevant parties to act in good faith, prevents landlords from taking certain actions, and allows for rent reductions through waivers and deferrals. The code is also supported by mediation arrangements.

I will now turn to the bill in more detail. The bill provides for a financial hardship period and cessation day. The purpose of the financial hardship period is to outline the period during which the provisions of the act apply. The financial hardship period is 1 April 2020 until the financial hardship cessation day. The financial hardship cessation day is 12 months after commencement of the act or sooner, if determined by the Treasurer that the code no longer needs to be in effect. This approach is similar to the approach taken for the purposes of other COVID-19 legislation.

A protected lease is a lease to which the provisions of the bill, such as additional protections, apply. The bill does this by modifying, to the extent necessary, the terms and conditions of a lease to give effect to its provisions. To be a protected lease, a lease must be a commercial lease and the lessee must be an eligible person.

A person in this context is a legal person, which includes companies and other entities. An eligible person is a lessee that is eligible for the Commonwealth Government's JobKeeper program and is a small to medium enterprise, an SME entity for the purposes of Commonwealth Government financial support. In practice, in the case of a business, the lessee has experienced at least a 30 per cent reduction in turnover when compared to the same period last year and has a turnover of up to $50 million. In the case of a charity, a reduction in turnover of only 15 per cent is required. A lease is a protected lease from the time the lessee becomes an eligible person until the end of the financial hardship period.

I will now turn to the operation of the bill as it applies to a protected lease. We will touch on provision of information to support negotiations. I will outline the obligations of the parties to a protected lease during the financial hardship period. On commencement of the act, both parties to a protected lease have an obligation to enter into negotiations as soon as possible with regard to the rent payable under the lease.

This includes providing the other party information that is both accurate and sufficient to enable negotiations to occur. Examples of this would include financial and business information regarding the reduction of turnover of the lessee or the level of relief being provided by government or banks to either party. Each party must also provide information to the other party that would assist them in applying for such relief. In the context of the provision of this information, each party has a further obligation not to engage in misleading and deceptive conduct. To enforce this provision, penalties of up to 50 penalty units for an individual and up to 300 penalty units for a body corporate apply.

The bill includes provisions that govern the use of any information provided by the other party. This information can only be used for the purposes it is provided, such as the negotiation of a rent reduction or to apply for financial support. To enforce this requirement, the bill includes penalties for the disclosure of any confidential information provided in the context of this bill except with consent from the party to which the information relates, for the purposes of seeking professional advice, for the purposes of mediation, dispute resolution or legal proceedings, or as required by law. The penalty for disclosure of this information is also up to 50 penalty units for an individual and up to 300 penalty units for a body corporate.

I will now turn to prohibited lessor actions for certain breaches during the financial hardship period. During the financial hardship period, additional protections apply to the lessee of a protected lease. These protections prevent the lessor from taking actions under the lease relating to certain breaches. These actions are known as prohibited lessor actions.

The prohibited lessor actions are: evicting the lessee from the premises to which a protected lease relates; exercising a right of re-entry to the premises to which a protected lease relates; recovering land; distraining goods; seeking forfeiture; seeking or recovering damages; requiring a payment of interest, or any other fee or charge, on unpaid rent otherwise payable by the lessee; recovering the whole or part of a security bond or bank guarantee under, or in relation to, the lease; requiring the performance of obligations by the lessee or any other person, pursuant to a guarantee or indemnity relating to the lessee's obligations under the lease; taking

possession; terminating the lease; or seeking or applying any other remedy otherwise available to a lessor against a lessee under an act or the law of this state.

A lessor is unable to take these actions during the financial hardship period for breaches that relate to unpaid rent or other moneys, a failure to meet sales or performance criteria, or a failure of the business to be open during the business hours or days specified by the lease. The prohibited lessor actions only apply to these specified breaches. A lessor is able to exercise their rights, as per the lease agreement, for any other breaches during the financial hardship period. This could include for damage or nuisance, if provided for by the lease agreement.

This is an important part of the code, as it requires tenants to comply with the terms and conditions of their lease agreements, except where provided by the code. It is important to note that these protections only apply for the financial hardship period. For example, at the end of the financial hardship period, a lessor will be able to take a prohibited lessor action for unpaid rent, including to recover any unpaid rent.

The bill provides for no increases in rent under a protected lease during the financial hardship period. This prevents an increase in rent, which would have occurred by virtue of the terms and the conditions of the lease agreement, from taking place. The one exception to this in the code is rent that is based on turnover. The bill provides for this exception to be included by regulations, following consultation on the definition.

The code provides for a reduction of rent payable under a protected lease during the financial hardship period. The rent is to be reduced in proportion to reduction of turnover of the lessee. For example, if a lessee has had a 30 per cent reduction in turnover, its rent is to be reduced by 30 per cent. The code further provides that at least 50 per cent of this reduction is to be in the form of a waiver, with the remainder able to be deferred. For the previous example, this would mean that at least 15 per cent of the rent is waived, with 15 per cent deferred.

I would like to make a comment with regard to how the rent reductions have been included in the bill. The bill requires the parties to renegotiate the rent payable, having regard to the leasing principles as set out in the code, the financial situation of the lessee and the lessor, and any prescribed matters. In particular, I would like to point out that the bill references the leasing principles in the code instead of legislating them directly. This is to avoid significant additional complexity and technical detail in the bill. To the extent necessary, regulations will be made to ensure that these provisions work effectively.

I would also note that by ensuring that any rent reductions are negotiated having regard to the financial situation of both the lessee and the lessor, outcomes which meet the needs of both parties are more likely to be achieved. This, while not included as a leasing principle in the code, is consistent with its general aims to support case-by-case outcomes based on the situation of the parties. This is consistent with the approach of other states.

Consistent with the requirements of the code, the bill provides for mediation arrangements. Unlike other jurisdictions, Tasmania does not have a small business commission providing a standing mediation service for small business. As such, the bill establishes the role of mediation provider. The mediation provider is able to mediate disputes and appoint others to do so. The role of mediation provider will be performed by the Director of Consumer Affairs and Fair Trading. The director plays a similar role for the retail leases code and is the most appropriate person for this role. It is expected the mediation provider will appoint a panel of

experienced professionals who have experience in commercial leasing matters to undertake these mediation services.

Parties to a protected lease are required to attempt to resolve a dispute by direct negotiation in the first instance. Following this, either party is able to apply to the mediation provider for mediation of the dispute. The mediation provider is able to mediate the dispute. This can include requiring the parties to provide information to support mediation of the dispute. Notwithstanding these provisions, a party to a protected lease is able to seek to have a dispute arbitrated under the Commercial Arbitration Act 2011. As advised during the briefings, the Government is intending to support the implementation of the code through a contribution to the costs of mediation services. Further details will be determined through consultation with stakeholders.

The bill provides for the establishment of the Code Administration Committee required under the code. The Code Administration Committee will monitor the implementation of the code and provide advice on its operation. The committee will be chaired by the Director of Consumer Affairs and Fair Trading and include members representing the interests of lessors, lessees and small business.

The bill provides regulation-making powers to support the administration and implementation of the act. This includes regulations to modify certain definitions and support the rent-related provisions. The purpose of the regulation-making powers in the bill is in recognition of the complexity of the subject matter and the need to adapt where needed for the efficient operation of the code. Any regulation made under the act will be subject to the existing scrutiny processes that exist for regulations, including review by the Subordinate Legislation Committee.

I would now like to turn to consultation on the bill. On 24 April 2020, a working consultation draft of the bill was provided to property and small business stakeholders. The purpose of this draft was to ensure that the code, as legislated, would work effectively.

The feedback provided on the working draft was useful and has led to a number of changes to the bill, including: ensuring parity between landlords and tenants with regard to the negotiating provisions; expanding to landlords' protections for breach of lease from complying with COVID-19 laws; simplifying the interpretation provisions regarding protected leases and protected lessees; allowing certain prohibited lessor actions taken prior to commencement to continue if they can be taken during the financial hardship period; and removing certain technical aspects from the bill, to be included in regulations to be nationally consistent where possible and appropriate.

Since the time in which the working draft was finalised, New South Wales has made regulations and Victoria has passed legislation to implement the code. To ensure jurisdictional consistency, noting that some landlords and commercial tenants operate across state borders, the bill has been adapted to include common approaches are taken where this is appropriate.

I commend the Bill to the House.

Mr PRESIDENT - Before I call members for their second reading contributions, a reminder to members to speak from your seated positions and maintain good social distancing. If you forget and go to get up, I am sure I will be able to remind you to go back to your place

to speak. The members for Hobart and Nelson will speak from the lecterns and they should be the only two who do so.

[3.37 p.m.]

Mr WILLIE (Elwick) - Mr President, whilst this bill has been done in a fairly short amount of time it is quite a clever bill that holds eligible businesses in place for the financial hardship period. As we heard in the briefing, many other states have some form of commercial leasing legislation but we do not; that is why we need a standalone bill. Other states have been able to amend existing acts and rely more heavily on regulations.

As we know the National Cabinet committed to the implementation of the code of conduct for commercial tenancies and this gives effect to that. The purpose of the code is to govern the conduct of tenants and landlords, and provide additional protections and rent reductions for tenants experiencing financial hardship. As was announced previously by the Prime Minister, many tenants and landlords have already worked through their issues in good faith and are already reaching agreements. As we heard from Mark Devine in the briefing, some of those agreements will take effect when royal assent occurs and some parties will be credited.

The code and this bill work in concert with Australian and foreign banks, along with other financial institutions operating in Australia that are expected to support property owners and tenants with appropriate flexibility as they work to implement the mandatory code.

We also know the federal government is waiving rents for all its small and medium enterprises and not-for-profit tenants within its own and leased properties across Australia.

The state Government extended the same generosity to Tasmanian Government-owned leased properties for six months. We heard yesterday this equates to $4.8 million and there are around 100 properties involved. I am not sure if that is the exact figure. It is not the first time the state Government has moved to provide relief and protections. As the Leader said, the Premier moved on the 9 April 2020 to introduce a notice under the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 to prevent termination or rent increases except rent based on turnover to commercial leases for certain commercial tenants. However, in this bill, the financial hardship period is from 1 April 2020 until the financial hardship cessation day. The financial hardship cessation day is 12 months after the commencement of the act, or sooner if determined by the Treasurer that the code no longer needs to be in effect. This approach is similar to the approach taken for the purposes of other COVID-19 legislation, but is different from other jurisdictions that implement a six-month financial hardship period.

That brings me to my first question: what circumstances would lead to that being brought forward - a vaccine? Even then lifting restrictions might not mean the return to business as usual as you cannot replace the missing activity and confidence takes time to build. Is the Government comfortable that the period is not nationally consistent?

We heard in the briefing regarding the advice to the Premier to provide notice if there are to be changes. Looking at this, and it is purely my speculation, it is quite unlikely there will be a change to the financial hardship period in terms of shortening. It may be extended the other way. It would be good to have some clarification around those issues.

I move to the eligible requirements because I have some questions there. There might be some confusion in the way this has been talked about. If you qualify for JobKeeper you will qualify for this, but this is not necessarily the case and I will explain the two reasons you might

fall outside that. With JobKeeper eligibility you currently qualify with a turnover of less than $1 billion, with the loss of 30 per cent or more of revenue compared to a comparable period a year ago; with a turnover of $1 billion or more, with 50 per cent reduction in revenue; registered charities, declining turnover of 15 per cent or more; government revenue can by excluded from the turnover test; special purpose service entities will be subject to a modified turnover of measuring revenue decline or the related entities using the services of the employer entity.

Under this act, the eligible person is an eligible person at the time if the time occurs after the person becomes entitled under the JobKeeper rules for a JobKeeper payment or qualifies for the JobKeeper scheme under the JobKeeper rules and becomes an SME entity for the purposes of the Guarantee of Lending Small And Medium Enterprises (Coronavirus Economic Response Package) Act.

The actual definition is that a lessee is an eligible person when they are eligible for the JobKeeper program and have a turnover of less than $50 million per annum. In terms of JobKeeper the example I am about to provide is not a business, but we have already seen examples of reducing income to qualify for the JobKeeper program. There have been some examples of private schools that have dropped their school fees and it is their intention to apply. Some of them have made it very clear the two decisions were not related so I am not suggesting they are doing anything wrong, but businesses might also behave in a way that helps them qualify. I am sure lot of accountants and lawyers are having a close look at all sorts of circumstances at the moment.

I hope there are not unlawful manipulations found in the aftermath of this. We know when there is government money on offer sometimes people behave in very strange ways. As we heard in the briefing it will be much harder to manipulate qualifying as a SME entity.

Where I am getting to is that it is difficult to protect against that in this bill. Are we trading off protections under this bill for a simplicity of approach? Once you qualify you are locked in to the hardship period even if your circumstances change. Could the Leader please explain how the penalties under the federal acts I have mentioned will apply and why the Government is comfortable with this approach it has taken?

I will come back to the matter of confusion that might occur in the public domain because there is some other scope to capture eligible businesses, so it is not necessarily the case that if you qualify for JobKeeper, that you will qualify for this. There may be other circumstances, and I think we need to make that clear. There will be a requirement for the Government to communicate this very clearly to a whole range of stakeholders, because there are many questions out there at the moment.

Ms Forrest - This is why the regulations are so important.

Mr WILLIE - That is what I am getting to. On that point, I acknowledge the Government's and the department's desire to pick up some of the people who will not qualify under the eligibility prescriptions under the bill. It is good that we are using regulations to capture some of them. I am keen for the Government to explain that, because, that will come later.

Ms Forrest - Not much later.

Mr WILLIE - Not much later, but it is not here, and we are not debating it today, so some clarity around that would be good. The questions I have here are: one, what consultation will occur when it comes to setting the regulations?; two, the time frames it will take to enact those?; and three, what oversight will be provided of those regulations?

As the Tasmanian Small Business Council told us, about 25 per cent of small businesses may experience hardship and will need, potentially, rent relief, and they do not qualify for JobKeeper. We had the example of the jeweller who earned under $80 000 and had not registered for GST, and could not demonstrate the loss in revenue, and was having great difficulties with his lessor.

Mr Dean - Childcare centres come into this as well.

Mr WILLIE - Childcare centres come into this as well. So, the regulations are very important. I am sure that some of our esteemed members who serve on the Subordinate Legislation Committee will go into that at length. They understand the process in much more detail than I do, without the experience of sitting on that committee.

While we are on regulations, in the draft bill there was mention of land tax and passing on rate concessions. It is in the national code, but it is not in this bill. Will that be in the regulations? There is a question there, too.

As I said, we are supportive of this bill. I will conclude with a few other questions that arose in the briefing. One from the Property Council that I would like clarified is why 'engage in misleading or deceptive conduct' has been introduced, instead of 'good faith', which is clear in the principles? Also, an explanation around the defence that could be used in those provisions, that was explained in the briefing. Lastly, who was consulted on the bill? If we could have a list of all of those stakeholders.

It would also be interesting to know, Leader, whether the state Government received Crown Solicitor and/or Solicitor-General advice on the tabled bill, and when that was received?

I will conclude there. I will have some other questions in Committee.

[3.48 p.m.]

Ms FORREST (Murchison) - Mr President, I acknowledge the comments from the member for Elwick on a number of areas I was intending to cover, so I will not go into quite as much detail as I might have done.

From the outset I acknowledge this has obviously been quite complex legislation. That is why we are dealing with it this week, as opposed to last week. The briefings have been quite helpful in trying to explain the nuances of this legislation and, as the member of Elwick alluded to, we do not have legislation to be amended, it had to be a fresh bill - which in some respects is easier to try to take it all in context, but also potentially makes a larger body of work.

Mr Willie - Not much time to work out a principal act.

Ms FORREST - That is right, and to get all the policy settings right. Bear in mind that this is really to effectively adopt the National Code of Conduct. You have to reference that, and it is referenced in the bill. I acknowledge that it was a decision of the Government, and

those involved in drafting the legislation, to reference it, rather than try to include many aspects of it, and the rest of those will be dealt with through regulation.

I also acknowledge the Government has made a commitment regarding support for residential tenancies. There is already some support as well for residential tenants, and I understand that the Premier is meeting with Ben Bartl tomorrow to look at how best to support people in residential tenancies, and make sure there is a balance between the needs of landlords and tenants in this difficult time, in those circumstances.

Mr President, to address my mind to aspects of the bill. I am not as organised as the member for Elwick as I have not written out a speech, so it might wander a little.

I wanted to make some points about the content of the bill and pose a couple of questions that the member for Elwick has also raised. I know the bill outlines eligibility for the code. As the member for Elwick pointed out, if you can meet the eligibility criteria - particularly the two measures that are currently set in the bill, which relate to being eligible for the JobKeeper program, or being identified as an SME for the purposes of the guarantee of lending to small and medium enterprises - the Coronavirus Economic Response Package (Payments and Benefits) Act 2020 of the Commonwealth, to give its full title - then those two things will automatically give you entry to this program. There will be other criteria prescribed.

The question the member for Elwick raised, and I would seek clarification on, is once you have proven eligibility in either of these ways by way of regulation, it will not change for the period of the emergency period, even if your circumstances improve.

Mrs Hiscutt - Mr President, yes, I can confirm that is correct.

Ms FORREST - Yes, I understand that. There may be businesses - and good on them if they can reinvigorate their business and take on a whole new line of whatever they may choose; we are seeing hand sanitiser being produced by gin distilleries, for example. That is good and effective, but I hope there may be some goodwill shown by some of those businesses, to realise they are making plenty of money and they can afford to pay their rent, and they may renegotiate with the lessor. This bill does not prevent that in any way, for those goodwill negotiations to occur.

Mrs Hiscutt - Mr President, we can confirm it does not prevent that.

Ms FORREST - Right. It is up to the lessee to be honest about that, and approach their lessor perhaps.

Mrs Hiscutt - I will have a talk.

Ms FORREST - I guess if the lessor became aware of the lessee's circumstance, they could enter into conversation with them and perhaps then go to mediation during that period, if that was to be the case?

Mrs Hiscutt - Yes, they certainly can under section 12(c).

Ms FORREST - Mr President, it also requires relevant parties to act in good faith, particularly when it comes to the mediation. To be frank, it is a shame we have to say that at these dismal times. Sometimes these sorts of circumstances bring out the absolute best in people; unfortunately it also brings out the absolute worst in some.

In the briefings we heard a contribution about how some landlords, particularly, have not acted particularly well, to the point of almost causing a serious mental health outcome for a lessee. We need to be very conscious of those things and encourage people to always act in good faith, particularly when people are struggling. Pretty much everyone in the world is struggling in one way or another at the moment, if not financially, perhaps in other ways.

There are other aspects of the bill that prevent landlords from taking certain actions and allow for rent reduction through waivers and deferrals.

Mr President, the hardship cessation day is 12 months after commencement of the act, or sooner if determined by the Treasurer that the code no longer needs to be in effect. As I have said, we are in this for the long run anyway, and there are questions about whether this should be for 12 months or six months, in being in line with other jurisdictions. We were informed that with other jurisdictions that are parties in the code, it is a six-month period. Does the code only apply for the emergency period? If it is going to prevail beyond that, then it is not such an issue. If the code only survives for six months then how can we apply the code for 12 months? That is the question: is the code just for the emergency period or is it to endure?

Mrs Hiscutt - It is for the financial hardship period.

Ms FORREST - Yes. The national code's application in Tasmania only lasts for the financial hardship period. Is that what you are saying?

Mrs Hiscutt - That is correct.

Ms FORREST - So, in Queensland it might prevail for longer?

Mrs Hiscutt - They could have an outbreak and anything could happen.

Ms FORREST - Yes, that is what I am saying.

Mrs Hiscutt - All things being equal, that is how it will work, but it is to be assessed at the time.

Ms FORREST - The national code could prevail beyond six months. Anyway, these matters can be responded to in the Leader's response.

Mrs Hiscutt - It is 12 months. You are aware of that here?

Ms FORREST - No, I am talking about the national code. The national code we are told prevails for six months. Does it end then? If it does not automatically end, how is it extended?

Our financial hardship period is defined as 12 months. But the National Code of Conduct applies during our financial hardship area. If that only lasts for six months and the code then expires - this is what I do not understand about whether the code works or not or how it works because we then have six months without a national code but legislation that references it.

Mr Valentine - I might clarify it -

Ms FORREST - No. I am asking a question the Leader should be able to respond to. Everyone else will have their turn.

