Wednesday 20 November 2019

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

PETITION

Water Quality - Pioneer

Ms Rattray presented a petition signed by 35 residents of the municipality of Dorset and the township of Pioneer.

Petition received.

QUESTION UPON NOTICE

The following answer was given to a question upon notice:

18. HOUSING TASMANIA TENANTS - NATIONAL DISABILITY INSURANCE SCHEME

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

(1) How many current Housing Tasmania tenants are National Disability Insurance Scheme (NDIS) participants?

(2) (a) How many Housing Tasmania tenants requested accessibility or disability modifications to their current accommodation in each of the years from 2014-15 to 2018-19?

(b) How many of these requests resulted in modifications being made to the tenant's property?

(c) How many of these requests were made by a current Housing Tasmania tenant who was also an NDIS participant?

(d) Of the requests made by tenants who were also NDIS participants, how many resulted in modifications being made?

(3) (a) Under Housing Tasmania policy, what process, other than tenant request, could initiate or trigger accessibility or disability modifications to be made to Housing Tasmania properties?

(b) In how many instances have accessibility or disability modifications been made to Housing Tasmania properties as a result of a process other than tenant request in each of the years from 2014-15 to 2018-19?

(4) (a) How many Housing Tasmania properties have had accessibility or disability modifications made which were self-financed by the tenant in each of the years from 2014-15 to 2018-19?

(b) In how many instances were these self-financed modifications made by a tenant who was also a NDIS participant?

(5) (a) In how many instances were tenants required to remove accessibility or disability modifications they had made to the property when exiting a Housing Tasmania lease in each of the years from 2014-15 to 2018-19?

(b) In how many of these instances were tenants moving to another Housing Tasmania property?

(c) In how many of these instances was the tenant also an NDIS participant?

(6) (a) How many Housing Tasmania tenants have requested to be moved from one Housing Tasmania property to another due to escalating accessibility or disability needs in each of the years from 2014-15 to 2018-19?

(b) How many requests were made by a tenant who was also an NDIS participant?

(c) How many requests made resulted in a move from one Housing Tasmania property to another?

(d) Where a tenant moved to another Housing Tasmania property due to escalating accessibility or disability needs, in how many instances were modifications made to the property into which the tenant was moving?

ANSWER

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, it being of a lengthy nature, I seek leave to have the answer incorporated into *Hansard*.

Leave granted.

Incorporated answer read as follows -

(1) Not all social housing is managed by Housing Tasmania. For example, a large number of Housing Tasmania properties for people with disability are leased from Housing Tasmania and managed by disability support providers. These providers manage tenancy arrangements for their clients and as a result it is not possible to provide an exact figure for the number of NDIS participants who are tenants of Housing Tasmania.

Out of the properties managed by Housing Tasmania, 701 tenants are NDIS participants and there are a further 806 rooms in 273 supported accommodation properties for people in the NDIS. Not all of the 806 rooms will be occupied by people with disability, as a proportion of the rooms will be used by disability support workers or by people with disability who are over the age of 65 and therefore ineligible for the NDIS.

(2) Housing Tasmania modifications are not classified into categories such as 'disability' modification. Therefore, it is not possible to separate general modification requests from disability or accessibility modifications.

(3) A tenant request is the most common source of a request for a modification to a particular property and this must be accompanied by an assessment from an occupational therapist. However, accessibility or disability modifications can arise from the planned maintenance processes such as when -

- additional funding may become available that could be best spent on a related set of modifications - for example, a general upgrade on an ageing property;

- a general review may be conducted of a particular aspect of many properties, such as heating or access issues, which could initiate an upgrade of that particular attribute across a range of properties; or

- a regular inspection of a property could conclude that some aspect of the property is not suitable for the target cohort and it would be upgraded accordingly.

(4) Under the current policy, if a request for accessibility or disability modification is assessed as appropriate, it is approved and the work is undertaken by Housing Tasmania. If the modifications are not approved, the tenant would not be able to have the work undertaken in line with the tenant alteration policy and therefore would not be paying for the alterations themselves.

There have been occasions where historical arrangements have allowed for some level of tenancy alteration in the past. However, these requests have been approved on a case-by-case basis for the particular arrangement. Unfortunately, there is no way to identify the number of modifications of this type.

Some minor works are permitted to be undertaken by tenants following approval, such as installing picture hooks and internal painting.

(5) It is not possible to determine on how many occasions a tenant has been required to return the property to its original state.

(6) The department does not record the request in a way that allows these specific instances to be distinguished from other reasons.

LEAVE OF ABSENCE

Member for Huon

[11.04 a.m.]

Motion by **Mrs Hiscutt** agreed to -

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

Motion agreed to.

SUSPENSION OF SITTING

[11.04 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.