Mr Valentine - I am just going to read from the code, it is all right.

Mrs Hiscutt - The code is just a piece of paper; it does not expire - it is just a piece of paper that sets out what it should be. There is no expiry date on the national code.

Ms FORREST - That is what I am seeking clarification around.

Mrs Hiscutt - It is what gives us power to do this statute.

Ms FORREST - It might be easier if I made my speech, Mr President, and have the answers at the end, if I could. It is a bit distracting when I am trying to make a contribution here and being interrupted a lot.

The point I am making is in Tasmania we have a 12-month period for the code to be applied, unless it is changed by the Treasurer. The national code in most other jurisdictions only goes for six months, as we are told. I have not checked them all. Who would have had time to do that in this Chamber? I expect nobody. Assuming the code is something in place in each jurisdiction for the period they determined, but there must be some measure in other jurisdictions to extend it. If we find that there is a second wave of COVID-19 in New South Wales, Victoria, Queensland - any other state, or even in Tasmania - we may find we need 18 months. What is the process around that?

I seek some clarity around how this is intended to work - not just for Tasmania but for other jurisdictions if we are applying a national code. I will get to our other frameworks here with mediation and arbitration - does that body prevail just for this period, or is it going to be something that persists for longer to deal with any commercial lease that challenges or disputes it?

As I already alluded, to be a protected lease the lease must be a commercial lease and the lessee must be an eligible person and once eligible you remain eligible. In terms of provision of information to support negotiations, the Leader said there is an expectation that as soon as this legislation passes the parties will be encouraged actively to actually commence negotiations where there is an issue, particularly where either party is experiencing financial hardship. I assume most people will do that and hopefully this will be a successful process for most.

There is a requirement for providing the other party with information that is both accurate and sufficient to enable negotiations to occur. I raised this in the briefing we had earlier in the week - there are penalties for people who may disclose information inappropriately. They may not disclose information inappropriately to determine how they might negotiate the new lease agreement. The risk, potentially, is that a lessor may be aware that a business was already struggling prior to the commencement of this period but they were working through it. They might have had a cashflow issue for a period. These things come and go in some businesses and sometimes they can trade their way through and then they are all right.

If you have to disclose a lot of this information to the lessor, with the lease up for negotiation early next year or outside of this period, and knowing this company was struggling and perhaps likely to go belly up because it has been so much harder during this period, they may use it to treat the lessee unfavourably after the end of this period, when they are renegotiating a new lease in the future. I guess there is no comeback there. It is a difficult situation to find themselves in, when they have disclosed sensitive information about the

operation of their business. Is there a retrospective application of those provisions, such as that you cannot release or use that information to the detriment of the other party?

A question was asked in the briefing when we had other people presenting some of their concerns with regard to recovering the whole or part of a security bond or bank guarantee under or in relation to the lease. It was made clear to us in the briefing that this is only the case if the lease is a current lease and it cannot be cancelled or ended during the financial hardship period. If there was a mutual agreement that the lease be ended because a particular lessee had determined they could not keep going - they may have been thinking about that even before we reached the COVID-19 pandemic and they thought, no, we are not going to be able to trade through this, even with all the support we might be able to get - they can negotiate an end to the lease and the release of the bond, and bank guarantees or anything else being held can be provided back to the lessee because the lease no longer exists. It is important to make that clear because it was uncertain and was unclear to members of the Property Council and the REIT. Could the Leader please clarify that is the case?

In terms of the rent reductions and the mechanism for enabling those to occur, some of this will be in regulations. If a person already had some unpaid rent before this period starts, that still exists at the end of it, such as a business with cashflow issues that may have fallen behind with their rent, thought things were going to pick up, then we had this COVID-19 pandemic and everything turned pear-shaped. All their good intentions to fund rent arrears become so much more challenging to fulfil.

When we get to the end of this financial hardship period, assuming they are still in business, do they have to pay a portion of the rent that has been deferred, with 50 per cent of that deferral waived or forgiven, and would that fall due after the period? If they have additional rent in arrears, they will also have to front up and pay that as well. This could put businesses in real trouble right after they have managed to get through the period. Is there going to be any support or mechanism to assist some businesses that may be in that situation where they have got a bit of the double whammy of having already had some arrears, thought they were going to be able to manage it because of what was expected to happen, and did not happen because of COVID- 19 and now they have got to the end and all is falling due at the same time?

I do not know how businesses would be in that position but I can imagine there could be some who were struggling along at that time.

To the point about regulations, there are a number of aspects in this bill that will be managed by regulation. I understand the desire not to have a huge amount of complexity within the bill to deal with some matters of functionality and they are generally rightly placed in regulations and the operational sort of aspects of this.

There will be a prescription around the area of eligible person. The member for Elwick spoke about this and how it is appropriate to pick up some of these businesses that may not, for many reasons, be eligible or qualify for JobKeeper rules. For some businesses I have talked to it is very hard. The demands to try to keep the business going and do all the paperwork and everything is almost beyond some of them.

Mr Willie - No doubt through the hardship period there will be different cases that arise that we did not even know about.

Ms FORREST - That is right and do not quite fit. If you listen to the media and the statements made by the federal government - I cannot remember the numbers; other members may remember them - there is a significant difference in how many people have expressed interest and how many people have actually applied. Whether they were not eligible and they realised after they expressed interest, or whether it all became too hard because the paperwork was pretty rigorous - it should be rigorous. I am not saying it should not be but it became a bit too hard for some people. We do need to be careful we do not let some of these businesses who really should be supported here slip through the gap. I understand from the briefing there will be consultation around this and that is appropriate and right.

There is also the requirement for regulations to be made in adopting the code. That was described as, you could have had another 10 or 12 pages of technical detail in the bill. No doubt we would have struggled through. The Subordinate Legislation Committee will struggle through those at a later time. It talks about any prescribed matters in clause 18, with rent payable under protected lease to be renegotiated. The mechanism for that will need to comply with the national code, but it will sit under that so giving effect to the national code through a regulation is what is going to be the case.

We were told, again, there would be consultation on this to make sure the nuances are picked up and it does meet the requirements of the national code of conduct. I am sure there is work being done on this as we speak, because it is important to get this all out the door.

There are limitations. In section 18, in relation to the prescribed matters, there they can only prescribe regulations in this section. I will just read -

> (5) The regulations may prescribe that this section does not apply in relation to a prescribed lessee, or a member of a class of prescribed lessees, in the prescribed circumstances.

It is a wordy sort of way of putting it, but it does confine it to the national code as I understand it rather than being too broad because a regulation-making power in clause 32 of the bill is very broad in many respects. It certainly names up the code there but it basically is a very broad regulation-making power.

We were told in the briefing that there is not an expectation that many regulations will be made under this regulation-making power. Mostly it will be done under those two sections where it is referred to. I know the Leader might like to clarify that in her speech. That is fine but in the Leader's second reading speech she also said -

> The bill provides regulation-making powers to support the administration and implementation of the act.

This includes regulations to modify certain definitions which I have spoken about and support the regulations and related provisions which I have spoken about. The purpose of the regulation-making power in the bill is in recognition of the complexity of the subject matter and the need to adapt, when needed, the efficient operation of the code.

She went on to say that any regulation made under this act - this is very important and I hope the member takes note of this, as the Leader said as well - will be subject to the existing

scrutiny processes that exist for regulations, including review by the Subordinate Legislation Committee. That is true; they all have to come to the Subordinate Legislation Committee.

The regulations section in this bill excludes some provisions of section 4 and 5. This is clause 32(7), the same clause in the bill we dealt with last week -

> The regulations may specify that the requirement, under section 4 or 5 of the *Subordinate Legislation Act 1992*, for compliance with guidelines, or for the preparation of a regulatory impact statement, in relation to regulations made under this Act, does not apply in relation to a regulation specified in a regulation, or all regulations.

It is important we understand what we are doing with this. I do not have a problem with excluding section 5 because that is the regulatory impact statement. I appreciate there is not time or that it is not appropriate because there are regulatory impacts everywhere at the moment, particularly financial impacts. Certificates are often issued under that clause to say that it has not been done because it was not warranted as necessary.

Section 4 of the Subordinate Legislation Act is very short -

> **Compliance with guidelines**
>
> The responsible Minister must ensure that before subordinate legislation is made the guidelines issued under section 3A are complied with so far as is reasonably practicable.

There is already an opportunity for the minister, the Treasurer, whoever is responsible, I imagine it is the Attorney-General, to say that it is not reasonably practicable to abide with all the guidelines. I want to read you part of the guidelines because this is important. We are talking about proper scrutiny. The Leader said it herself; they will be subject to the existing scrutiny processes for all subordinate legislation.

I will begin with guideline 3A(2), so it is in context -

> A notice under subsection (1) may contain such guidelines as the Treasurer considers necessary or expedient for the purposes of ensuring that -
>
> (a) the objectives of proposed subordinate legislation are clearly formulated and that those objectives are -
>
> (i) reasonable and appropriate; and
>
> (ii) in accordance with the objectives, principles, spirit and intent of the Act which would authorize the proposed subordinate legislation to be made; and
>
> (iii) not inconsistent with the objectives of other Acts, subordinate legislation or government policies; and

(b) the advantages and disadvantages of the proposed subordinate legislation are properly identified and considered; and

(c) the impact of the proposed subordinate legislation on competition is properly identified and considered; and -

I will not keep reading, but these are the guidelines that determine how subordinate legislation will be developed. Why would we want to exclude this process for something we have already admitted to having consulted? We have already committed to ensuring it is properly scrutinised before it is even made to ensure the businesses are picked up correctly and that the code is adopted correctly. If there are areas of the guidelines that are impracticable to comply with, all the Attorney-General needs to do is issue a notice to say that they could not comply with these aspects of it because of time constraints, et cetera.

The section relating to impact on competition is probably something we may think we cannot deal with at this time but we should be ensuring it is reasonable, appropriate and in accordance with the objectives, principles and in the spirit of the intent of the act. Where it cannot be complied with, you can make a statement to that effect.

It bothers me that we are removing that whole framework of the Subordinate Legislation Act, which contains the guidelines determining how they are made. I can almost guarantee the people who are working on these guidelines are doing this, Leader, so what is the problem? I am sure they are working in accordance with the objectives, principles, spirit and intent of the act because they have already said they are doing that. You said it in your speech. You said that is what you are doing. I have circulated the amendment, and I will listen to what the Leader has to say in her reply, but we should not be hollowing out the processes when we made a clear indication we are going to be adhering to them anyway.

Aspects of last week's legislation needed a prompt response in terms of regulations that may need to be made under it. You can argue that it should have been done at that time as well, because you can still issue that exemption if you need to. Even if you have to bring in a regulation under these normal regulation-making powers in clause 32 of this bill - if it is really urgent and time-sensitive - the minister responsible can state that provisions could not be adhered, as per section 4, which says they are to be, 'complied with so far as is reasonably practicable'. If it is not reasonably practicable to comply with them, simply say so. I may be speaking about that again in the Committee stage. It is important we do not hollow out the process set in place for a very good reason. Those guidelines are there for a reason and they are set out for that purpose.

Other matters were raised by some people who briefed us this morning about the term after the period of financial hardship. This is to be clarified, the use of the words 'after here' is not to allow these measures to be taken after the end of the financial hardship period but to enable matters to be dealt with that occurred during that period. That was unclear to some of people we had in briefing us. If the Leader could clarify that, say, in clause 13, for example -

> A lessor in relation to a protected lease must not, during or after the financial hardship period, take, or continue, any prohibited lessor action in relation to the lease on the grounds of a breach of the lease during the financial hardship period consisting of -

The clause then runs into subclauses (a), (b), (c), (d), and so on. It regards the time after the period in dealing with matters that occurred during the period. If they understand that they will be quite satisfied, but their concern was that this would continue and this word 'after' meant that things that occurred after it would be dragged in with it.

One point was made about the regulations. They said that they are nice and hollow, with tabling of regulations at the next sitting day of the House. No pressure, Leader, but we have trouble with them tabling in the timely manner that is subscribed for many bills now. Anyway, I hope that works. We are sitting much less often these days. Hopefully, we will be returning to normal scheduling at some time in the not too distant future. It is important that, if they are going to put that in the bill, they need to comply with it so let us hope they do table it for the very next sitting.

I support the intent of the legislation. It is a complex body of work. As the member for Elwick said, it is also clever legislation but you cannot guarantee everyone will be supported in the way we believe they probably should be. There are always people who might fall through the gaps or people who might seek to find ways to benefit from it. The Government has done a pretty good job in putting this together. It is complex.

[4.19 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I thank the Leader for the briefings today. The department has clarified the concerns raised by the other presenters this morning. The spirit of this legislation is to get people working together in good faith to mutually beneficial ends. The principles of this bill are to, as best as possible, assist our small and medium enterprises operating in leased premises, with the overall objective being to reignite economic activity to feed back into expenses and overheads. This is an absolute priority for the Government and I support any measure which is conducive to this goal.

I note the concerns, particularly of the Property Council in briefings this morning, and feel most of the issues were adequately covered by the department. I accept the inclusion of oral agreement is somewhat unusual and rare, but that oral agreements are binding. Many leases will have oral components as part of them, whether it is regarding a change of trading hours, and oral agreements are often put in place to avoid redoing a whole lease.

I support the inclusion of Part 6 which requires parties to go through negotiation, mediation and arbitration to resolve disputes.

Of course, these alternative methods of dispute resolution should always be considered prior to taking legal action. However, making this a requirement expressed by this bill will ensure both parties have good reason and incentive to work with each other in good faith.

These are laudable objectives and I believe few will disagree these are good solid principles to abide by at any time and not just through the coronavirus crisis. Therefore, without sounding too cynical, most would also agree these alternatives methods of dispute resolution will not always work.

I would like to know what measures the Government will have in place once the financial hardship cessation day comes and lessees can begin imposing more significant contractual terms such as termination, eviction, right of entry and so on. When this time comes, and hopefully it is not that far away, how will appeals and legal action be managed through our legal system?

Given the very wide-ranging and unique sets of circumstances all kinds of tenants and landlords have and will suffer during the coronavirus, it will be likely legal proceedings relating to tenancies during this stressful time will be more protracted than usual and the evidence required to support or dispute claims will likely take longer to obtain.

Part 4 requires in negotiation proceedings that landlords or tenants are expected to provide sufficient and accurate information. The code of conduct defines this as information generated from an accounting system and information provided to or received from a financial institution that impacts the timeliness of the parties making decisions with regard to the financial stress caused as a direct result of the COVID-19 event. However, I question whether this definition is prescriptive enough. Sufficient and accurate information is not necessarily complete information which may consequently place parties on an uneven footing in the negotiation process.

Inserting an obligation to act in good faith to the bill may go some way to ameliorating this but the national code expressly states its purpose is to impose a set of good faith leasing principles of application to commercial tenancies. The obligation to act in good faith cannot be escaped because it is not mentioned in one specific part of this legislation.

Moreover, the obligation to act in good faith is already a well-established and longstanding principle of contract law so inserting the words 'good faith' into clause 12 is probably of little material value.

Under clause 12, parties must provide information which is reasonably necessary to conduct negotiations in order to obtain information or to determine eligibility to receive financial assistance. However, both the legislation and National Code of Conduct give little guidance on what 'reasonable' actually means in this context. Information which might be reasonable to disclose for these purposes may also be unreasonable to disclose if, for example, it also relates to matters such as commercial-in-confidence. This highlights an inherent tension in the parties' own interests and the purpose of this legislation.

I realise there is also an obligation for parties not to engage in misleading or deceptive conduct. However, this still does not provide any guidance on what accurate or, more to the point, sufficient information needs to contain in order to be complete and offer a fair negotiation process to occur.

Feedback, obviously, reveals a great deal of concern regarding misleading conduct by either or both parties. Of course, this legislation requires parties to start at the beginning of the negotiation process and work in good faith, but the only remedy to working in bad faith, uncooperatively or in a misleading manner is to continue through the process mandated by this legislation up towards legal proceedings.

My point is that there appears to be no in-built mechanisms to seek out and prevent malfeasance in this legislation until it gets to the point of costly and time-consuming legal action. This could be asking for a disaster a bit later on down the track.

Part 4 of the bill provides lessors cannot punish protected lessees for ceasing normal trading through the financial hardship period, including levying penalties or to seek to reclaim damages after the financial hardship period ends.

Clause 14 outlines that lessees who cease trade, cease to remain open or carry on usual business, amongst other things, cannot be punished by the lessor during or after the financial period and recovery period have elapsed. However, there appears to be no guidance, either in this bill or in the national code, as to whether a cessation of business activity needs to be coronavirus-related, and if so, what criteria should be used to determine this. This could allow for the possibility of a lessee to have the protection of the code, and to simply walk away from their responsibilities under their lease.

I suggest that some sort of guidance to cessation of business activity being related to the coronavirus could be inserted into this bill, perhaps simply by reference to the same criteria a business needs to fulfil to be eligible for the JobKeeper subsidy, in order to provide lessors with more options should lessees walk away. I would appreciate your comments, Leader, on that matter.

The National Code of Conduct also states that the code will be supported by state-based industry code administration committees. Can the Leader provide for *Hansard*, the people sitting on this committee, how its members and chairperson will be appointed?

I support the bill.

[4.26 p.m.]

Mr VALENTINE (Hobart) - Mr President, I thank the officers who gave us the briefing. We had one of the fullest briefings we have ever had on a complex bill like this, and we need to acknowledge that.

Mrs Hiscutt - I totally agree. We have had three hours from the director and it has been wonderful.

Mr VALENTINE - It has been very good. We drilled right down. We had the Property Council, which has an abiding interest in this space, given that it is impacting on many of their members. It is also very impacting on lessees - those who lease from members of the Property Council. Some members of the Property Council may indeed be both a lessee and a lessor. I thank them for sitting down with us and going through the intricacies of this bill.

I listened to the bill pass through the other place, which took some time. It was worth it, because I had the opportunity to listen to the queries and concerns that they had, and listened to the answers that came back, which gave me a degree of comfort that this has been significantly thought through.

As a piece of legislation, there might be a hole or two in it, and it may be that we get some legislation back to correct some of those holes, but I think we have to put this legislation in place, and put it in place as soon as we can, and hopefully in that first go get it pretty close to being what it needs to be - to be able to support people who are going through this terrible time.

When it first started to sink in what this virus was going to do to the community, and how it was going to shut down businesses, and how it was going to reduce people's income the way it has - people losing their jobs, businesses not being able to fully operate, cafes and restaurants having to go to a takeaway mode, some not being able to open because it simply would not be bringing in the money they needed to be able to successfully operate a business. I am sure that is happening out there. There are all sorts of things happening out there in the community that

make this sort of legislation imperative, and make the Commonwealth Government's support package, the JobKeeper program, absolutely essential.

It has been great that there has been that backstop for the community to be able to rest against, to stop them from going under.

I can understand people are eager to get out there and get the place going again, but the last thing we want to do is make it worse by the virus then being communicated even more across the community. We do not want that. We cannot afford that, to be quite honest.

What has been put together here is important. It is based on the National Cabinet Mandatory Code of Conduct, which I printed out and I read through. It is comprehensive; it states its purpose. It actually mentions the COVID-19 pandemic - so to the member for Launceston, it does cover it as being for that particular purpose. It has parts on parties to the code, overarching principles, the leasing principles, binding mediation, it has all the definitions, it has the code administration committee that is fully explained as to what the tasks are there, and the commencement/expiry.

I rose to read from that earlier, and I apologise for interrupting the member in her presentation, but it does say quite clearly here -

> This Code comes into effect in all states and territories from a date following 3 April 2020 (being the date that National Cabinet agreed to a set of principles to guide the Code to govern commercial tenancies as affected by the COVID-19 pandemic) to be defined by each jurisdiction, for the period during which the Commonwealth JobKeeper program remains operational.

Quite clearly, the code has that it is only while the JobKeeper program remains operational. I believe that is only six months, and yet this is 12 months.

The question that was asked of the Leader was interesting. While this code is a national code and there is national consistency being expected, it would be good to have placed on the record - only because the member for Murchison was asking - that there is a disjoint there, and how that works. In this code, in Parties to the Code, it says -

> The Code will be given effect through relevant state and territory legislation or regulation as appropriate. The Code is not intended to supersede such legislation, but aims to complement it during the COVID-19 crisis period.

This code is not paramount in that sense. Each state will have its own legislation. In fact, there are states that have more legislation than we have in some of these areas. It is so important that we have components of the legislation that are in this bill that cover some of those areas that other states already have, but we do not. It is important to understand that this state's legislation is not subservient to this National Cabinet Mandatory Code of Conduct.

For the purposes of this debate, it is important that - I hesitate to do this - the code is read in. Has it been tabled?

Mrs Hiscutt - Not that I am aware of.

Mr VALENTINE - Maybe I should table it. That might be the better process, because it is about six or seven pages long and I do not think we want to listen to it being read in.

Mrs Hiscutt - Mr President, I would prefer that the member seek leave to table it.

Mr VALENTINE - Mr President, I seek leave to table the National Cabinet Mandatory Code of Conduct document.

Leave granted.

Mr VALENTINE - I tabled that because it is part of the record. When people look back in years to come they are going to say, well, it is all very well to have this legislation, but where is that underpinning document? It is important that it is tabled.

Mr Willie - You are a historian at heart.

Mr VALENTINE - I am. Some landlords and tenants have already been negotiating their leases and working it out together. We have heard some very encouraging stories about how landlords have been proactive and have gone to their tenants and said, 'I'm going to give you a three-month stay on this; I'm going to waive your rent for three months'.

Mr Dean - There are also many waiting for this bill to be passed.

Mr VALENTINE - Yes, there are, but there are also those who are not aware of what the circumstance is and do not know what the capacity is for those sorts of negotiations to take place.

The member for Murchison said it brings out the worst and it brings out the best. You will see those landlords who may be pretty tough in this circumstance; you also might see lessees trying to rip the system off. Who knows?

It is very important the information gets into the public domain so people know what their capacity is to be able to negotiate leases with their lessees, and the lessees with the lessors.

Ms Rattray - We also have those inflexible agents we need to keep an eye on.

Mr VALENTINE - Yes, some of that goes on. I suppose we do. Let us hope, as this bill really supports, it is the spirit of goodwill, I think. It is being fair. Everybody is in this. We are all in it together as the mantra says, so we have to operate as if we are all in it together and do what we can to support each other - whether we are a landlord or whether we are a lessee or a person in the street supporting businesses to continue to operate.

It is really important those connections between the employers and employees continues. We are only going to get through this together as a community. We must actively try to work through this holistically together.

I declare a slight interest - my brother has a hairdressing salon. Indeed he has been through these sorts of things and managed to talk with landlords and the like. He does not get a lot of business out of me; I appreciate that.

Mr Willie - Maybe he maximises his profit.

Mr VALENTINE - He might maximise his profit.

The code basically provides tenants with additional protection if they cannot come to an agreement. You have to go somewhere and have a process and that process is so important.

It is the case that national consistency is something desirable and, as I said before, the national code does say it is not intended to supersede state legislation but aims to complement it during this difficult time.

The legislation basically provides the legal framework for implementation of the code and that is quite obvious. It deals with what an eligible person is, for instance, and those that are actually able to avail themselves of the JobKeeper program. It all turns on that particular program in a lot of ways.

The devil is in the detail in all of this. We have gone through the bill clause by clause in briefings and the Committee stage will bring out all the concerns and queries most members have had that members of the committee write to them on.

I support the principle of this. I certainly believe a really good effort has gone into trying to get this right in the first instance and I suppose time will tell as to how much it needs to be changed. I am sure if it needs changing it will be changed.

Ms RATTRAY (McIntyre) - Mr President, I rise to make my contribution to this important legislation acknowledging the work that has been put into this bill and particularly by Mr Graham. I believe he has had three weeks of intense work and has not had much time for anything else. There seems to be a lot of that going on in and outside this place. Thank you very much and particularly to the Leader. It was useful to have the briefing on Tuesday and then have the follow-up because, as has already been articulated by other members, it is complex and a complex issue.

You only have to look at the emails you have received through this process to understand we have this aim to have businesses still in business after COVID-19 and after the emergency time frame. You also have landlords who still want to own a property at the end of this process and not have the bank calling it in.

I wrote down at the beginning of the briefing a couple of days ago when it was said the core contents were the financial hardship period from 1 April 2020, a 12-month period unless longer determined. We hear so much about national consistency. I have some question marks over that and still do not understand why it is a 12-month period, when it is clearly articulated to be nationally consistent and all the other states are six months. I need to understand that, Leader. I would really like to have that addressed in your second reading closing speech.

The second key piece of this legislation or core content that I wrote down is 'eligible person' and that, in itself, raises some issues. We heard the example of the small jeweller the member for Elwick referred to, with under $80 000 a year turn over, not GST-registered and one person who looks after business and therefore is not eligible for JobKeeper. There are many more of those businesses in Tasmania. It is a well-known fact we are predominately made up of small businesses.

I am concerned people who did not qualify for the JobKeeper program or did not take the opportunity to apply - even Mr Graham said this morning that it is quite complex to even apply

for that and go through the process and provide all that information that is put on the record. All that information has to be provided and then you wait to see if you qualify for that. That is another area we need to have a thorough understanding of and put on the record for people to understand how we arrived at this and how it was supported through the parliament.

Member for Hobart - I love having my back to you; it must be pretty hard to look at - earlier we heard the member say we possibly will not get this right when something is done in this much haste. We have been criticised time and time again for rushing legislation through the parliament. But if we do not pass this and we are not sitting for another three weeks, there is time for those businesses to know that they have this legislation, for those who qualify in the appropriate areas that it addresses, and at least they can get on and do what they need to do to have confidence that they will be able to come through this. They will have the ability to negotiate with landlords, because that it is one of the issues, not all landlords, unfortunately, do the right thing or have been proactive and made contact with those who lease their premises to go through a negotiation process.

We also know the other side of the coin. Businesses have informed their landlord that they will not be paying. I will share with members an email that came through. I do not know how many people received this but I did last night. I will not say who they are but I will give their circumstances -

> I am writing to make you aware of our situation and I am sure many others are in the same boat. My wife and I own two commercial properties in Devonport, which we have mortgages on and depend on to meet our own commitments. Recently, we received notification from our tenants that they would no longer be paying any rent or outgoings, although one has come back to us and has negotiated to pay 50 % rent, and defer 20% and we forgo the remainder.
>
> The point I am trying to make is that we are still liable for all our commitments. We are not eligible for any Government assistance, yet the banks will defer interest but still want their money. Councils will defer rates but still want their money. TasWater want their money. Our insurance company wants theirs, and at the moment I think we still are liable for land tax. That is without our day to day living expenses.
>
> While I know the importance of trying to keep businesses going, I think we as Landlords are being overlooked. If our rent is dropped because of the circumstances of our tenants, then why shouldn't our government and local government charges be dropped accordingly? Where is the relief for Landlords?

We know that there is some relief for landlords and we only have to look at the information we received this morning with regard to land tax -

> Relief for commercial property owners and tenants.

> The Government announced that it will waive land tax for 2020-21 for commercial property owners financially impacted by COVID-19 where the land tax is paid by the business owner.

I will be able to write back to this particular person and say that there is some relief. It goes on to say -

> The Government has subsequently agreed to extend the waiver to all commercial property owners impacted by COVID-19. The actual reduction in revenue will be identified when land tax assessment notices are calculated throughout the 2020-21 financial year, with an estimate of $20 million.

The point was made this morning by Mark Devine, I believe: will the Government be looking to make that up when we come out of this? We are not likely to get a commitment out of a government for that but it is worthwhile asking the question. Does the Government intend, if they give the relief now, to possibly attempt to make up that $20 million shortfall once we get through this? That is going to be a double whammy on businesses, both the landlord and the tenant in future. The landlord will be required to pay it, and then who do you think pays it after that? It is the tenant, and then after that it is the consumer of whatever product or service that tenant is providing. I would appreciate a comment about that. I understand it might be a policy matter for the Government and we might not have anything concrete, but it was raised this morning by members of the REIT this morning.

On page 7 on the Tasmanian Government COVID- 19 response, it goes on to say -

> The Commissioner of State Revenue will also consider deferring outstanding land tax due for 2019-20 until 30 June 2020 and will provide other payment arrangements if a taxpayer is experiencing financial hardship. No interest will apply to the 2019-20 debt -

Thank you -

> As at 30 April 2020, 259 applications for deferral of land tax due to financial hardship have been received, of which 256 have been processed.

There is no guarantee that you will be able to defer; it says it will be considered. How much detail is needed for the Commissioner of State Revenue? It only says, 'will consider deferring', and 'that is outstanding land tax that is payable for 2019-20. We also need to hear something concrete about that. I have tried some of these things in the past and it is not easy to have something reversed or changed. I am hopeful that the Leader may have a response. I appreciate this was provided this morning. It is very helpful.

I want to talk more about the business community, whether it is a landlord of a small business owner or a tenant operating a small business. Earlier in the week, we talked about the Small Business Hardship Grants of up to $15 000. Applications for this program closed at midnight on 4 May. On page 8, it says that 323 small business grants of $15 000 had been approved. As of 5 May, 429 had been approved and paid, and it says this program of applications has closed. I wrote down, when I asked about that program on Tuesday, that 21 000 applications for business grants had been received and 1700 applications had been

assessed. I would appreciate having the figures confirmed because they seem to be somewhat inconsistent.

Perhaps I did not write down the last one because I was inquiring for a small business in my electorate last week. Most of them are small businesses. They told me that they were snowed under with applications, and I expect that snowed under is not 323. I expect it is more likely to be the 21 000. This small business was desperate. They were down to their last $50 and had animals to feed. You feel so helpless when you receive those phone calls and contacts. We did as much as we could in the office and, yes, they had applied for and received the $2500, but that went very quickly because they had been planning a large event in their area and the event was cancelled, but they still had all the product. It was in hospitality, so today they still have a freezer full of product but no customers, or certainly not the volume of customers they would have had, and also when preparing for a large event. It is very difficult. They own the residence where they operate their business, so they are not looking for the landlord concession here, but just that small business support getting through the system.

I acknowledge that everyone is working exceptionally hard, but it is pretty cold comfort for those people who are doing it extremely tough, down to your last $50. You do not know what to say and what to offer for people in those circumstances.

In my view, many small businesses will attempt to negotiate with landlords. I take my hat off and congratulate those landlords who have been proactive, on the front foot, and have already contacted their tenants and said, 'Have a three-month rent holiday, and you do not have to pay it back in the future'. How generous is that? But we also acknowledge - back to the email I read out - that not everyone is in a position to do so.

In Tasmania we have many what we often refer to as 'mum-and-dad investors' who have stuck their neck out and taken on an investment property. In good times you would think a commercial property was a good investment. Unfortunately, we have heard the stories about residential rental properties and the heartache that goes with them if you do not have the right tenant, but in a commercial sense they have always been looked upon as being a very positive investment. Not everyone has the capacity to say, 'it's okay, don't pay me'. We have to acknowledge this and need to address it as well, because it cannot be a one-way street as has been suggested by this particular landlord.

I move now to the stakeholders. As always, I requested a list of stakeholders, and I know the Leader will more than likely read out that list because I am pretty sure somebody asked for that list. There were 11 stakeholders provided. I will leave the listing of them to the Leader.

The Local Government Association was one of those stakeholders, and they provided a submission to this particular bill on 24 April. It would be useful to touch on that, because local government is being asked to take their fair share of pain. When I had a look at the submission, they gave four examples of councils who had commercial properties. Interestingly, commercial properties make up 25 per cent of the rate revenue for Devonport City Council. It goes on to say -

> On that hardship basis, the likely revenue lost for a 6-month waiver would be of the order of $4 million, on top of lost revenue from financial relief measures already in place.

Clarence City Council commercial rates represent $8.8 million per annum, or 23 per cent of the total general rate. It refers to the six months waiver being equivalent to $5 million on top of their existing measures - a significant impact on their cashflow, and, as a consequence, a need for borrowings in the order of $12 million to cover all operational COVID-19 measures.

Burnie City Council - these are all fairly substantial councils, I admit - but it is still significant that commercial properties represent 30 per cent of the general rate. They have already given a hardship six-month remission; on a hardship basis only, this is valued at approximately $1.5 million, or 10 per cent of the general rate base. The Burnie City Council is already looking at borrowings of $10 million to support cashflow in the short to medium term.

The last one used in this particular submission is the Kingborough Council. Commercial rates represent $2.5 million of general rates in 2019-20, which equates to 10 per cent of the total general rate. The council would need to borrow funds and have a significant rate increase in the future to ensure its long-term viability.

That was interesting to read, but I also noted in the brochure we received, on the first line or a few lines down, it says -

> You would be aware that councils have received no direct funding during this pandemic from either Federal or State Government. Council staff are not eligible for JobKeepers. The primary State Government support package is an interest free loan program which, while welcome, does not prevent councils from being squeezed hard, with expectations that rates and fees will be frozen, that no staff will be stood down, and that a range of financial relief mechanisms will be provided across communities. Councils understand they need to take some pain, and most are reporting that they will be taking on significant debt and will experience operating deficits for some time to come.

I noted they did receive some support. Local government loans program: it says on page 8 -

> As at 29 April 2020, 20 Local Government Authorities had applied for assistance of $111.6 million that meet all the eligibility criteria of the Program. Applications received at that date include infrastructure projects such as upgrades to roads, bridges and jetties, stormwater improvements and car park redevelopments. The cost of individual projects ranged from $10,000 to $6 million. Applications have also been received to fund rates relief programs for the business and community sectors It is anticipated that all eligible applications will be processed by 15 May 2020.

The Government has certainly stepped up when it comes to local government, but it is a loan. It is not a grant - it is a loan, according to this documentation.

As one of the stakeholders consulted through the compiling of the bill, I am interested in some feedback in regard to the issues raised by LGAT on behalf of it councils. Is it really just the larger ones who have significant commercial properties that are going to more severely feel the pain of COVID-19 and the relief to commercial property? On behalf of the local government sector, I would appreciate the Leader answering that question.

When the member for Hobart was on his feet, by interjection we talked about the goodwill required between landlords and tenants and through leases and lessees, and I mentioned the agents. That was raised this morning in our briefing. We were given an example by the Small Business Council representative that already there had been some pressure from agents saying no, the landlord is not interested in providing any rent relief. One thing this bill does, and it does much more than one thing, is to send a very clear message to agents who may not have taken the time to make contact with the owners of the properties. It may be a foreign owner who has an agent doing their work, representing them. As mentioned in the briefing, lawyers also act on behalf of clients in various aspects. It is making sure they understand their obligations when it comes to negotiating.

Only a couple of weeks ago I had a call and a bit of an email exchange. People make contact. It was on Messenger, a small business owner, hairdresser with two small children, and I am not entirely sure whether she could not get enough of her staff to come in to work and decided she was not prepared to take the risk. There was a lot of hype around that initial decision to be made to go into an emergency situation. She decided to shut her hairdresser. Obviously, she was not compelled to shut or was not directed to shut by the Government. She contacted the landlord who said, 'Not interested. You do not have to be shut. You should still be working. You pay'. I can report, and perhaps the landlord had heard this legislation was coming up, they have since negotiated an outcome for that small business.

I am pleased, if nothing else, and I am sure there will be other things that come out of this and that obligation will be well publicised. Again, it comes back to making sure that what is put in place should it pass the parliament today is certainly the message that is sent out through the business community. I feel sure through those 11 stakeholders consulted through this process that will be done. We always like to have it on the public record, if at all possible, how that consultation and message is going to be delivered across the community. It affects the people who rent, it affects the landlords, but also the people who are employed in these businesses. They need to understand if there is some pressure on the business owner or the person who owns the building that might always make some difference about how they go about their daily work.

If they realise their employer is under the pump, is stressed about having to meet the commitments with less traffic, less opportunity to sell their services, then if they do get snapped at perhaps they think it is hard being an owner of a business or owning a property in this time of COVID- 19 and the situation we are living in. I am keen to have some understanding on this, particularly how that message is going to be sent into the community.

I am pleased the member for Murchison clearly articulated in her second reading contribution on clause 13. I know when we reach this clause 13 through the Committee stage there will obviously be some more discussion around the words, 'or after' - because that concern was raised this morning in the briefing by the REIT representatives. Thank you, member for Murchison for clarifying; it was helpful.

Ms Forrest - I think the Leader will probably clarify it in her response.

Ms RATTRAY - Yes, but you raised the matter and it was provided with an answer that seemed to give some comfort, so I know we will have that on the public record.

I will leave the reference to police officers to the member for Windermere. I was told this morning to keep out of police matters.

Mr Dean - Sometimes you cannot.

Ms RATTRAY - I am happy to do so in this case, honourable member. There are enough other things I think will be worth covering.

The member for Murchison also gave a very clear understanding and invited members of the House to seek support for her amendment on the regulations and the processes. She is absolutely right and is very rarely wrong when it comes to subordinate legislation and the processes. It is true there is a process already under the Subordinate Legislation Committee process to be able to apply for an exemption to provide some of these details, particularly around a regulatory impact statement. It should not be too hard for members in this Chamber to support that. I encourage members to listen carefully to the member - she is all over it, to put it mildly.

In closing, I received two or three emails. I chose to read out one, but there are more of them that certainly raise concerns around the difficulty of being a landlord in this time. I will not read any more. It was interesting there was so much confusion in the community about the legislation we are now dealing with - the commercial -

Ms Forrest - The letter from the Tenants' Union of Tasmania put the cat amongst the pigeons and set them off.

Ms RATTRAY - Yes, then we received those dozens and dozens of emails with regard to the residential tenancy aspect. Obviously the other place did not proceed or no-one proceeded with an amendment on this. I know from listening to the media on the way down to Hobart yesterday that the Premier gave a commitment to meet with the Tenants' Union representative to have a discussion around residential tenancies; this is a very useful approach.

Mr Willie - He committed to a fund.

Ms RATTRAY - A fund to actually provide for hardship around residential tenancies. Obviously, another fund will have to be administered. I am concerned with the workload with all these funds and the administration of them. There must be overload to the nth degree.

I sent a standard response to all of those indicating that we were not dealing with residential tenancies through the passage of this bill and that there was no scope for amendment in my mind, but someone in another place thought there may well have been. I congratulate the Premier on being proactive rather than us having to go through that process when it was an aside, when we had already dealt with residential tenancies in previous legislation.

I thank all those people who assembled themselves very well in putting their point across, albeit many of them were using email forms. That is fine, they still have to cut and paste it and put their own words in and send it through. I hope the particular issues they have, in hardship and being able to meet their commitments, get through the process in a timely and efficient manner, and that those landlords, when it comes to residential tenancy, are also afforded the same consideration in their capacity to take a rent holiday as well.

We have many small mum-and-dad investors who stuck their necks out in Tasmania and purchased a property to put in the residential market. Some, as with the letter I read out, have taken the opportunity to invest in a commercial property, which had always appeared to be a very good investment in the past. I certainly have some sympathy for everyone who is doing

it tough. It is difficult to take the phone calls. You feel absolutely helpless at times when you cannot provide some of the immediate answers people need.

I look forward to being able to direct my constituents; particularly with the offer that was provided by Mr Graham this morning, that I can contact his office and get some immediate attention. I am very impressed with that and I will be looking for his direct contact in the very near future. He is probably scared now. To have that access for and behalf of our constituents particularly at this challenging time is very much appreciated. I look forward to the extra detail that the member for Hobart alerted us to in his contribution. I support the bill.

[5.18 p.m.]

Mr DEAN (Windermere) - Mr President, I will not be too long because most of it has been said. There are one or two comments I did want to make. First, it was indicated by a member that the department had done a pretty good job in bringing this legislation together. They have done an excellent job in bringing this legislation together because it is very complex. It is not easy, as we have experienced over the last couple of days of the briefings. I thank the department for the briefings, the way in which they proceeded and the information we were provided.

I also thank OPC for getting this legislation prepared and before us so quickly. Members have mentioned that we had to deal with legislation coming to us very quickly in the last few weeks, without much time to have a look at it and go through it methodically. When we get back to normal, it is going to be interesting to have the right time to look at it closely.

The briefings were excellent but all of that good evidence and information that came out during the briefings assists us in putting our position forward when we make a contribution on the second reading. Unless we bring out that good information that has come through the briefings in our second reading contributions, it is not recorded anywhere.

Ms Rattray - Don't you think we have done that?