Motion agreed.

Sitting suspended from 11.05 a.m. to 12.01 p.m.

MAGISTRATES COURT (CRIMINAL AND GENERAL DIVISION) BILL 2019 (No. 27)

MAGISTRATES COURT (CRIMINAL AND GENERAL DIVISION) (CONSEQUENTIAL AMENDMENTS) BILL 2019 (No. 28)

Third Reading

Bills read the third time.

GAMING CONTROL AMENDMENT (WAGERING) BILL 2019 (No. 51)

Second Reading

[12.03 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be now read the second time.

Mr President, the 2019-20 state Budget announced the Government's intention to introduce a point of consumption tax up to 15 per cent from 1 January 2020 on betting operators offering wagering services to Tasmanian customers. The central part of this bill amends the Gaming Control Act 1993 to give effect to this commitment.

The bill also introduces two amendments to meet the Government's commitment to implementing the National Consumer Protection Framework for online wagering in Australia, and a number of miscellaneous amendments to enhance totalisator operations, improve administrative efficiencies, remove redundant or unnecessary provisions or correct oversights.

Increasingly, wagering transactions are moving from the traditional land-based wagering establishments to the digital world via telephone and the internet. This has led to a rapid growth in online wagering. The effect has been to create a disconnect between where the online betting operators are licensed and taxed and the jurisdictions where the bets were placed and the impact of where gambling occurs. For Tasmania, the single licence holder of totalisator services, UBET TAS, is subject to a wagering levy covering licensing and tax arrangements, while online bookmakers

pay no tax to Tasmania for bets made by Tasmanians. Nationally, this has been recognised as a matter requiring rebalancing.

The Government's objective in introducing a point of consumption tax on wagering in Tasmania is to align Tasmania with the national approach already taken by all Australian jurisdictions, except the Northern Territory, to overcome the disconnect and to raise additional revenue from betting operators not currently taxed for the benefit of the Tasmanian community and racing industry.

The design of Tasmania's point of consumption tax framework was informed by consultation with key stakeholders including the Tasmanian racing industry, major corporate bookmakers and peak industry bodies. Consultation with other jurisdictions was also undertaken to ensure Tasmania's reporting and compliance processes align, where possible, to minimise the impacts on betting operators operating nationally.

The bill is largely based on legislation passed by Queensland, New South Wales and Victoria. Tasmania's framework provides for a tax rate of 15 per cent on net wagering revenue in excess of a tax-free threshold of $150 000 on net wagering revenue, payable by betting operators that provide services to Tasmanian residents, regardless of where the licence is issued. The calculation of net wagering revenue will exclude the value of free bets from payments and winnings. As the bill commences on the 1 January 2020, the interim tax-free threshold will be $75 000 for the 2019-20 reporting period.

The 15 per cent tax rate is consistent with South Australia, Western Australia, the Australian Capital Territory and Queensland. The tax-free threshold aligns with the three smaller wagering jurisdictions and will ensure that the state's small oncourse bookmakers are not captured.

A tax base similar to Queensland, which has excluded the value of free bets from net wagering revenue, was informed by careful research and analysis. The inclusion of free bets in the net wagering definition has the effect of increasing the tax rate. This is because the face value of free or bonus bets that have no monetary value are being counted as wagering revenue, rather than as marketing and promotions costs for businesses. For these reasons, the fairest approach was to not tax bets that are not real income, and conversely to ensure free bets cannot be counted in the dividend payout to reduce the taxable wagering revenue.

The point of consumption tax is expected to raise additional revenue in the order of $5 million in its first full year of operation from betting operators that will now be captured in Tasmania. The Government has undertaken to share the net benefits appropriately with the local racing industry.

Under this bill, the point of consumption tax, including the reporting and collecting of tax, will be administered by the Commissioner of State Revenue and in accordance with the Taxation Administration Act 1997. This approach aligns with other jurisdictions and streamlines requirements for betting operators offering services to multiple jurisdictions. In practice, betting operators that meet Tasmania's tax-free threshold will need to register and lodge online self-assessments of their tax liability monthly in arrears, with any tax payment made within 21 days of the end of the monthly period.

Mr President, Tasmania's historical licensing arrangement with UBET TAS for the provision of totalisator retail services, sports betting and race wagering has been considered in the framing of this tax reform.

Currently, UBET TAS is required to pay an annual indexed wagering levy covering a licence fee, retail exclusivity and multiple endorsement fees. The Government and UBET TAS have negotiated a restructured arrangement to accommodate the historical licensing agreement and the point of consumption tax. The arrangement ensures UBET TAS is not double taxed while providing an ongoing level of return to Tasmania.