Mr DEAN - It is being done but I do not record it all at the time. You try to do it in a shorthand form but you cannot take it all down and sometimes it is difficult to read later. We will move forward with changes in this place, with people coming in from contemporary businesses and so on. We will see the time when the detail in those briefings will be recorded and people can refer back to it and get the information they want from it. It will take a little time for it to occur. We received quite a lot of information, roneoed information and letters from managers in the main, who were managing these businesses on behalf of landlords.

The greatest percentage of those I received related to residential properties, not to commercial properties. I got back to some of them and I advised them that we are dealing with this legislation. Some got back to me and simply said, no, you are wrong, there is evidence that there are going to be amendments moved to include residential tenancies in this bill. I then had to say, you are right, I understand that could be the case. That is probably why they came to us in the way they did.

One of those was an interesting letter I received from the Nickeeta Masatora from the Indigenous Tasmanians Aboriginal Corporation. I think we all received that letter. I rang Nickeeta to get some more information. She said that in this instance they were providing housing to about 80 people in the state. She said that on a number of occasions they, the landlords, and that goes for the commercial properties as well, are really being missed out and

not being given the support that they should be entitled to as well in going through this. She then went on to tell me about two properties where there are currently issues with tenants, with $40 000 damage to one property. You cannot get them out and it is now at a stage at which they cannot live in the place anyway, so they are going to have to go. Another property was in my electorate, at a value of $17 000-plus, because there was more damage on top of that as well. She went into some detail in relation to that.

I read a piece in the paper this morning that mentioned the suburbs hardest hit by this virus, the controls and things that are put in place. My electorate stands out well and truly above any other electorate in this state, with five of the hardest-hit areas in the state happening to be in my electorate. It is not surprising my office has been run fairly ragged over a long period in trying to sort out a lot of issues we are hearing about.

We talked about the two sides. As I said during the briefing, many of the landlords and managers are already negotiating positions now. They already have things in place, and some of those people are also waiting on this legislation to confirm their positions and the costs they can rebate to their tenants or the lessees. I am not going to mention any names here, but relating to these landlords, they own a commercial property in Burnie, a big property, where negotiations have been going on now for some time in relation to rent relief on the property. Lawyers have become involved so costs have been incurred by the landlords in relation that. It is clear the lessees in this case have lost a lot of their capacity or ability to perform and do their business within this building and is accepted.

What landlords have said, which has also come out during our briefings, is they need support as well - 'We have mortgages to pay, we have other costs, solicitors' costs to pay, managers' costs to pay and we have all of these other costs to pay to keep this business so therefore we have to consider that for our existence'. They are right. What they have said is, and the member for McIntyre might have raised this, that if they are given some support in relation to their costs - that is, rates, water, the infrastructure, water charges and all the other charges they are confronted with -they will pass them on to their lessee. They have said, 'We will not benefit from that; the lessee will benefit from it, immediately.'. These landlords are going down that path. In their last letter to me, they have indicated to the lessees they are waiting on the passing of this legislation and they will then continue those negotiations.

Ms Rattray - At this time it seems there is some land tax relief, but you will have to catch up with all the others later. That is the issue - it is a holiday only.

Mr DEAN - That is a problem. What is the good if they have to recover that money later on and repay it?

Ms Rattray - Plus still pay what is owing at the time.

Mr DEAN - It will be interesting to see where all that goes and what happens in that regard. I am paraphrasing the same lessor, who said a lessee was saying to them that it is their right not to pay rent or get a 50 per cent cut if that happens. The lessee said that it is her right to get those cuts and those decreases in their costs. They certainly have some rights, but I am not quite sure those rights are as strong as some are putting forward.

I refer to another case, which I will refer more to in the Committee stage, that I raised during the briefing with childcare centres. I have received a query last night in relation to a lady who runs a childcare centre in my electorate. She is beside herself at the present time.

She has not given me the right to go right through it at this stage, but I will do this without identifying the person -

> Our income is down over 40% due entirely to the 'free Childcare' policy. We are currently still open and providing more care than we were a month ago. What we need is a simple test for Jobkeeper for family day carers. If your current payment is 30% or less than your normal hourly rate, then you are eligible for an ATO ruling that says we family day carers are automatically eligible for Jobkeeper.

Lots of issues in relation to that matter I was not aware of until it was pointed out. I went to the federal member for support and help here, or my staff did. We received a letter from Bridget Archer's office - and I thank them for that and for their support - and I will quote from that letter to identify what has happened there -

Bridget certainly understands the concerns and frustrations you have voiced below in regards to accessing JobKeeper as a family day care provider, and has advocated on these issues to the Federal Minister since the announcement was made in late March, as our office has heard similar concerns from a number of family day care providers in our community.

As I understand it, under clause 6 of this bill, 'eligible person', to become eligible for support and so on they must first of all be entitled to access the JobKeeper payment, hence the reason for all of this. The letter goes on -

As you have applied, I would recommend you call the ATO, noting that they are receiving a high number of calls currently, to at least discuss your specific situation in detail. The ATO does have some discretionary powers when it comes to applying JobKeeper, and although I can't say whether or not your situation does fit the criteria, the information provided in your email certainly demonstrates a significant downturn. I understand the amount of stress you are under at the moment, but I would urge you to give them a call.

It seems that the ATO has the right to interfere or become engaged or involved in this process, and that the ATO can make a decision contrary to that one that might have already been made. I understand they are being inundated with calls at the present. Maybe the Leader might want to comment on that in her reply, if that is the case, and what her position is in relation to that.

The only other matter I wanted to mention - and I am aware of time, and I do not think we should be sitting until 1 a.m. or 2 a.m. again - is one I will pursue in the Committee stage. It is in relation to clause 16, 'Communication or provision of information'. The department said it would get back to me with information on this. Perhaps the Leader might have that information, or I can get it in Committee stage, whatever the situation is, to clarify that point. My concern is that where it applies to confidential information being provided to a police officer or to a law enforcement officer, they are able to obtain that information or to only apply it while they are in the execution of their legitimate duties, and in no other way should it apply.

We heard from the Real Estate Institute of Tasmania that it had some concerns in this area as well. I would appreciate the answer that will be given shortly in relation to that matter.

Having said that, I support the legislation. It is needed, provided we can ensure it provides for the landlords as well, because without landlords, without lessors, you do not have leases. I

keep saying that in relation to residential properties as well. There are two sides to it. At times I think Ben Bartl has some problems understanding that. We need to make it clear that is required.

I support the legislation.

[5.35 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, should we discuss dinner at this point, before I begin summarising?

Mr PRESIDENT - Certainly we can. It is the honourable Leader's understanding that we continue to work through, ordering meals as we need to and taking an opportunity to have a break. This will ensure we can keep things fairly free-flowing to get this legislation back to the other place in a timely fashion.

Mrs HISCUTT - Mr President, I thank members for their contributions. I have quite a large summing up, so I will launch in.

The member for Elwick was first up - he was after advice on whether we had sought the advice of the Crown Solicitor or the Solicitor-General. Expertise from the Crown Solicitor and the Solicitor-General was sought and was provided in drafting the bill. This was not in the form of a formal legal opinion. This is normal practice for bills before parliament, so the usual process was followed there.

Mr Willie - My question was: when was that received? Was it after it was tabled, or before?

Mrs HISCUTT - The expertise from the Crown Solicitor and Solicitor-General was sought and provided in drafting the bill and, yes, the rent waiver for government-leased property is for six months and applies to almost 1500 leases impacted by COVID-19 to the value of approximately $4.8 million.

Mr Willie - I undercooked that - I think I said 100. I did not quite catch it.

Mrs HISCUTT - We then talked about the cessation date. The Government will take into account advice from Public Health, and in consultation with the Code Administration Committee and stakeholders. It is certainly the intention of the Government to ensure lessors and lessees are ready and prepared to act and respond when the cessation date occurs.

Given we are currently not sure when that time will be, we need flexibility. We will make sure we communicate with businesses to enable them to be prepared for a start date.

The Government intends that the regulations will cover additions to definitions of eligible persons, and additions to definitions of protected leases, and technical details to support the rent-reduction provisions. The Government will consult with stakeholders on the content of regulations. As usual, the regulations will be placed before parliament for scrutiny by the Subordinate Legislation Committee.

Mr Willie - A time frame?

Mrs HISCUTT - It was the next sitting day.

Ms Forrest - It will be tabled the next sitting day.

Mr Willie - Yes, that is right.

Mrs HISCUTT - We talked about JobKeeper. Basically, what if a business cannot access JobKeeper, but has experienced a significant loss of turnover? The legislation provides the Government with the power by regulation to expand the definitions by regulations if necessary. This power will enable those agreements not currently foreseen to be captured if necessary. If a lessee is eligible for a JobKeeper program, they are able to be an eligible person if they have a turnover of $50 million.

Ms Forrest - Less than $50 million, it should say.

Mrs HISCUTT - A turnover of less than $50 million, or up to $50 million, yes.

If a lessee provides misleading information to access JobKeeper, they will be committing an offence against the Commonwealth law. They will also be in breach of clause 16, misleading and deceptive conduct.

In lessee negotiations, with regard to misleading information, in the negotiations a party must not engage in misleading and deceptive conduct. This has to be done knowingly, so the bill provides for this protection.

Clause 12 does not mention good faith, but clause 18 does require negotiations to be undertaken in good faith.

The member also asked for a list of people who were consulted. A consultation and a working draft was provided to the following stakeholders for feedback and I will list them -

- Tasmanian Chamber of Commerce and Industry
- Launceston Chamber of Commerce
- Tasmanian Small Business Council
- Tasmanian Independent Retailers
- Australian Lotteries and Newsagents Association
- Law Society of Tasmania
- Tasmanian Bar
- Property Council of Australia - Tasmanian branch
- The Office of the Coordinator-General
- Local Government Association of Tasmania
- Real Estate Institute of Tasmania

Feedback from this consultation has contributed to the drafting of the current bill.

The member for Murchison asked: will this bill be in operation after the financial hardship cessation period? A lease will no longer be a protected lease after the financial hardship period.

At this time, the lessor will be able to take any prohibited lessor actions when a breach occurs and the action is provided for in the lease agreement. Yes, it stays on the statute. The only component of the legislation that will extend beyond the financial hardship period are the requirements of the code for deferred rent to be repaid in instalments over the period which remains in the lease for 24 months.

The code lasts in Tasmania for a period of 12 months unless brought forward earlier. The actions of the other states or the Commonwealth has no effect on its application in Tasmania. Other states will need to amend legislation if they are extending it. In Tasmania we would need parliament to extend beyond the 12 months.

The use of the regulation-making power - there are three key areas: clause 5, which talks about protected lease; clause 6, which talks about eligible persons; and clause 18, which is a rent reduction committee. It is expected these powers will provide for the full operation of the code.

Clause 32 provides a broad regulation-making power to be used if necessary. It is not expected this will be required, but it has been included to be used if necessary.

Ms Forrest - The question is not answered. The regulations made under clauses 5, 6 and 18, the provisions in clause 32(7) will still apply to those regulations because it is only limiting the scope, it is not limiting the process around making it. That is correct?

Mrs HISCUTT - That is correct, yes.

Ms Forrest - So my amendment is relevant.

Mrs HISCUTT - Yes. You then asked about the unpaid rent after the period. The unpaid rent is rent which must be paid. The lessor cannot take action during the financial hardship period for this breach. However, they can at the end of the financial hardship period. This is to ensure a lessor who will have provided rent waiving and deferrals is able to recover unpaid money.

Ms Forrest - It could be really tough on the lessee.

Mrs HISCUTT - It is tough on everybody. Seriously, this is tough on everybody.

The use and disclosure of information provided - penalties for disclosure of information are provided under the act. Information can only be used for the purposes provided for under the bill. Any use of the information provided would be a breach of the lease agreement and the injured party would be able to take action if it was used unlawfully.

Ms Forrest - Even after the end of all this.

Mrs HISCUTT - I will follow up on that. A couple of members asked about that - the use of 'or after' does not relate to breaches which occur after the financial hardship period. Instead, it exists to ensure that after the financial hardship period a lessor cannot take action for a breach that would have been protected during the financial hardship period.

For example, a lessor cannot take action for failure of a lessee to open during hours specified in the lease during the financial hardship period has finished.

With regard to your questions on subordinate legislation, section 4 of the Subordinate Legislation Act requires a legislative impact assessment to be undertaken. Some of the steps required by the guidelines, such as assessment by the ERU, are not currently available. The Government considers that strict compliance with the guidance is not possible but will commit to meeting its requirements to the extent possible.

The Government has committed to consulting with stakeholders on any regulations made under the act. This is critical due to the state of emergency. These are unprecedented times. Therefore, we ask for understanding, and we must be able to act swiftly. This is what this bill is about.

There is more to come for the member for Murchison but I will move on while I wait for that information. The member for Launceston asked: what is the purpose of the Code Administration Committee? The Code Administration Committee will monitor the implementation of the code and provide advice regarding its operation. The committee will have at least four members representing the interests of lessors, lessees and small businesses and will be chaired by the Director of Consumer Affairs and Fair Trading. The Government will determine members of the committee following the passage of this legislation. The committee will provide advice to the director and, through the director, the minister. The committee is also to set its own procedures and frequency of meetings. At the end of the financial hardship period it is likely the committee will go into recess.

The member for Launceston also referred to good faith. Good faith is not referenced in clause 12. It is referenced in clause 18 of the bill, which relates to negotiations of rent.

What happens to actions that have been taken by a lessor prior to the commencement date? If the action relates to prohibited lessor action and that action would not be able to be taken during the financial hardship period, such as regarding unpaid rent, the action cannot be taken until after the financial hardship period.

What happens if mediation fails? If mediation fails, either party can seek to have the matter arbitrated under the Commercial Arbitration Act 2011. Alternatively, they can also take the matter to the courts with the appropriate jurisdiction based on the value of the dispute.

To go back to the member for Murchison, during the financial hardship period, use of information for the purpose not covered by the act will be a breach of the agreement. After the period, use of information by a party where that use leads to loss could be pursued as a civil action in the courts.

The member for Windermere asked about the police offences definition. That is in line with standard practice. This reference is to be read as, 'these parties performing their law enforcement functions'.

The member for McIntyre asked about the 12-month period. I answered that earlier but I will go into that again. To provide certainty and clarity, it was thought that 12 months would ensure we did not need to come back to parliament to adjust the date. The Treasurer, as discussed in other answers, can declare if satisfied that the effects are reduced to the extent that the protections are no longer needed.

The member asked about some of the conflicting figures in the document. I have a couple of comments on that. We think the member might be referring to two different programs because one is for $2500 for Small Business Emergency Support Grants -

Ms Rattray - Is that the program with 21 000 applications?

Mrs HISCUTT - That has a large number of applicants. The second is for special hardship, which are $15 000 grants, with a much lower number of applicants. It can be a little bit confusing because you were reading page 8 of the Premier's update from today, and it is confusing because the top line says, 'as at the 30 April', and some lines have, 'as at the 5 May', but it closed to new applicants at midnight on 4 May, so there are a few dates. Business Tasmania is working very hard, through a huge number of applications. We went through those numbers with a question you had without notice.

You asked about land tax - it is a waiver, not a deferral for the 2020-21 year. As at the 30 April -

Ms Rattray - The 2019-20 tax is only a deferral on request, is that correct?

Mrs HISCUTT - An application would have to be made, yes. As at 30 April 2020, 259 applications for deferral of land tax due to financial hardship have been received, of which 256 have been processed.

Ms Rattray - All favourably?

Mrs HISCUTT - I do not know. They have been processed. We do not have that information here. The bill was provided to the Local Government Association of Tasmania along with other stakeholders and it did not make substantial comments on the content of the bill.

Ms Rattray - They did to members of the parliament.

Mrs HISCUTT - LGAT? I will seek further advice.

Ms Rattray - Dated 24 April, from memory.

Mrs HISCUTT - I am informed that its submission dealt with a lot of LGAT issues, such as rates and things like that, whereas this bill does not go into that.

Ms Rattray - It referred to the number of commercial properties local government owned and depended on rates from -

Mrs HISCUTT - LGAT made a lot of comment about how it would affect it and its members as opposed to referencing any amendments to the bill. Yes, some of LGAT's comments are very legitimate in its space. Mr President, I think I have covered most things here.

Bill read the second time.

COVID-19 DISEASE EMERGENCY (COMMERCIAL LEASES) BILL 2020 (No. 19)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -
Interpretation

Mr WILLIE - I seek some clarification around 'lease' and why that was not extended to licences. In the briefing licence being covered was explained. Could the Government explain that under the definition?

Mrs HISCUTT - The definition of a lease includes a right to occupy, including where the right is not for exclusive possession. As such, it includes licences as these typically relate to a right.

Ms RATTRAY - In regard to the financial hardship period, I want to be really clear in my mind that although we are saying a 12-month period, if the premier of the day decides there is an end to the financial hardship period, that then negates the 12-month period. Is that what we are saying? I want that entirely clear.

Second, does the Premier think we will be six months longer than all the other states or are they prepared to come back to parliament? It a legitimate question because we have come back to this place for emergency times.

Mrs HISCUTT - It is the Treasurer to start with, and the answer is yes. With regard to 12 months versus the six months - that will save us coming back to parliament to change the legislation. How long is a piece of string because we do not know how long this will last. It is a matter of the provision being there, and if necessary it can be used, which will save doing another emergency-type bill if it is required within six months.

Ms WEBB - To follow up on that same area - on the potential for the financial hardship period to be brought to a close earlier than the 12-month period by the Treasurer - we discussed that in the briefing. I would like to have that clarified here and made very clear for the record that it has not been specified that a particular period of notice be given for that period coming to an earlier end. Could you please clarify the expectation that notice will be provided, such that those affected will have time to manage the end of the period?

Mrs HISCUTT - That was an answer I gave in my summing up. Did you want me to find it?

Ms Webb - No, that is my fault; I stepped out to take a call.

Mr VALENTINE - In clause 4(c), the definition of lease -

> whether the agreement is oral or in writing or partly oral and partly in writing…

It was explained to us why the oral aspect is included. Many people would say you cannot prove something that is oral. Is it possible to provide an on-the-record reason why that is included?

Mrs HISCUTT - The definition of lease includes oral agreement as oral commitments are binding and form part of a lease. In many cases, leases in writing will be supplemented by oral agreements, so there has to be a provision for that.

Mr VALENTINE - I am looking at the clause 4, the definition of premises, for clarity. Does that include aquaculture premises, either on land or water?

Mrs HISCUTT - The definition of business purposes includes the carrying on of a business, profession and trade and therefore would include leases that relate broadly to industries, including aquaculture.

Clause 4 agreed to.

Clause 5 -
Protected leases and protected lessees

Mr WILLIE - This was not answered in the other place, but it was answered in the briefing. It is clause 5(2) -

> Despite subsection (1), a lease is not a protected lease if it is a lease, or a member of a class of leases, that is prescribed for the purposes of this subsection.

Could we have an explanation as to 'prescribed', which is to do with the regulations?

Mrs HISCUTT - This power allows a lease or class of leases which would otherwise be a protected lease to not be a protected lease if prescribed in regulations.

Ms RATTRAY - In regard to the definition of rent, it says -

> …in relation to a protected lease, includes any amount, goods, services, or other valuable consideration…

Madam CHAIR - We are in clause 5; that is clause 4.

Ms RATTRAY - Sorry, I did ask and I must have missed that.

Madam CHAIR - I did call you, but you said you were all right.

Clause 5 agreed to.

Clause 6 -
Eligible person

Mr DEAN - To proceed with negotiations and so on, they must first be able to get the JobKeeper payment. What is the position in relation to the Australian Taxation Office? What part does it play?

Where it is not accepted, where the application is made for the JobKeeper payment and is knocked back, as in the case of my constituent who had a successful childcare business for six years and now has a loss of 40 per cent of earnings because of the free childcare ruling she is required to comply with - where is all the information contained as to what part the ATO plays? My office staff were not able to find that in the first place - that is, if they have the right to go to the ATO to ask for it to be looked at. As I understand it, they can overrule the first determination made. What is the process and what is the position?

Mrs HISCUTT - I thank the member for his question. At this point, we are delving into federal law, but I will see if I can find some information.

Mr Willie - The Education and Care Unit within the Department of Education has been set up to provide advice and help for people in that sector, so they might be able to provide some support.

Mrs HISCUTT - I have been informed that if the member wishes to forward that information to the Attorney-General's office, they will facilitate an answer or work their way through your query to see whether they can help in anyway in that particular case. However, this is the answer to your question: the legislation provides the Government with the power by regulation to expand the definition by regulations if necessary. The power will enable those agreements not currently foreseen to be captured if necessary. This will enable the Government to add businesses such as those required by the member if the Government sees fit. They may be added at some stage if the Government sees fit to add them.

With relation to your tax office question -

Mr Dean - When is that likely to happen? We have people out there suffering -

Mrs HISCUTT - We certainly have people out there suffering. This is an emergency. They are not the only ones suffering - everybody is. If you could see the duck feet in the pond working behind the scenes you would understand. Everyone is going as fast as they can to help as many people as they can, they are inundated with questions, so 'How long is a piece of string?' is the answer. If you wanted to put that inquiry to the Attorney-General's office, they will see if they can help that situation.

Clause 6 agreed to.

Clause 7 -
Meaning of prohibited lessor action

Mr WILLIE - I am not sure if this is the right place for it, but there was some talk in the briefing about seeking remedy for the lessee defaulting before the period, or potentially causing

damage - the lessor being able to seek some remedy during the period. Could we have some clarification around that?

Mrs HISCUTT - Before I deliver the answer to that query, I would like to talk to all members about what the member for Windermere was on about earlier. If any member has an any example that falls outside this bill that can be included in the regulations, please do not hesitate to put that forward.

The answer to the member for Elwick's question is: the prohibited lessor action does not apply to breaches relating to damage before or during the financial hardship period, because damage is wilful, and that is not affected by -

Mr Willie - Default before the period?

Mrs HISCUTT - Default before the period. I will just clarify that.

Action related to default relating to unpaid rent prior to commencement cannot be taken until after, so what happens before is another story. What happens in the middle is another story, and when it is all finished, you can pick up as it was before.

Mr Willie - Those proceedings, if they had started, are on hold?

Mrs HISCUTT - If they had started they would be on hold, yes.

Clause 7 agreed to.

Clauses 8 to 10 agreed to.

Clause 11 -
Certain acts or omissions, relating to legal requirements in relation to disease, are authorised.

Mr VALENTINE - During the briefings I asked the question with regard to clause 11(b) where it says -

> reasonably required, in response to the disease or the disease-related factors, in order for the lessee to comply with the laws of the State or the Commonwealth ...

It has been suggested that it should be 'lessee or lessor'. I am wondering what the outcome of that was, whether that is right, and it might need an amendment.

Mrs HISCUTT - I know the member for Hobart is very diligent in his reading of the bill and, yes, that has been picked up by OPC, and they are in the process of fixing that. That is being fixed, so thank you.

Mr VALENTINE - Thank you for that. In the last phrase of clause 11, where it talks about it -

> does not, either during or after the financial hardship period, amount to a breach of the lease and does not constitute grounds for the taking of any

prohibited lessor action by the lessor or the taking of any action by the lessee against the lessor.

Is it any prohibition action by the lessee or is it, 'any action'? It is 'any action'? I am getting the nod so, thank you.

Mrs HISCUTT - Yes, I agree that is correct.

Clause 11 agreed to.

Clause 12 -
Parties to protected leases take certain actions during financial hardship period

Ms WEBB - Let us hope this one did not get covered when I stepped out. Rap me over the knuckles if it did.

This could be dealt with here, or it could be picked up under clause 16. It relates to a question I raised in the briefing that I thought would be good to clarify on the record here. We see in clause 12(1)(e) and (f) that the parts that relate to 'must not' in relation to information. In clause 12(1)(e), it is 'must not make use of …' and in clause 12(1)(f) it is 'must not provide to any other person …'.

Clause 16 later deals with penalties for the 'must nots'. It deals with the penalty for the provision of information to other people divulging or communicating. It does not pick up on what is covered in subclause (e) there, 'must not make use of …'. I wanted clarity around why there is not a penalty attached to the use of information gained in this process, but there is a penalty attached to the divulging or the communication of information. Some clarity on that, thank you.

Mrs HISCUTT - We are talking about the penalties for the use of information provided under the act. The bill contains penalties for the disclosure of information provided under the legislation and for misleading and deceptive conduct. The use of information gathered does not result in a penalty under the legislation, but will result in breach of the lease agreement for which appropriate action can be taken by the other party.

Ms RATTRAY - The more I think about the financial hardship period this bill refers to, the more I am concerned that when we are talking about goodwill and fairness we are not going with six months. It has to be fair to both sides and the six-month period would allow that. If we need to, we could come back to parliament and make alterations. I still see no valid reason we are not in step with the rest of the country when it comes to this.

I am obviously looking for my colleagues to have some sort of input into this. In my time in this place we are continually told we need to be nationally consistent. Here we have a bill that talks about goodwill and fairness on both sides here and we are not, in my view, having that fairness either way.

Madam CHAIR - I wonder whether that is better raised under clause 31 where the 12 months is actually referred to as opposed to here.

Ms RATTRAY - I appreciate that, Madam Chair, but because this specifically refers to the financial hardship period, I thought it would be an opportunity I could address it and seek

members to also address it, and then obviously the opportunity will come up again. I appreciate your advice.

Madam CHAIR - The whole bill is about financial hardship.

Ms RATTRAY - I know, but it refers to it definitely there.

Madam CHAIR - The length of it is referred to in clause 31, so it is more appropriate to raise it there.

Mr Dean - You could have that recommitted.

Madam CHAIR - We have not got to clause 31.

Ms RATTRAY - Between clauses 12 and 31, members, my esteemed colleagues will have an opportunity to address their minds to the six months versus 12 months. Thank you for that advice, Madam Chair. Much appreciated.

Mrs HISCUTT - I would like to make a comment there for members to think about also. This bill has been put together under pressure. We have come up with what we think is the best possible way to move forward to keep things together. If it is six, 12 or 18 months, the point is the length of string is as long as the length of string is. If the emergency ceases earlier, the Treasurer will call it regardless of whether it is six, 12, 18 or 24 months, whatever the figure may be. Because we are not consistent with another state does not mean we are wrong.

Ms Rattray - Look out for the next time they ask me to be consistent.

Mrs HISCUTT - I think we have settled on a reasonable time. I will leave the official response to clause 31.

Clause 12 agreed to.

Clauses 13 to 15 agreed to.

Clause 16 -
Communication or provision of information

Mr DEAN - I heard the answer provided to my issue about clause 16(1)(f).

If I were a police officer again, it would mean I could simply get this information and it would not matter whether I am in the execution of my duty and/or not. Really no offences are committed. You have given an explanation. That explanation to me is not strong enough and does not satisfy my concerns here. The answer given was any law enforcement officer, anybody enforcing the law, so that means any council member who enforces by-laws. It goes to RSPCA officers who enforce animal laws. It goes to an enormous number of enforcement officers who enforce the law.

I am wondering why it is written in the way it is and why there is not some protection. The Real Estate Institute of Tasmania said this was an issue for them and they had some concern. Why should it not include here 'in the execution of their duty'. I can accept law enforcement officers although I struggle with that also, but I could accept if it had 'only in the

lawful execution of their duty' because police officers are not always in the execution of their duties. They are always a police officer while they remain in the job. It is like law enforcement officers - they are always law enforcement officers while they remain in the job, but they are not always in the execution of their duties. It is a significant issue.

With the Police Offences Act and the Criminal Code, reference is made to where a police officer is 'in the execution of their duty'. So it is clearly identified that they have to be in the execution of their duty. I am wondering why it is left so open here. Whether it has arisen before or not does not matter. It possibly could. I am not saying police officers would go out and abuse this. I am saying it is there where they could, for the wrong reasons, get this information. They might be interested in a business and therefore under this legislation in the way it is written they can do that.

Mrs HISCUTT - The Government has taken the advice of Parliamentary Counsel who have confirmed a reference to a police or law enforcement officer is to read - 'in the performance of their duties'. The Government believes no further clarification is necessary.

Mr DEAN - I hear the answer and I do not accept the answer at all. Quite frankly, with the greatest of respect to those people, nowhere does it say - 'in the performance of their duties' here. If you go back to subclause (c) and the way it is written, it is written in the right way and says -

> to a person acting in a professional capacity as an advisor to the person.

It is not written as it is with police. It says 'professional capacity', so it makes it clear. They have to be working professionally in all the circumstances, but with police it is not clear and it does not say anywhere that I can see - 'in the performance of their duties', it simply says -

> to a police officer, or law enforcement officer, of the State, another State, a Territory or the Commonwealth.

A federal police officer, anybody, it does not matter one iota.

Madam CHAIR - If you want to propose an amendment, you have only one more call left.

Mr DEAN - Yes. This matter needs to be looked at more closely. REIT raised it as an issue as well, so I am not the only one who has a concern. It is not clear. It does not say that, so I am not sure how OPC or anybody else could say that. Simply because you are a police officer, it does not mean to say you are in the execution of your duty. You only have certain powers and authority as a police officer when you are in the execution of your duties. You do not have those powers just because you are a police officer. Is there any further explanation?

I refer to clause 16(1)(c): why is it written that way? That is clear; it could not be any clearer. I will probably propose that this matter be deferred for the purpose of an amendment being drawn up but at this stage I will wait because I have another call.

Mr GAFFNEY - To help with this, I looked at the same thing in a slightly different light. Clause 16(1)(c) says, 'to a person acting in a professional capacity as an adviser to the person'. I then looked at clause 16(1)(f). If it had said, 'to an officer of this state, another state, or a territory or the Commonwealth', I would have wondered what that meant. When they use the

terms 'police' and 'law enforcement', that gives the professionalism to the word 'person' or 'the capacity'.

When I read this in clause 16(1)(c), I thought, 'Why do they not just say, "A person acting as an adviser to the person"?' It has to be a professional person. In clause 16(1)(f), because they use words 'police' and 'law enforcement', they are saying both of those are professionals.

In light of this, it stands and is consistent with clause 16(1)(c) because it is using the profession as the capacity. Whilst I saw your first concerns, if it just said 'to an officer of this state', that would have concerned me because clause 16(1)(c) says, 'to a person acting in a professional capacity'. In clause 16(1)(f), they designed a professional manner in this as a 'police officer' or 'law enforcement officer'. That is the professional manner. It is consistent, even though it is worded in a different way. Whilst I hear the honourable member's concerns, I can see where OPC thinks this is valid. I am not sure if that has convinced you, but that is how I see that it sits.

Ms WEBB - I agree with the member for Windermere. It is particularly important because the matter we are talking about is divulging confidential personal information, but it is especially clear and specific in terms of the circumstances under which that happens. I hear what the member for Mersey said. I feel that clause 16(1)(c), which says, 'to a person acting in a professional capacity as an adviser to the person' - I believe that provides the context in which that person is acting, but clause 16(1)(f) specifies the 'police officer' or 'law enforcement officer' but not the capacity in which they would be acting.

I agree it is in the execution of their duties that they would potentially be able to have the information divulged to them, not simply because of the title of their job and outside of the execution of their duties. I am in agreement. I would like to understand why there is not more specific and clear elucidation about the context in which personal and confidential information could be divulged.

Mrs HISCUTT - With relation to clause 16(1)(c), you are talking about a professional capacity so that would be a mediator or a lawyer, solicitor or the like. You presume that if you are a lawyer, a solicitor or the like, all the professionalism you have attached to that tag is there. You are getting a lawyer's opinion and a lawyer's advice, whatever they care to give. The same is wrapped around a police officer's title. A police officer is a profession as it is, and all the things that go with that, go with that. OPC has advised that the reference to the police or law enforcement officer is to be read within the performance of their duty and the Government believes that the clarification is clear and no further clarification is needed.

Mr VALENTINE - I suppose it is on the record now, and you are saying that is the way it is meant to be taken, so therefore it is right. It could have very easily been fixed by adding after clause 16(1)(f), 'and acting as such'. Anyway, it is on the record now. I guess it is fixed.

Mr DEAN - I hear what has been said. You cannot interpret legislation simply in that it is meant to imply this or it is meant to do something else. You cannot do that. Legislation has to be clear one way or the other. This is not clear and it is far from being clear.

Madam Chair, I seek leave to report progress for the purposes of seeking an amendment in relation to this matter, simply to include, 'in the performance of their duties', or, 'in the execution of their duties', to both the police and law enforcement bodies.

Madam CHAIR - Maybe it is a better option, to enable us to get on with the rest of it while that is being drafted, to move that we postpone the clause. The member for Elwick has another question, but you have taken your third call. We will come back to this clause if you postpone it now. We will move on with the other clauses and come back to it. In the meantime, you could send your instructions.

Mr DEAN - Madam Chair, I accept your advice. I do not want to hold up proceedings. Madam Speaker, I move -

That we postpone clause 16.

Mr GAFFNEY - I accept we want to move on, which is fine. The member asked about this before receiving advice from the Clerk, and then we would have been able to speak. The member's premise was that he did not accept what was here. I would have put that to a vote because I did accept the response from the Government and the position, but it has been moved to be postponed. I suppose we can deal with it at that stage but, if it was to deal with his original intention before it was changed to postpone, we could have had that debate and moved on. It would have been passed or not, and then the amendment could have been drawn up.

Madam CHAIR - The member wants to have an amendment drawn up. He has made that point clear. There are two ways to do that: we report progress and wait, or we postpone, allow that amendment to be drawn - which it is the member's right to request - he prosecutes his argument and we vote on that. In the interests of moving on with the rest of the bill, he is putting that motion. Members can vote against that if they wish.

Mr GAFFNEY - I wanted to learn this process. Originally, he was moving to report progress before we went to postponement; would we have debated whether progress could have been reported, or does that happen automatically?

Madam CHAIR - We would have, yes.

Mr GAFFNEY - We would have debated it. At that debate, I would have said, 'No, I do not think we should report progress and we should vote on it' because I do not believe there are the numbers in the Chamber that want to wait for the amendment. I am happy to defer.

Madam CHAIR - With all due respect to members, when members request an amendment be drawn, we usually give them the opportunity to at least test that.

Clause 16 postponed.

Clause 17 -
Rent payable under protected lease not to be increased during financial hardship period

Mr VALENTINE - With regard to this, an explanation was given in the briefings. I put the circumstance that you have a restauranteur who has made an agreement for rental on that lease to go up, for example, in May and the agreement was signed in January. We now find ourselves in a particular period. The person may be in financial hardship and can prove that because of loss of custom. I want to clarify it on the record as to what the lessor is able to do at that point, even though the agreement has been the rent goes up in May, and what I want

clarified, is that the rent cannot be applied until after the financial hardship period is complete and that might be the end of June or whatever.

Basically, the lessor does not have the benefit of the increased rent between mid-May if that is when it was signed for back in January and, say, the end of June. I want that clarity on the record.

Mrs HISCUTT - As I pointed out earlier if the lease is a protected lease, the rent increase cannot occur until after the financial hardship period. When it gets to that financial hardship period and you are a protected lease that is when it stops and when you go into hardship.

Mr Valentine - Even though it was signed prior to the period.

Mrs HISCUTT - Yes, that is correct.

Mr Valentine - Thank you.

Clause 17 agreed to.

Clause 18 -
Rent payable under protected lease to be renegotiated

Ms WEBB - I wanted to take an opportunity to clarify a matter raised in the briefing and would like it on the record. It may have been mentioned already. When consideration has been given to the circumstances of lessees and lessors in this determination about the rent there is no obligation on lessees to be in a process of maximising their turnover during this period and have to demonstrate they are achieving what may be deemed by others to be an appropriate turnover and they are under no obligation to demonstrate that in their determination.

Mrs HISCUTT - The way the member describes it is correct.

Ms WEBB - Thank you. I will pick up on one other thing I wanted on record after a question from the briefing - that is, noting in clause 18(3)(b) there is a reference to broadly capture that the leasing principles set out in the National Code of Conduct are covered here and that putting them in would have been impossible. I wanted to clarify because evidence and information relating to hardship claims for both parties is referenced in here but we have not referenced specifically requirements on lessors to have to bring forward information about any relief or benefit that are being in receipt of and that becomes part of the determination and that being passed through. That is captured in the National Code of Conduct. I wanted to make sure even though it is not captured here specifically that clause 18(3)(b) does ensure that is part of this determination.

Mrs HISCUTT - That is correct, and the member for Hobart tabled the national code so anyone can reference it.

Clause 18 agreed to.

Clauses 19 to 24 agreed to.

Clause 25 -
Costs of mediation

Ms RATTRAY - With regard to this particular clause - it relates to the cost of mediation and we talked about this through the second reading contributions and particularly in the briefing this morning. I would particularly like to have on the public record the commitment been provided by the Premier and the Government to have that initial mediation funded by the Government. This is my understanding and I would like this confirmed and to have some idea whether it is a two-hour mediation session - would it be one or two or three - to have some idea of what the mediation process funded by the Government will be before we go to the costs of mediation which, if there has been no acceptable agreed outcome then goes to a further mediation process and what those costs might be. As I have said consistently through this debate, we are talking about small business and often talking about mum-and-dad investors in property. Once the costs start to escalate then sometimes people just do not have the resources to continue in a process like this. I would like on the public record some of those commitments and potential time frames a mediation process might look like before we get to the cost component and what that might be.

Mrs HISCUTT - We are aware in the other place the Premier committed to providing financial support. The details are yet to be worked through. We need to bear in mind that only happened yesterday, so I am not sure how far down the track it has gone. I will seek some further advice.

Ms Rattray - I am sure there has been some preliminary discussion, Leader.

Mrs HISCUTT - I must correct the record, it was the Attorney-General who gave the commitment. In the other place, the Government is intending to support the implementation of the code through a contribution to the costs of mediation services. Further details will be determined through consultation with stakeholders. The Government wants to ensure financial hardship is not a barrier to accessing mediation. Some of these leases are very complex commercial matters. I struggle to say what it is going to be because we do not know, but it could possibly be the payment of the first two hours of mediation. Mediation in some instances could go on for quite a long time, so it is very difficult to say what level will be given, as there has been no chance to talk to any stakeholders yet. All that negotiation will have to happen, and it will happen, and something will come out of it. I cannot say now. It only happened yesterday. There is much to be worked through for that to become a reality. But yes, we have committed to putting some financial effort into helping these people, because we do not want people missing out just because they cannot afford to. There is much discussions to be had.

Ms RATTRAY - I certainly appreciate that. It was a commitment made yesterday in the other place, and possibly there has not been enough time to allow something like that to be fully considered. We have mediation processes for a manner of other issues in this state, so do we have some idea of what a mediation session might cost? I have not been directly involved in something like that, Leader. I am interested if, somewhere in the halls of departments, we might have some indication of that. It is to be shared, according to clause 25(2).

Mrs Hiscutt - Are you asking how many dollars per hour does a mediator cost?

Ms RATTRAY - Yes. It just gives some idea of what people might expect if they go down that path. It might allow them to come to a better outcome more quickly than they would

have done if they know how much it is going to cost, when they are obliged to pay half of that. I would be interested if that is available.

Mrs HISCUTT - We are not sure yet how many hours and what expertise will be needed. We will make this clear prior to our mediation commencing, and at least that person will know the dollars per hour. There are a lot of things that go into that. How much does a lawyer cost? How much does a mediator cost? It varies depending on the expertise of the professional you are using.

Mr Valentine - How big is the problem?

Mrs HISCUTT - How big is the problem? How long will it take? These are questions I cannot really answer today. The director is acutely aware of that and will be looking at it. I am sorry, I cannot put a dollar per hour for mediation because it might not be right. It might be less, it might be more. I am sorry, I just cannot answer that, but we are committed to helping so that the financial barrier is not a barrier to help.

Clause 25 agreed to.

Clause 26 -
Arbitration

Mr WILLIE - I asked this in my second reading contribution, but I do not know whether it was overlooked. I believe the draft bill mentioned land tax and passing on rate concessions, but in this bill it is not mentioned while it is in the national code.

Will that be in the regulations?

Mrs HISCUTT - Your question deals with the passing on of that relief. That would be dealt with through regulations, and this is not really part of this particular -

Mr WILLIE - I have not seen the first draft bill myself, but I was advised it was in this section. It might have been wrong.

Clause 26 agreed to.

Clause 27 -
Immunity from liability, &c.

Mr VALENTINE - I was looking at this clause. The mediation provider does not have a lot of strictures around it: immunity from liability; no civil or criminal liability attaches to the mediation provider. I am wondering with Tasmania being such a small place, people knowing each other, it is possible that it could be a lawyer doing it, and they have not revealed the fact that they have acted for one of the parties. There was a response given, but the response was that the providers would be subject to civil penalties, but it says 'no civil or criminal liability', so I am asking for that to be clarified on the record.

Mrs HISCUTT - The standard practice is to give officials and their delegates immunity for performing statutory functions if acting in good faith, so if a mediation provider or their delegate mediates a matter in which they have a conflict of interest, they will not be acting in good faith and would lose their immunity.

Clause 27 agreed to.

Clauses 28 to 30 agreed to.

Clause 31 -
Financial hardship cessation day

Ms RATTRAY - Madam Chair, I will take advice from you. I will read the first amendment.

First amendment

Clause 31(2).

Leave out '12-month'.

Insert instead '6-month'.

Madam Chair, in an earlier time I prosecuted that this bill was about goodwill and fairness. Also, through our briefings we had representation.

Mr GAFFNEY - Point of order, I do not see that.

Madam CHAIR - There is no '12-month' in subclause (2). It should be subclause (3).

Ms RATTRAY - Thank you. Do you want me to reread that, Madam Chair?

Madam CHAIR - Yes, if you would not mind.

Ms RATTRAY - Again the amendment in my name, I move -

First amendment

Clause 31(3).

Leave out '12-month'.

Insert instead '6-month'.

I appreciate members' diligence in picking that up.

As I said, through the briefing process we received a number of representations around the fact this was 12 months and all other states had chosen a six-month period. I put this on the public record because the provision says -

> The Treasurer, by notice, may declare a day to be financial hardship cessation day.
>
> …
>
> If the Treasurer has not declared … a day to be the financial hardship cessation day before the end of the 12-month period after the commencement day, the Treasurer is to be taken to have declared to be the financial hardship cessation day… the day 12 months after the commencement day.

The issue raised is that the deemed financial hardship cessation day after 12 months is too long and this would result in the legislation having application for the duration of the Christmas trading period when traders, as we know, generally thrive. This goes beyond the code which has effect until the JobKeeper program is no longer operational after 27 September 2020.

As I have already referenced, the Victorian regulations will automatically sunset on 29 September 2020; similarly, the New South Wales regulations will automatically sunset on the day that is 12 months after the day on which they commence, being 24 September.

If we move back to the six months, we are (a), consistent with the national approach which is under the national code; and (b) I do not agree with the fact, 'Oh well, we do not have to come back and change anything if we need to extend it'. We have already shown in this House that parliament can come back whenever requested during this time with the appropriate social distancing arrangements in place. I see that as no impediment to being able to deal with legislation should it be required at the end of the six-month period.

I appeal to members that they consider this to be a fair and reasonable approach when we are talking about goodwill and fairness on both sides here. I will not labour the point any more. As I said, we had a number of representations through briefings and it is a fair request, and I took the advantage and opportunity to put it to the will in the House.

Mrs HISCUTT - Madam Chair, there are a couple of things I would like to touch on first. As I said before, and as I have heard the Premier say before, Tasmania will beat to its own drum. The 12 months is there as a period in time, whether it is six months, 12 months or 18 months - once the hardship period is over, it will be declared over. We can only pray that it might be declared over in a month, but it probably will not. The only difference is coming back to parliament to do this. This is a date that has been selected as the right time. If we reach the 12 months and it needs extending - or the six months, if this amendment goes through, which I hope it does not - you still have to come back and do something. If we are in the emergency period for over 12 months, we still have to come back to select another period of time. It is a point in time that has been selected to be put in the legislation. It has been worked on by our advisers flat out for a solid week without much sleep. The Government has settled on 12 months as being the appropriate time. If it is shorter, it will be declared shorter and it will be ceased.

Regarding the point about coming into Christmas trading, if it is deemed necessary to be there during the Christmas trading time, it will be there whatever length of time. We may have to come back many times if your amendment comes through. It all depends on what is happening with the disease. That is the reason for it, but I am sure my advisers have something they would like me to add, so I will seek their advice. The other states' codes can be extended by regulation, whereas ours has to come through legislation. With this amendment, Tasmania will not be able to do this and will require an act of parliament, so it will generate another act of parliament.

The bill was written in this way to provide a clear end date, with flexibility if necessary to enable the code to continue. The Government's intention is to be as consistent as possible unless Tasmania's situation is different. If things are different here, being an island, and it may be, we intend to be consistent with the rest of the country. It would well be six months, but we will have more time if needed. I urge members not to accept this amendment because it is not necessary.

Ms RATTRAY - Madam Chair, I appreciate the Leader's response to the amendment I have put forward. My intention here has nothing to do with the good work of the department in putting this together - absolutely no disrespect at all.

Mrs Hiscutt - I never said that and I do not mean that.

Ms RATTRAY - No, but the point was made that all this good work has been done - and this is not about the good work of the department. I do not understand why we have settled on 12 months. Tasmania is different. I have argued this until the cows came home in this place, but it has not made much difference in being nationally consistent. It has not made a skerrick of difference. We sign up. I have heard it all before. There is a Council of Australian Governments meeting and the minister of the day signs up and we are in, and it makes no difference whether it suits Tasmania. With all due respect, that sort of argument is pretty lightweight because it has not worked in the past.

You mentioned other states have put theirs in regulation. Why is this not in regulation? We are dealing with other parts of the bill in regulations. I do not have the answer for that, but I am sure the Leader will. I am loath to speak the third time when nobody else has spoken. Perhaps somebody will. I will take my leave, invite the Leader to respond to those questions and listen to what other members have to say. Thank you.

Mrs HISCUTT - I will seek some advice on the regulations, but the other states did it by regulation; because Tasmania does not have that legislation to work with, whereas all the other states did, we had to do our own legislation to get up and get going.

Ms Rattray - I understand but we are also putting regulations as part of this bill - there will be regulations.

Mrs HISCUTT - I will seek the advice on your question regarding regulations.

The idea was to put as much as we could into the bill so there will be very few regulations to follow up. As I have mentioned before some of those minor groups not covered in the bill will be covered by regulations. The idea was not to have as many regulations or as few regulations as we possibly could. We built this bill around that so it was clear and people could see an end date unless something else had to happen. I do not think there is much more I can add except the fact it is covered in the bill and we do not need to change the length of time.

Ms WEBB - I thank the member for McIntyre for putting this forward. It is interesting for us to contemplate and I am still grappling with where I am going. This is what I am thinking about at the moment. What we are doing has really significant financial implications for both sides of the equation. It would be harder to make the decision to end early, were that deemed to be appropriate, if there is a 12-month period there.

That is a very contested decision for the government of the day to make, to bring it to a close early, potentially putting the emphasis on a reconsideration at the six-month point because that is being determined as the provisional end point. Forcing a reconsideration of whether a further six months is necessary is perhaps a better way to accommodate the significant implications it has for people on either side of the equation. That is where I am thinking at the moment, that there is a six-month period with the expectation we come back, have another look and maybe have to put a further six months or less in place. We will be

better placed at the end of the first six months to know where we are and what is happening into the future and what further extension may or may not be needed.

If we have an assumed 12 months in place, the circumstances where it could end early is a really hard argument for the government of the day to make potentially and more of an impediment to ending at the right time than another consideration at the end of six months. That is where I am sitting at the moment and I am interested to hear from other members.

Mr WILLIE - I respect what the member is trying to do here and there are some reasonable arguments on her behalf. However, as it is written we actually comply with the code, if JobKeeper is going to stop and there is a lot of uncertainty around that and whether it will be extended. The Premier could bring the cessation date forward to stop it at the same time. So, as written, we actually comply with the code, so there is no problem there. I also acknowledge the departmental staff are taking notice of what we said in previous debates and we have voiced here that we wanted end dates. We do not want things to be continued on at the stroke of a pen, and parliament should have some say in that. I do not think we should be proposing a review at six months for the Government to then extend it because that is not what was said in previous debates.

Ms Webb - It would not be the Government's decision to extend it; it would be the parliament's decision because it would have to come back as legislation.

Mr WILLIE - Yes. As I said, we comply with the code as written because the Premier can bring it forward, given the uncertainty. We are all crystal ball gazing on how long this will be needed, including the federal government, with its subsidies and support. I am very comfortable with how it is written and we will support the Government.

Mr GAFFNEY - I agree with the member for Elwick. It was interesting that the member for Nelson said it would be harder for the Government to make a decision if it was six to 12 months -

Ms Webb - To finish early -

Mr GAFFNEY - Yes. The Government would have taken that on board when it came up with the 12 months. That is something it would have considered when it put this legislation together. I understand where the member is coming from, but I also see the difference between us and the other states. It is definitely the regulations in the legislation, and how the Government is looking at 12 months. If the Government can bring it forward, that would be fine. The Government can make that decision there and then, and then we move on, but if it has to come back to this place after six months to go through a new bill to do that, that is many other people being involved in something that is pretty simplistic in what it is trying to achieve. I do not think we should confuse it. I will support the Government's 12-month period.

Mrs HISCUTT - I do not think I can add much more. Our advisers have said there is no need, we have to comply with the intent of the code. How long is a piece of string? This is the date and time we have landed on, and there is a finish date. If we need to come back after that finish date, so be it. A call would come from further up the chain - it comes through in Health department advice and takes time.

Members, this is the best place to sit it as it is. I can see where the member is coming from -and she is thinking national vehicle transport when she is thinking of national codes. If the Treasurer needs to wind it back at any time, it can be done.

Mr VALENTINE - My particular issue is with the six months between the time the JobKeeper program stops and when this period stops. What are the financial implications likely to be? Are there going to be unintended consequences? You have these mechanisms in play - all of a sudden, the Prime Minister calls a halt to the JobKeeper program, but we are still going down here and the people involved will not be getting the support they need for that six-month period. If someone can tell me there is no financial implication in that scenario, I will be comforted but I am concerned about that.

Mrs HISCUTT - There will be financial implications across the board, not simply because there is six months, 12 months or 18 months. I will seek some advice on that, but this puts an end date on it. People know where they are going and the Premier can call it off at any time. If the JobKeeper program ends on 30 September 2020, a business that would have been eligible for JobKeeper would continue to meet the definition of eligible person and they would be covered. The Government can issue regulations to further deal with this if necessary. So there is an answer.

Mr VALENTINE - Yes, but the Government is a state government and it is a federal support program. Surely the Government cannot say to the feds, 'You will support us for another six months in this process.'. That is what I am trying to understand. I do not have a problem with 12 months. I just wonder what will happen in this six-month period where you do not have the support, and then all of a sudden people who are getting the support do not have it anymore, and there is even more severe hardship. That is my question.

Mrs Hiscutt - Are you asking does the support come from the state Government, or the federal government? What are you asking?

Mr VALENTINE - JobKeeper is a federal program.

Mr Willie - He is saying: how do you maintain the rents when you are not getting a federal government subsidy?

Mr VALENTINE - That is right. What are the implications of that in the period from when JobKeeper stops and this is still going for another six months? That is my only concern. If someone can explain to me that, no, there is no financial implication there, I will be happy.

Madam CHAIR - It could be worse.

Mrs HISCUTT - I think all I can do is reiterate that once you become eligible for JobKeeper, it means you are an eligible person because you have passed the criteria. You will continue to be that person until the cessation date, which is a year's time in our legislation. That will continue.

Mr Valentine - That is right, but you will not be getting support. That is the point.

Mrs HISCUTT - You will still be an eligible person until the cessation date.

Mr VALENTINE - I understand that entirely, but I still do not see how that is going to fix the issue, the fact that you are an eligible person. You are an eligible person and you are not getting support, so therefore it must affect something.

I am happy to vote for the 12 months, because the Government has obviously made a policy decision on this, and that is its lookout in that sense. If the Government is determined to have that 12 months, I will go ahead with that, but I still wonder about the financial impact on the system in that last six months.

Mrs HISCUTT - I just need to clarify here, Madam Chair, that JobKeeper goes to the employees, not the employer. Once the employer has covered becoming an eligible person, the employer becomes an eligible person until the cessation date in our bill.

Ms RATTRAY - Madam Chair, I appreciate the contributions put forward, particularly by the member for Nelson, because I agree it will be difficult to stop this earlier. I go back to that goodwill and fairness on both sides of the argument. That is all I am asking for, and that is all that the people who presented to us are asking for as well. I know it is a bit of crystal ball gazing - and, no, we do not know - but I would suggest that possibly the people who made representation and understand business very well do have a fairly good idea of what might be the consequences.

I have done my best to prosecute my argument, and the vote will decide, so again I appreciate the opportunity. National consistency will change a lot in my opinion, in the future.

Mrs HISCUTT - One last comment: we must remember that the cessation date occurs when it is declared by the Treasurer.

Ms Rattray - Which will be hard to do.

Mrs HISCUTT - Regardless of whether it is six, 12 or 18 months, 12 months is the time that we have decided.

Madam CHAIR - You might like to seek some advice on that.

Mrs HISCUTT - For clarity, it is the Treasurer who declares the cessation date, irrelevant of whatever the length is.

Ms Rattray - He will advise the Premier of that?

Mrs HISCUTT - Yes, we have settled on the 12 months. I advise against this amendment.

Ms ARMITAGE - Madam Chair, I understand where the member is coming from. If we talk about national consistency, you ask the building surveyors whether there is national consistency; there certainly is not. It certainly does not work in all cases. I really think in this situation - I am sorry - I cannot support you in this one. I support the 12 months, but there have been many occasions during this COVID-19 pandemic that our Premier has come out ahead of the nation, of the federals, and done this first and done things harder. I think in this situation he is certainly doing the right thing, and I will support the 12 months.

Ms Rattray - I do not disagree he has been a leader in our state.

Ms ARMITAGE - And he is continuing to be. The fact that it is not the same as nationally does not mean we are wrong. Maybe we are doing it first, and the others will need to change theirs from six months to 12 months.

Mr WILLIE - I think it is quite an eloquent solution as it is written. It provides that flexibility. It has an end date for the parliament which we have requested in the past.

Talking about bringing the date forward, yes, that would be a difficult decision, but so would stopping JobKeeper and all those subsidies at the moment in the current climate. There are difficult decisions to be made, but the Government has also committed to provide notice. If Government is going to bring the date forward, there would be communication with the federal government, so I think as it is written, it actually gives us and the Government far more flexibility to adapt to the time that is approaching, and the conditions that may be around that.

Madam CHAIR - Are you making the Government's point?

Mr WILLIE - Just trying to be constructive. These are strange times.

The Committee divided.

AYES 1	NOES 7
Ms Rattray (Teller)	Ms Armitage
	Mr Finch
	Mr Gaffney (Teller)
	Mrs Hiscutt
	Ms Howlett
	Mr Valentine
	Mr Willie

PAIRS

Ms Webb	Ms Lovell
Mr Dean	Ms Siejka

Amendment negatived.

Clause 31 agreed to.

Clause 32 -
Regulations

Ms FORREST - Madam Deputy Chair, I move -

That clause 32(7) be amended by -

First Amendment

Leave out "4 or".

Second Amendment

Leave out ", for compliance with guidelines, or".

I spoke about this in my second reading contribution so I will just make the overarching points again in the interests of time. This clause removes the requirement to consider section 4 of the Subordinate Legislation Act which states -

> The responsible Minister must ensure that before subordinate legislation is made the guidelines issued under section 3A are complied with so far as is reasonably practicable.

Essentially, effectively this means that if they cannot comply, that can be stated in the information provided to the Subordinate Legislation Committee for the consideration of the committee along with the other information required. The guidelines require that the objectives of this proposal and legislation are clearly formulated - obviously that is important - and those objectives are reasonable and appropriate. We hope particularly in this case they are in accordance with the objective, principle spirit and intent of the bill that would authorise the proposed subordinate legislation to be made. Clearly, because we are doing very specific matters in the regulation, we are picking up some of those businesses or persons who may not become eligible by virtue of them not being eligible for JobKeeper.

We need to be sure we are in line with that. I am sure the Government is doing this and will being doing it because it said that in the second reading speech. We want to be sure the objectives are not inconsistent with the objectives of other acts or subordinate legislation or government policies. If you start carving these provisions out when you have the capacity in section 4 of the Subordinate Legislation Act already to apply it only as far as is practicable, we are basically diminishing not only section 4, but we are also diminishing section 3A which provides the guidelines.

The Leader in the second reading speech made the point that the purpose of the regulation-making power in the bill is in recognition of the complexity of the subject matter and we need to be able to adapt the efficient operation of the code where needed. Clearly, the Government is focusing on that so it will be abiding by the guidelines to achieve that as far is as practicable. She also went on to say any regulation made under the legislation will be subject to the existing scrutiny processes that exist for regulations. You are saying, Leader, that that is what you are going to be doing anyway.

We know there will be consultation - we were told about that in the briefing - so, again, that picks up the application of the guidelines, so why would we remove that requirement to comply with the guidelines? You talk about setting precedent - I know it was in another act we passed last week. There were some urgent matters in that, but it is not reasonable, when this process will be followed clearly from what has been said in the second reading and the commitments made regarding consultation, that you carve this out.

I urge members to support the amendment. It leaves in clause 5, which refers to the requirement to do a regulatory impact statement. We all understand how long and tedious those matters are - they can certainly be time-consuming - but there is not time to do those sorts of things. There will be an impact, for the lessors and for the lessees. The impact is far and wide at this time.

The fact that more urgent regulations may need to be made in a hurry at some stage does not remove the need to abide by the guidelines, and if it is not practical to do so the minister responsible, most likely the Attorney-General, would be able to explain why they were not. It is inappropriate to remove sections of the Subordinate Legislation Act. It is an important tool in the scrutiny of this parliament. I urge members to support the amendment.

Mrs HISCUTT - I will seek advice in a moment but I would like to reiterate. The Government considers strict compliance with the guidelines is not possible but will commit to meeting its requirements to the extent possible.

Ms Forrest - That is what section 4 says.

Mrs HISCUTT - The Government is committed to consulting with stakeholders on any regulations made under the act. This is critical to state emergencies. These are unprecedented, strange times. Therefore, we ask for understanding in these times and we must be able to act swiftly when we do it. Section 4 of the Subordinate Legislation Act requires a legislative impact assessment to be undertaken, as you have already mentioned. Some of the steps required by the guidelines, such as assessment by the ERU, are not currently available. I will seek advice.

Ms Forrest - You need to spell out your acronym for those who might not know.

Mrs HISCUTT - Madam Deputy Chair, the ERU is the Economic Reform Unit and it sits within Treasury. I reiterate that we are dealing with an extraordinary period and extraordinary circumstances that require certainty for landlords and lessees. It is to enable unforeseen circumstances in this state of emergency and what we have in the bill before us is right, proper and ready to go. I do not see any need for this amendment; members, I urge you not to support it.

Mr WILLIE - I am seeking some more information, and respect the expertise of the member for Murchison having sat on that committee for a long time. If the Government cannot comply with the Subordinate Legislation Act, the Government can simply provide an explanation to the committee, then it is in the committee's hands as to whether to accept that. Given that is a standing committee of the parliament, that is probably your proper process.

Mrs HISCUTT - The Government does not have a lot more to add to this. This bill has been carefully considered and we do not see any need to have this amendment inserted within this bill. We thought things were right as they were. The Government is considering the time frame needed to seek this exemption for the regulations during a state of emergency. At any time, we may have to make a decision and this is extra time that is not needed. I urge members not to vote for this amendment.

Ms FORREST - To answer the member for Elwick's question, I take you to section 6 of the Subordinate Legislation Act -

> Regulatory impact statements not necessary in certain cases
>
> The responsible Minister need not comply with sections 4 and 5 if -
>
> (a) the Secretary certifies in writing that the proposed subordinate legislation comprises or relates to matters set out in Part 1 of

Schedule 3 or comes within any of the categories set out in Part 2 of that Schedule; or

(b) the Treasurer certifies in writing that, in his or her opinion in the special circumstances of the case, the public interest requires that the proposed subordinate legislation should be made without complying with sections 4 and 5;

It is there. There is your power. If they cannot comply and it is not reasonably practical to do so, as section 4 already says, section 6 confirms it. The Treasurer simply needs to certify in writing that they cannot comply because of the urgency of the matter. Why would we remove that requirement as a matter of course to ensure that subordinate legislation is prepared in a fit and proper way with due regard to it being reasonable and appropriate in accordance with the objectives, principles, spirit and intent of the act, and it is not inconsistent with the objectives of other acts?

I cannot see what the Government's problem is because the act this is referring to clearly states that if it cannot be complied with, all the Treasurer, who is in charge of responding to these matters, has to do is certify that they cannot. If there is an urgent matter, the Attorney-General would say to the Treasurer that, for whatever reason, it is an urgent matter and we do not have time to get the Economic Reform Unit's opinion, particular advice or to undertake some further legislative impact assessment of it. The Treasurer will provide that and we can immediately get on with drafting the regulation, providing it to the Government, gazetting it and then it will come back to us. It will come to the parliament on the first sitting day. That is what is required. If it is really urgent, it can be done without that.

Let us not hollow out a proper process regarding subordinate legislation. When we passed the first COVID-19 bill, we put all those Henry VIII clauses in that gave all the power to the executive. Why are we considering removing the basics of the regulations here, unnecessarily? If it cannot be complied with, the Treasurer will issue a certificate to say so. The committee receives these quite regularly and, in my time of 11, probably 12, years I have been there, we have never rejected that or said that we thought it was wrong. Okay? That power is there. It usually relates to the financial implications in section 5, certificates. It clearly says here that section 4 is included in that.

Let us not diminish the approach to subordinate legislation. There is little enough scrutiny of some of the emergency powers anyway, so let us have the Subordinate Legislation Committee be sure that we are informed if there has not been compliance with the guidelines and given the reasons why. If they have been, there will be no questions asked because we will know they have. In times of urgency, yes, we are in unprecedented times, but let us not diminish the making of subordinate legislation for expediency when it does not need to be. There is a power there already in the act to provide for that certificate of noncompliance.

Mrs HISCUTT - I remind members that it is not business as usual. We are in the middle of a pandemic and these are measures we are putting in place to address situations that rise on the turn of a coin. It will happen and we have to move on with it, react to it and do it.

Ms Forrest - This does not stop you.

Mrs HISCUTT - This involves time frames. You said you have been on the Subordinate Legislation Committee for 13, 15 years. We have not had a pandemic, ever, and this is how we are reacting to it, and this is how we are trying to manage it. I am asking members not to support this amendment. We do not need it, and it is just extra time that is added to an emergency situation.

Ms Forrest - It is not extra time. That is a fib.

Ms WEBB - I am going to speak very briefly. I support the amendment. I absolutely agree that yes, we are in extraordinary times, and we have to be careful putting aside appropriate parliamentary scrutiny at these times. The member for Murchison has amply demonstrated that there is nothing lost, because it is already accommodated there, to do things promptly, to be able to make a very quick and clear case that can be put aside within the Subordinate Legislation Act arrangements there already. There is no reason for that to be in this particular legislation; we are putting aside a really important piece of scrutiny. You have not made a case for why that is necessary. The member for Murchison has refuted the case you put forward very effectively. There is no delay, so I will be supporting the amendment.

Mrs HISCUTT - I thought I put forward a good case. It is up to you whether you agree. I would like to reiterate to members that I do not think this is necessary to go in there. This is an emergency situation, in an emergency time, and extra time is just not necessary. I urge members to vote against the amendment.

Mr GAFFNEY - I like the way the member for Murchison has prosecuted her case in this. I think the Government's case could be stronger in what it is trying to achieve. I do not think I have really heard all of the support for this case. The member for Murchison has convinced me to go with the amendment, but I feel as though I would like more information from the Government.

I do not know how it works, and the member for Murchison might be able to help me while I am on my feet, when it was said the Treasurer has the power under section 6 of the Subordinate Legislation Act to do it anyway, does that mean he would have to write to the Subordinate Legislation Committee, and say, this is the situation that I find myself in? I want to know how it works, because you said something about the next parliament day -

Ms Forrest - What I am talking about is when a regulation is made, it is made by the Governor, it is gazetted, and then usually within 15 sitting days it has to be tabled, under the Acts Interpretation Act. Whereas this act, that we are dealing with, says one sitting day. They brought it right back because we are not sitting that much. Once that happens, the committee receives a package of information from the minister that now provides a fact sheet, a regulatory impact statement if one has been done; this is under section 5. If there has not been a regulatory impact statement done because it is deemed unnecessary under section 6, I refer to the fact that the Treasurer issues a certificate - it is a one-sheet thing that says, 'This is a certificate that says it is not necessary' - and then with section 4, which is what we are just talking about, it would be the same thing: a certificate that says 'Section 4 has not been complied with because of the time frame' or whatever.

Mr GAFFNEY - Thank you, and in all your times you have said that the Subordinate Legislation Committee has never knocked that back, or -

Ms Forrest - Or questioned the certificate. They either have to provide the regulatory impact statement or the paperwork that was done, which is often quite extensive. Or a certificate to say it has not been done. That is all.

Mr GAFFNEY - Okay. My last question - if your amendment was not accepted and this stays the way it was, and something had to be decided and this was accepted, how many days would it take for that to happen? If the Treasurer said, 'I want to do this', does he have to report that to anybody?

Ms Forrest - No, that just comes as part of the information. That would be done at the same time as the Attorney-General would do the fact sheet and any other certificates.

Mr GAFFNEY - If your amendment got through, it would not alter the time line at all. It would not have any impact on how quickly it could move if the Premier or the Treasurer wanted to make a decision.

Ms Forrest - The Attorney-General would notify the Treasurer that she cannot comply with that section for whatever reason.

Mr GAFFNEY - But it should not delay things at all?

Ms Forrest - If it is urgent, they will do the certificate.

Mr GAFFNEY - Okay, thank you.

Mr VALENTINE - It is quite clear the Subordinate Legislation Committee in effect is the parliament if the parliament is not sitting. It is the overseer. The argument has been put well. I do not see any cogent reason why taking this out is going to improve things; in fact, it is going to water it down slightly in terms of its power.

It is a very important committee and I will support the amendment.

Mr DEAN - The member for Murchison in some words indicated that what you had said was not quite right, that it would take considerably more time if this amendment went through to go through these processes and so on. It is indicated very strongly and clearly that would not be the case. Why did the Leader make that statement when we have a member of that committee making it perfectly clear no extra time would be taken in proceeding if the amendment were supported. What is right? Who is wrong?

Mrs HISCUTT - The reason is because it adds time for the regulations to be made before it actually gets to the committee. The Attorney-General has to react to a situation; she has to get the Treasurer's agreement; the Treasurer then has to write his letter. It could be a matter of days in an emergency situation before that letter actually gets there. It is not how the Subordinate Legislation deals with the letter - it is the time taken to get the letter to give the Subordinate Legislation. That is where the time is taken.

Ms FORREST - This will answer the member for Windermere's question. I reiterate member for Windermere - in section 6 of the Subordinate Legislation Act where it talks about regulatory impacts statements not necessary in certain cases. It says -

> The Treasurer certifies in writing that, in his or her opinion in the special circumstances of the case -

A pandemic is a pretty special circumstance -

> … the public interest requires that the subordinate legislation should be made without complying with sections 4 or 5.

Yes, there would be a communication between the Attorney-General, in this case, and the Treasurer, indicating that. These certificates are pretty stock standard, they are about 10 lines, if that. To say that is going to take days beggars belief. This is an important step in the making of subordinate legislation and if it cannot be complied with, the Treasurer would certify it that way. It is provided for in section 6(b). There are other provisions that give an exemption but that is the one that particularly fits here with the special circumstances.

Mr Gaffney - Once that happens, can the Subordinate Legislation Committee meet by teleconference straightaway to be able to deal with it?

Ms FORREST - No. This is one of the age-old problems with subordinate legislation that I banged on about in 2010 and 2011, and I still bang on about it all the time. The minute regulations are gazetted, they are operational. It does not matter if the committee does not meet for 12 months, they remain operational until a disallowance motion is supported in one House of parliament. Another member could put a disallowance motion for these regulations on the Notice Paper but you still have to be sitting in parliament to do it.

The Subordinate Legislation Committee can meet at any time, even during prorogation, and there is a process under section 9 of the Subordinate Legislation Committee Act, which I did not bring in with me. I am pretty sure it is section 9, from memory, that enables reports to be tabled out of session and for communication to go back to the department to amend or revoke that regulation. That is an extraordinary power that is rarely used, but the committee can do that. It was an important consideration for this Subordinate Legislation Committee in our current deliberations, particularly when we were not planning to be sitting for a period, with the notices that we are looking at. The Subordinate Legislation Committee meets twice a week. We can meet at any time and we do meet by video link and teleconference at the moment. We can meet at short notice and we do.

Mrs HISCUTT - I will seek some more advice but I remind members that we are talking about the COVID-19 Disease Emergency (Commercial Leases) Act 2020. That is what it is. We are talking about the time to get to what the member for Murchison is talking about, behind the scenes to get to that point to start with. This is an emergency, this is a pandemic; if something needs to happen it needs to happen now.

To further clarify why it takes time to get to the point we are talking about, the Treasurer is performing a statutory function in issuing a certificate. He will need to take advice from his department. That is why it takes days; seeking that advice, getting it done, preparing it and doing it. As the Treasury will need to prepare the advice, this is in addition to a similar briefing process for the Attorney-General, so it takes time. If you are in the middle of an emergency pandemic situation, sometimes you do not have the time, you need to get the job done. Members, I ask you not to support this amendment because we are talking about the time behind preparing this letter.

Ms Forrest - This is about leases. It is not about some other emergency situation.

Mrs HISCUTT - It is an emergency COVID-19 bill.

Amendment agreed to.

Clause 32, as amended, agreed to.

Clause 33 agreed to.

Postponed clause 16 -
Communication or provision of information

Mr DEAN - Looking at my proposed amendment, I believe there should be an addition to it. That is being processed right now or will be shortly, simply to add to the amendment that has been circulated -

Madam CHAIR - If you speak about the intention of the amendment first, you can read your amendment when you have it.

Mr DEAN - If I could first identify the additional words are, 'whilst working under this Act', to that effect. The amendment would simply be to add at the end, 'acting in the course of his or her duty under this Act'.

The intention of this amendment is to create clarity as to what is necessary for a police officer or a law enforcement officer, and we have been through that. Many people work in law enforcement in some way and another, and we were told that is in respect of anybody who enforces the law in some way or another. That comes down to council employees, RSPCA officers and statutory officers. There is a myriad of them.

It goes wider than that because it also says, 'of this State, another State, a Territory or the Commonwealth.'. The way I interpret this, it could be a statutory officer in Northern Territory, for instance, being able to get this information - and not necessarily in the execution of their duty. I heard what was said previously, that it should be understood that is in the course of their duty, but it does not say that. It is not clear at all.

The Government was seeking the understanding of members in not supporting the last amendment. I am seeking the understanding of the Government in this situation to consider why this amendment is necessary in all circumstances.

When I raised it with REIT, they made some comments that surprised me because I did not think it might have come up previously or been a problem. It must be somewhere there now but I am not aware of where it is or of where it has concerned them. Clarity is necessary. In this small state, you could have people in these positions, in which this information is being sought, knowing that Bill Smith is a police officer, so Bill walks into their office and seeks this information and they could immediately think that they know he is a police officer and give him the information. That is what I am required to do, not realising that Bill Smith is not working in the execution of his duty at all and he is seeking it for other reasons.

The amendment will make it perfectly clear to anybody and everybody that these people have to be acting in the performance of their duties, their functions, and they are working within this act, under the act and hopefully, with the amendment that will come through shortly, they are working within this bill. That makes it clear. I cannot see why the Government would not support the amendment. I honestly cannot understand because legislation should not be ambiguous where we know that is the case and very clearly as it currently stands, it is

ambiguous. One could look at that and say, 'Well, I am a police officer, I am entitled to get the information', when they are not actually doing it in the execution of their duty. You are not doing anything under this bill at all to require that information to come through lawfully and legally.

It is not included in there and in what you have indicated in the previous statements you have made in answer to my queries on this point.

It needs to be made clear that because you are a police officer does not necessarily mean you can do whatever you want, whenever you like as a police officer. You can put yourself back on duty - yes, you can do that and I used to do it unfortunately many times coming across a crime or a crash; you immediately put yourself back on duty - but you do not necessarily have the position to carry out all the performance and functions of a police officer in every situation. That is why a number of acts - the Police Offences Act is one, the Criminal Code also, and there would be other acts - specifically spell out that a police officer must be in the execution of their duties to be able to do certain things. For instance, if you assault a police office, it has to be in the execution of their duty. A police officer who is not working and at home who is assaulted is a common offence, not because they are a police officer. It is exactly the same as assaulting another member of the public who is not a police officer.

Madam Chair, I am not sure -

Madam CHAIR - You probably need to keep on your feet because you had three calls. I will check with the Clerk on this.

Mr DEAN - I will on the amendment -

Madam CHAIR - You are speaking on amendment, and you have not quite moved it yet.

Mr DEAN - Yes, that is right. I need to keep going but I do not want to bore people because if I convince people, I might then turn away.

Madam Chair, I ask the members look at this yourself and read it and see exactly how you interpret it. How do you interpret that when you look at it - a police officer must provide this information. That is what it says - you cannot provide this information except in the case of a police officer or law enforcement officer of this state, another state or another territory in the Commonwealth. It is a wide area, and I run the risk of saying that if you feel perfectly satisfied, it relates only to a police officer while they are in the execution of their duty, you would not support my amendment. You would say it was absolutely clear; there is no issue with it at all. With the greatest of respect to you, I do not quite see how you can read that into the clause as it is currently written.

Mrs HISCUTT - Madam Chair, for clarity because the member is on his feet and cannot -

Madam CHAIR - He is about to move his amendment as soon as we get it.

Mrs HISCUTT - I can clarify for you whilst you are on your feet that the amendment as proposed will not meet the intended purpose. Police and law enforcement officers have no duties under this bill. The purpose of including the ability to provide information under this bill is in the event a law has been broken, as in fraud, for example. I have just received confirmation from OPC saying that with regard to the 'under this act' bit you were talking about,

OPC does not think it is necessary. It could be for any act that imposed a duty. If the member wanted to proceed -

Mr DEAN - I accept the advice from OPC in relation to that. Madam Chair, I move -

That clause 16(1)(f) be amended by -

After 'Commonwealth', *insert* 'acting in the course of his or her duty'.

I ask members to consider it closely, to see it how you see it and to see if it is clear. In my opinion, you cannot interpret it that way in these circumstances and it could apply to any one of these people in any of these positions, whatever the situation, and that should not be the case. The intent is that it is only these people who are entitled to get this information while they are acting in the lawful execution of their duty and at no other time, so why should it not be clear and clearly spelt out in the legislation? I urge members to support the amendment.

Mrs HISCUTT - I have covered this before but I will find the exact words we wish to put into *Hansard*. Our advisers have taken advice from OPC and the Government considers the amendment is unnecessary. As drafted, it will only apply to police officers and law enforcement officers in the performance of their duties. The advice we have is that this little bit is unnecessary; it is already covered. I urge members not to vote for this.

Mr WILLIE - We will not be supporting the amendment either. Police have to meet professional standards. Hence, if they are going to try to seek this information incorrectly, they would be in breach of their professional standards. It is a profession, there are protections in place, so I do not think it is necessary.

Mr VALENTINE - I do not think this takes away from the subclause and it adds clarity, so I will support it.

Mr GAFFNEY - I do not understand why we would consider working with OPC about bringing superfluous statements into legislation, when it is very clear, and it has been made clear by OPC, that this is the situation. As the member for Elwick said, a police officer would identify they were who they were, if somebody was going to divulge information to them; they would be acting in the course of their duty.

I think this amendment would make it more confusing, because perhaps that person might have said something to a police person or a law enforcement officer who was not acting in the course of their duties. They were just sitting at the pub, and the person divulged the information. That would not be congruous. They would not be there, so it would be in conflict with the legislation. I cannot accept this.

Mr DEAN - Just quickly in answer to the member for Elwick, police must meet professional standards. I am not just talking about police. We are talking about council workers. We are talking about all those other areas I have referred to as well. I have the greatest respect for police and, yes, police in my opinion do the right thing 99.9999 per cent of the time. That is what they aspire to do. I am not challenging their integrity - why would I? I worked as a police officer for 35 years. I will not challenge any of that.

All I am doing with this amendment is making it perfectly clear to all people, to those people who are required to pass over this information, that they are doing the right thing, that

they are obliged to, in actual fact, pass this information over, because this police officer or this council worker is acting in the lawful execution of their duties and therefore they are entitled to be given that information.

Why would the REIT this morning raise the issue, when I raised it with them, as an issue of some concern? I cannot give any examples of where any of this might have happened. All I am asking for is clarity around this clause. It is the addition of just a few words. I cannot see what this amendment would complicate at all, other than to clarify any ambiguity that could well be there at present - and we are debating it. Very clearly there is some ambiguity there. I urge members to support my amendment. Enough is enough.

Mrs HISCUTT - The Government considers there is no ambiguity, and the amendment is unnecessary and superfluous. It is just adding words for the sake of adding words. We believe there is no need for members to vote for this amendment because it is covered and we have that information. We believe it is right and there is no need to make any changes.

The Committee divided -

AYES 2	NOES 6
Mr Dean (Teller)	Ms Armitage
Ms Webb	Mr Finch (Teller)
	Mr Gaffney
	Mrs Hiscutt
	Ms Howlett
	Mr Willie

PAIRS

Ms Rattray	Ms Lovell
Mr Valentine	Ms Siejka

Amendment negatived.

Clause 16 agreed to and bill taken through the remainder of the Committee stage.

COVID-19 DISEASE EMERGENCY (COMMERCIAL LEASE) BILL 2020 (No. 19)

Consideration of Amendments made in the Committee of the Whole Council

Amendments agreed to.

Bill read the third time.

TABLED PAPERS

Answers to Questions

[8.32 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I seek leave to table answers to two questions from the member for Elwick, answers to three questions from the member for Windermere and answers to two questions from the member for Murchison, and have them incorporated into *Hansard.*

Mr President, by way of explanation, these are the remainder of the questions asked during question time that I hoped to have answers for, so I would like to table them now.

Ms Forrest - Mr President, will answers to the other questions I asked that are not there be provided before we sit again in three weeks time? More questions of mine have not been answered, and I accept that, but will they be provided directly to me before we resume sitting?

Mrs HISCUTT - I am being told, Mr President, that I need to read out what the questions were, so I will roughly go through them.

The member for Elwick asked about school attendance and casual staff employed by libraries in Tasmania. The member for Windermere's questions related to supplementary questions on fuel pricing, the State Service Act and actions under Employment Directive No. 5, Code of Conduct, and the Dunedin Compost Facility. The member for Murchison asked a question about the National Disability Insurance Scheme services provided to people in isolation - the HACC section was earlier tabled - and PPE use for allied health.

I heard what the member for Murchison said about some of her questions. In light of the fact that the answers that have not been arrived are probably very pertinent to what has happened today, maybe not next week, I will endeavour to make every effort to get those answers and present them to the member, but I will have to table them.

Ms Forrest - That is fine. One of them was asked last week and still has not been answered.

Leave granted.

The incorporated answers to questions read -

COVID-19 - School Attendance Rates - Term 2

Mr WILLIE asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

(1) What are the school attendance rates for each day of term 2?

(2) What percentage of students are learning at home on each day of term 2?

(3) What percentage of students are at home and not engaged in learning on each day of term 2?

ANSWER

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

Please note that the Department of Education has introduced new attendance reporting in term 2 to support learning from home. The department is working with schools to ensure attendance is recorded in line with these new arrangements.

(1) The attendance rates for students in Tasmanian government schools, who were either learning at home or at school, for each day of term 2 were as follows -

- 88.2 per cent on Tuesday, 28 April
- 91.8 per cent on Wednesday, 29 April
- 93.3 per cent on Thursday, 30 April
- 93.5 per cent on Friday, 1 May
- 94.8 per cent on Monday, 4 May
- 95.6 per cent on Tuesday, 5 May
- 95.6 per cent on Wednesday, 6 May.

Please note these rates are provisional as at 7 May 2020.

(2) The percentage of students in Tasmanian government schools recorded as 'Learning at Home' for each day of term 2 were as follows -

- 68.6 per cent on Tuesday, 28 April
- 72.2 per cent on Wednesday, 29 April
- 74.5 per cent on Thursday, 30 April
- 76.3 per cent on Friday, 1 May
- 73.6 per cent on Monday, 4 May
- 72.9 per cent on Tuesday, 5 May
- 72.2 per cent on Wednesday, 6 May.

Note these rates are provisional as at 7 May 2020.

(3) The percentage of students in Tasmanian government schools recorded as 'Learning at Home (Not Participating)' for each day of term 2 were as follows -

- 2.6 per cent on Tuesday, 28 April
- 2.8 per cent on Wednesday, 29 April
- 2.8 per cent on Thursday, 30 April
- 2.7 per cent on Friday, 1 May
- 2.2 per cent on Monday, 4 May
- 2.3 per cent on Tuesday, 5 May
- 2.6 per cent on Wednesday, 6 May.

Note these rates are provisional as at 7 May 2020.

Importantly the Department of Education has devised a re-engagement plan for the COVID 19 period, to ensure all students are followed up and participating.

COVID-19 - Commitment to Jobs - Libraries

Mr WILLIE asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

In March the Premier gave a commitment that people working for the State of Tasmania would not have to be fearful about losing their jobs because of the Covid-19 pandemic.

It included a promise to protect jobs extended to casual workers and those on contract.

It was a welcome commitment to do whatever was in the State's power to maintain confidence in the economy.

Seven weeks ago Libraries Tasmania sent around 100 casual relief staff home and since then they have received no pay.

Instead of supporting these employees or redeploying them to other areas of need, some staff have been offered separation certificates to join the Centrelink queue.

(1) When will these workers be paid?

(2) Do they have a job to come back to when libraries reopen?

ANSWER

Mr President, I thank the member for Elwick for his questions.

(1) and (2)

In the interests of public safety, libraries around the state have been closed to the public since 24 March 2020.

This has, understandably, meant that few, if any, relief workers have been required as they normally fill front-of- house roles.

This does not mean relief workers have been stood down.

It is the intention of the Department of Education to continue to pay and employ eligible relief staff.

The Department of Education has been in consultation with the Community and Public Sector Union regarding arrangements for retrospective payments for Libraries Tasmania relief staff since the closure of all libraries, and for the ongoing employment of relief staff during library closures and for the period of the pandemic.

The retrospective payments will be paid in the next pay on 13 May 2020 and will cover the period from the library closures until 8 May 2020. Relief employees will be re-engaged to work at least the average hours they are being paid for commencing from next week.

The only relief employees who have been provided with separation certificates are those who have requested them from Libraries Tasmania.

Fuel Pricing

Mr DEAN asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

My questions are supplementary to the questions asked last week relative customers 'ripped off' at the bowser.

Will the Leader please advise -

(1) Has the ACCC responded to the Government's letter to them regarding fuel pricing in the state?

(2) Will the Government share the response with the Parliament/public or both when received?

(3) I quote in part the Attorney-General's response to question and answer (3) last week - that is -

> additionally I urge all fuel retailers to ensure global reductions are passed onto Tasmania motorists

Has the Government gone out to retailers of fuel requesting they pass on the global reduction in fuel prices (or a large part of the reduction) to motorists?

(4) If so, how has it been done?

ANSWER

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

(1) The Government has not yet received a response.

(2) The Government will consider any response received and communicate with Parliament and the community as appropriate.

(3) Fuel distributors and retailers should be well aware of the concerns held by many Tasmanian consumers about the passing on of global reductions in fuel pricing.

Under Australian Consumer Law, business are able to set their own prices. Tasmanian fuel retail pricing is influenced by a number of factors, including transport costs and price at time of purchase. Should the global fuel price remain low, the Government anticipates that fuel retailers will pass on savings. I note that community-based Facebook pages such as 'Tassie Fuel Watch', which has over 10 000 followers, have been reporting in recent weeks that a number of fuel outlets across the state have been selling unleaded petrol for lower than a dollar per litre. The Government would expect that petrol retailers that passed on savings would see an increase in their business.

As publicly stated previously, further measures are being considered by Government including the RACT's proposal for mandatory fuel price reporting. Such consideration needs to take into account effectiveness, cost and level of regulatory burden.

(4) Refer to question 3.

Employment Directive No. 5 - Investigations

Mr DEAN asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

My questions relate to the State Service Act 2000 and Employment Directive No. 5 investigations.

Will the Leader please advise -

(1) In 2016-17, 2017-18 and 2018-19, how many EDS investigations commenced?

(2) How many continued as a full investigation - that is, to completion and a finding?

(3) What sanctions were imposed or other actions taken?

(4) How many EDS investigations were determined to take place during the three years, but were discontinued because of the alleged offending party resigning their position?

(5) Were any not continued with for other reasons, and, if so, what were the reasons?

ANSWER

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

(1) The answer to this question is: 2016-17, 44; 2017-18, 77; and 2018-19, 37.

(2) Of these, the number of investigations finalised in each reporting period were -

- 2016-17 15
- 2017-18 39
- 2018-19 12

(3) Sanctions imposed in accordance with section 10(1) of the State Service Act 2000 were:

- 2016-17 Counselling, reprimand, termination, reassignment of duties, fine, reduction in salary.
- 2017-18 Counselling, reprimand, reduction in salary, termination, reassignment of duties, fine.
- 2018-19 Counselling, reprimand, termination, reassignment of duties, fine or reduction in salary.

(4) Over the three-year period, a total of five investigations were finalised as a result of the employee resigning.

(5) Investigations were not continued for the following reasons -

- 2016-17 It being determined that no breach had been found.
- 2017-18 The allegations being withdrawn, the investigation being resolved in line with clause 7.8 of EDS, the fixed term contract of the alleged offending party expiring during the investigation, or no breach being found.
- 2018-19 The investigation being resolved in line with clause 7.8 of EDS, or no breach being found.

Dunedin Compost Facility

Mr DEAN asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

My relate to the Dunedin Compost Facility proposed for 91 Blessington Road, St Leonards. This proposal was put forward by Conhur Pty Ltd for the composting of class 3 biosolids from TasWater's sewage treatment plants (treated human excreta) in northern Tasmania. These biosolids will be mixed with wood pin chips and will, if approved, be spread across agriculture land.

Will the Leader please advise -

(1) What stage is the Environment Protection Authority - EPA - assessment at for this enterprise?

(2) Are changes necessary to the Environmental Management and Pollution Control Act 1994 - EMPCA - or any other legislation to provide for this compost facility?

(3) If so, what changes are necessary?

(4) If applicable, what stage is the amendment legislation at and when will it be tabled?

(5) Property owners and residents within close proximity of 91 Blessington Road are concerned as to how the proposal can be fairly and transparently assessed when the City of Launceston Council (the planning authority), TasWater and the state all have an invested interest in the proposed development. How can, or will, the planning and EPA approval assessments proceed to ensure fairness and transparency is maintained in the circumstances?

(6) In conducting the EPA assessment under section 25(1) of EMPCA, will the EPA board consult all neighbouring property owners and impacted parties?

ANSWER

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

(1) The development application for the proposed Dunedin Compost Facility (DA0092/2020), including all supporting documentation, was referred to the EPA board for assessment. EPA Tasmania has advised that as of 7 May, the development application has been withdrawn from advertising by Launceston City Council. EPA Tasmania further advises that any further consideration of the proposal is on hold.

(2) No.

(3) No changes are required.

(4) Not applicable.

(5) Environmental assessment and approval is undertaken by the independent EPA board. The EPA board's assessment must consider the project in the context of the objectives of the Resource Management and Planning System of Tasmania, and the Environmental Management and Pollution Control System, established by the Environmental Management and Pollution Control Act 1994.

The EPA board will consider all relevant environmental issues in its assessment, including odour and impacts to surface water and groundwater.

All planning matters will be considered by the City of Launceston Council.

(6) The City of Launceston Council has responsibility under the Land Use Planning and Approvals Regulations 2014 to notify all property owners with boundaries that adjoin the land of the proposed facility of the development application.

When a development application is advertised for public comment, any person, whether adjoining or not, may make a submission in relation to a proposal. Submissions are considered by the EPA board and the responsible planning authority during their respective assessments.

COVID-19 - NDIS - Service Provision

Ms FORREST asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regards to people who receive services under the National Disability Insurance Scheme -

(1) How many of these people have self-isolated and are not receiving services at the moment?

(2) How many of these people have had their service provider cease funded services?

(3) How many NDIS service providers have ceased funded services normally received by NDIS clients?

ANSWER

Mr President, I thank the member for Murchison for her questions and her interest in people with disability in Tasmania.

With regards to people who receive services under the NDIS -

As the member would be aware, the National Disability Insurance Agency - NDIA - is the responsible agency for supporting NDIS participants, as the NDIS Quality and Safeguards Commission is responsible for the registration of providers.

The Department of Communities and NDIA do not have specific data on the number of NDIS participants self-isolating, or the number of NDIS participants not receiving services as a direct result of the coronavirus pandemic.[1]

(1) People with disability are subject to the same rules and restrictions as all Tasmanians. Some people may have isolated in response to the directions under the Public Health Act.

Where a person has been required to isolate, they have been able to access supports as has all Tasmanians through the Public Health Hotline and the NDIS.

[1] NDIA media release - Minister - 27 April 2020

The NDIA is monitoring and supporting participants in or who present to a hospital regarding their ongoing support requirements and are actively supporting their discharge support needs.

The NDIA is proactively calling participants who have health, disability or circumstances that could make them more vulnerable during the coronavirus pandemic. The purpose of these calls is to make sure participants have access to relevant information, understand how to use their plans flexibly and can still access the supports they need during this time. In Tasmania, the north-west region has been prioritised first for vulnerable participant outreach due to the recent outbreak in that region.

The Tasmanian Government's regular meeting with providers tells us that some participants are choosing not to access services as they have been receiving them, but many people are looking to receive services in a different way.

Providers are working with their participants to find new and creative ways to support their participants - such as meeting one on one, via phone or online.

The NDIA has enabled participants to flexibly use their plan funding to purchase low-cost assistive technology, including smart devices, to enable continued access to disability supports through telehealth and telepractice while physical distancing regulations are in place for coronavirus pandemic.

(2) Reassuringly there is no evidence at this time that this has occurred - if you are aware of any such circumstances, I would like to hear about them.

All service providers have a responsibility to respond to requirements for quarantine or COVID-19 illness among service recipients or staff in accordance with the Tasmanian Government and Australian Government guidelines and instructions, via the NDIS Quality and Safeguards Commission. Businesses are required to develop and implement business continuity plans to ensure critical supports and services continue to be provided for people with disability, while reducing risk of exposure to COVID-19 of both people with disability and staff.

To date, the NDIA has only seen a small amount of plan adjustments required as a result of the coronavirus - COVID-19 - pandemic[2].

(3) Noting this information is held by the NDIS, we are aware that many providers have changed the way they provide services to respond to the challenges of COVID-19 and to comply with all restrictions.

Providers are required to ensure people with disability their families and carers are notified of any changed practices or service delivery.

Disability services are required to practice social distancing and to comply with orders regarding gathering sizes and the stay at home direction where possible, like all other organisations.

[2] NDIA - News - 1 May 2020

This has seen changes to the way some services are delivered, with many of the community group activities people normally take part in are not possible at the moment, so these are being delivered in different ways - online, on the phone, or in much smaller groups.

This does not mean that people are unable to access supports. Indeed, our disability sector in Tasmania has responded quickly by working hard to find new ways to deliver services and work with people individually in a way they feel safe.

COVID-19 - PPE - Allied and Other Health Professionals

Ms FORREST asked the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to PPE use for allied health and other patient facing health professionals -

(1) What is the advice for workers regarding the use of PPE in both public and private sector facilities in areas, including -

(a) pathology including for phlebotomy and other collection of samples;

(b) radiology;

(c) nuclear medicine; and

(d) pharmacy?

(2) (a) Are both public and private sector providers required to adopt the advice of the Director of Public Health?

(b) Is this advice consistent across all sites and sectors? If not, why not?

ANSWER

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

(1) and (2)

The health and safety of healthcare workers and their patients is a priority for the Government, and we have been focused on ensuring our health workers have access to appropriate PPE.

The use of Personal Protective Equipment - PPE - across public health facilities within the Tasmanian Health Service - THS - is guided by statewide protocols and guidelines.

These statewide THS policies are consistent with National Infection Control Guidelines and the CDNA National Guidelines for Public Health Units, and help to ensure there is a consistent approach to the use of PPE within public hospital settings.

The THS is in the process of providing additional PPE training and refresher opportunities during this incredibly challenging period, with a statewide program in the process of being rolled out.

Any THS worker who is unclear or has concerns about these protocols is encouraged to speak with their management.

The use of PPE within private sector facilities is guided by their own protocols and guidelines, informed by the National Infection Control Guidelines and the CDNA National Guidelines for Public Health Units.

The National Infection Control Guidelines and the CDNA National Guidelines for Public Health Units provide an overall framework for the implementation of consistent practices across various sites and sectors, and are publicly available.

The Director of Public Health does not issue guidelines on the use of PPE, rather these are developed by infection control specialists within the THS.

SUSPENSION OF SITTING

Motion by **Mrs Hiscutt** agreed to -

That the sitting be suspended until the ringing of the division bells.

Sitting suspended from 8.35 p.m. to 9.11 p.m.

ADJOURNMENT

[9.11 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the Council at its rising adjourns until 11 a.m. on Wednesday 3 June 2020.

Motion agreed to.

Parliamentary Sitting Schedule

[9.11 p.m.]

Mr WILLIE (Elwick) - Mr President, I put on the record that I am for more parliamentary sitting days. We should be sitting more frequently; we are here to represent our community and make decisions - it is an essential service. I have friends standing in classrooms teaching kids at the moment. It is very hard to justify not coming back to this place for a month.

I want to put that on the record. I think we should be using the parliamentary time to represent our constituents more often than what is being proposed.

COVID-19 - Vilification of Healthcare Workers

[9.12 p.m.]

Ms FORREST (Murchison) - Mr President, I apologise to members, but I want to make a brief contribution on the adjournment.

During debate on the COVID-19 bill last week, I raised some of the unfortunate matters that have been affecting nursing staff. Unfortunately the issue continues. I appeal to all members, and to the Leader in her role with the Government, to encourage a more a proactive approach to standing up for our nursing staff when they are being vilified by members of the public.

I read an article in *The Age* of 1 May, called 'Not out of the woods yet: health authorities probe 17 coronavirus clusters'. Of course that was in Victoria but I want to read you a couple of sections of this article and then I will make my comments -

> A major outbreak at the Albert Road Clinic, a privately-run psychiatric facility near Melbourne's CBD, that emerged last Friday was also linked to 16 cases, including multiple patients and staff.
>
> *The Age* has been told an asymptomatic psychiatrist who worked there unknowingly brought the infection in. An investigation into the outbreak continues.

That is how easy it is. It goes on -

> Six staff at Frankston Radiology also tested positive to COVID-19 in early April. An 82-year-old Victorian woman, who was a patient at the radiology clinic, later tested positive and died.
>
> …
>
> Meanwhile, at least three coronavirus infections were linked to a cluster at the University of Melbourne.
>
> A mathematician from Britain, who had the virus but was not yet showing symptoms, gave a guest lecture at the university, infecting at least one man. He then visited a colleague, infecting him as well. That colleague in turn infected his wife.

The article also refers to the Eaglemont Cellars and Wine Bar and the cluster that appeared around there. It goes on to say -

> The clusters are a warning sign that the threat of COVID-19 remains and shows how quickly it can still spread, despite flattening the infection curve, Professor Richard Lindley, professor of geriatric medicine at Westmead Clinical School, said.

> 'In nursing homes, people are very close together. The infection control is challenging. This virus can be on a surface for a few hours or a few days and survive. And the staff have to come in and out of the nursing home,' he said.

Mr President, I read that article because it demonstrates how easily this virus spreads, and it can be from asymptomatic people. You have no idea they are carrying it. That is why we need broad community testing.

In terms of the comments been made about medical staff and nursing staff, I made these comments briefly but I will reiterate them.

The medical staff know how hard it is to get additional staff and deciding not to go to work when you are well with no indication of having a virus would not be approved or supported by management. This is generally considered chucking a sickie. To those out there who continue to point their fingers at health workers and vilify them in supermarkets, petrol stations, on social media, on the live feed of the Premier's updates, I ask them to stop. These people are causing enormous mental health challenges and harm to already stressed staff and are destroying the souls of many of our dedicated health workers who give their all.

I want to read a message from a nurse from Launceston who sent this to me. I spoke to this nurse a couple of times on Wednesday -

> Today has been hard here in Launceston. The vitriol and nastiness on social media against hospital staff doing their best is deflating and debilitating. We have cared for half of the states hospitalised positive covid cases for a while now -

and they include the COVID patients who were transferred for the North West Regional. Some of them went to the Mersey and I understand some went to Launceston -

> but [they] don’t rate a mention let alone any thanks or appreciation. But now we have a colleague diagnosed positive and apparently we are the worst!

We know from what has happened that nurse did the right thing and all those 10 immediate or close contacts of that nurse tested negative, which is really good news.

I want to give a shout out to all the nurses, particularly at the LGH, who are facing the same things that happened potentially at the North West Regional Hospital and the North West Private Hospital. These nurses have been working incredibly hard, working with risk against an invisible and horrendous illness we have never seen before. They are tired but they are not defeated. They have been amazing and they deserve praise.

They also find it very difficult. This is a message I have also received from other nurses seeing the community pass judgment on them when they risk their own lives every day. Every day you go into a COVID ward, you are putting yourself directly in the line of fire even with appropriate PPE. You only have to look around the world to see how many healthcare professionals have died using PPE.

This impact is reaching beyond health professionals. This is an email from a constituent of the Leader actually. Someone in Ulverstone. She said -

> I'm not an essential worker of any kind. In fact, I am a retiree quietly living in Ulverstone and doing my best to follow all the current rules. However, even I was beginning to feel very sad, depressed and angry at the amount of vilification that was happening as a result of the NW outbreak. I was personally affected by it and didn't feel I could do much about it -

She was commenting on a post I put on my social media feed -

> …but you said what I wanted to say, in the right place. I'm also glad it was reported in The Advocate …
>
> Thank you for all the work you do on our behalf …

We need to remember there are far-reaching implications for the words used. Some of these nurses I have talked to have been in quarantine for 14 days and some of them have been in quarantine for more than 14 days. I have talked to a lot of them. I get a lot of messages from them. From the Launceston General Hospital as well as the Mersey, North West Regional and Private hospitals and they are feeling really anxious, stressed and particularly undervalued when they read these comments.

As members and leaders in our communities, please stand up for them. We have all made mistakes in our lives, and if errors have been made - we all make errors of judgment at times, but overall these people put themselves right in the line of fire. They deal with patients they do not even know are positive. We know how infectious this virus is. We saw what happened on the medical ward at the Burnie Hospital. It is so infectious. *The Age* article explains the same.

Please, all of us stand up for our health workers. It is all well and good to put something on your Facebook page, but we have to call out the people who are expressing this hate and vitriol for people, who will not back off. These dedicated, committed, caring and highly skilled individuals do not vilify you or anyone in the public when they see you buying junk food, when they see you buying sugary drinks, when they see you buying cigarettes, they do not verbally abuse you in the street for some of your life choices that make their lives even harder. They do not judge you when you present for treatment because of these choices. So I ask us all to support them, to show respect and encourage everyone else to show respect and call out those who are doing the wrong thing.

Mr PRESIDENT - Members may like to know, we cannot read the message from the lower House now but it indicated a positive response that we will read next time.

Procedural Vote

[9.21 p.m.]

Mr WILLIE (Elwick) - Mr President, I want to seek some advice because I spoke on the procedural vote -

Ms Forrest - There were two motions.

Mr WILLIE - I am wondering whether *Hansard* would record that. Okay, that is fine.

Microphones in the Legislative Council

Mr FINCH (Rosevears) - Mr President, this will seem trivial to others. However, when we concluded, all the microphones were turned off and I depend on the microphones being on to hear what is going on in the Chamber. I am disadvantaged sitting in the back corner here, too, and that is why, particularly with the Leader speaking, I could not get the detail of what was being proffered to the rest of you. While I pursued Mr Baily to try to get the resumption of the microphones, it was not acted upon and I was left disadvantaged in the minutiae and the detail of the conversation and was not able to contribute to that. I wanted to point that out that I was making a late contribution but I could not earlier because of that disadvantage.

Mr PRESIDENT - We will take that on board and we will see if we can get a plan B for you to work with.

The Council adjourned at 9.22 p.m.