As the holder of the existing totalisator endorsement, the current wagering levy will be removed by the bill and UBET TAS will provide an annual payment of approximately $1.5 million, indexed annually, in addition to the point of consumption tax on its wagering services. The new annual payment reflects the regulatory costs of the totalisator operations, the value of the totalisator exclusivity arrangement and retail presence in Tasmania, and endorsements. The Government will have the power to amend the annual payment by regulation should the wagering environment change significantly.

Given the new tax will commence from 1 January 2020, the bill provides a 50 per cent refund of the annual wagering levy, which was paid in advance in July 2019. It also provides for UBET TAS to pay the first annual payment of 50 per cent in January 2020 for six months of 2019–20. Both of these measures will avoid double taxing of UBET TAS.

Mr President, while this bill introduces a new taxation model on betting operators, it also gives effect to some of the protection measures of the National Consumer Protection Framework developed to reduce the harm of online wagering for Australians. The Tasmanian Government, along with other jurisdictions, endorsed the framework in November 2018 and directed the independent gambling regulator, the Tasmanian Liquor and Gaming Commission, to implement the measures to ensure they complement Tasmania's existing harm minimisation framework.

Tasmania's harm minimisation framework is well established through a combination of legislation, a mandatory gaming industry code of conduct and various rules and technical standards administered by the commission. Tasmania's framework is already widely recognised as national best practice and is broadly more stringent than the national framework. Notwithstanding, two minor amendments to the act are required to ensure national consistency.

The first amendment introduces requirements for wagering operators to offer deposit limits to customers. This is in addition to the existing legislative provision that allows dollar amount, not loss limits, to be set by customers. These measures provide customers with tools to help them monitor and manage their gambling by pre-committing deposit and net loss limits.

The second amendment removes provisions for trading accounts to be consistent with recent amendments to the Commonwealth's Interactive Gambling Act 2001, which prohibits the offering or provision of credit by a betting operator for wagering purposes, with the exception of oncourse bookmakers who have been exempt. This measure aims to mitigate risks of customers gambling beyond their capacity to pay.

The Government recognises the increasing prevalence of online gambling and restates its commitment to strengthening wagering regulation through the amendments being introduced under this bill. This commitment aligns with our proposed amendments under the Future Gaming Markets policy reforms to increase funding to support harm minimisation and the development of a new suite of educational materials designed to inform online gamblers.

Mr President, the bill also contains a number of miscellaneous amendments that aim to enhance totalisator operations.

From time to time legislation requires amendment to contemporise and to address emerging issues. The provision of minimum pool guarantees is one such issue. UBET TAS has sought amendment of the act to allow the totalisator operator the ability to contribute its own funds to the pool to enable it to guarantee that a minimum amount will be available for the payment of dividends to customers. This amendment will allow the totalisator operator to conduct its business in a manner that is consistent with its operations in other jurisdictions.

The totalisator operator has also requested an amendment that allows it the discretion to pay a minimum dividend of $1.04 to customers where the calculated dividend payout is $1.00. Currently, the rounding down of dividends to the nearest 5 cents means that a winning bet at very short odds may result in a $1.00 dividend being paid, which is essentially a refund of the customer's original stake. This amendment will allow the operator to use its discretion not to round down and instead pay a minimum dividend to the customer of $1.04. This amendment will align with practices in other jurisdictions and will provide a benefit to customers.

The bill allows for the means for calculating the minimum amount payable as a dividend to be prescribed in regulation. It also moves the current totalisator rounding provisions of dividends within the act to regulations. Prescribing these dividend provisions in regulation will enable the totalisator operator to be more responsive to any changes in the wagering market and to align with standard practice nationally.

The act currently does not allow for the regulation of new technological arrangements between licence holders and third-party cloud storage providers, where, for example, regulated gaming equipment and records might be stored on remote third-party servers and accessed from the internet. UBET TAS has sought to replicate approval by the Victorian regulator of these types of arrangements.

The bill provides the commission with the capacity to authorise licence holders to use persons not currently licensed as, for example, a technician, or listed on the Roll of Recognized Manufacturers, Suppliers and Testers of Gaming Equipment, to operate equipment used in connection with gaming or a gaming activity. The commission will have the ability to impose conditions on its approval of any relevant contracts with third-party providers to mitigate potential risks. The amendments futureproof the act to provide for emerging technological advancements of gaming systems and for the commission to impose conditions on any approval.

Mr President, the bill also contains a number of minor amendments aimed at correcting oversights and enhancing administrative efficiency. This includes ensuring that the current ability for compliance inspectors to investigate gambling-related complaints also includes investigating complaints relating to wagering activities.

The suite of amendments in the bill, together with the new point of consumption taxation model, represents ongoing efforts to ensure Tasmania remains a leader in the regulation of gambling and is able to adapt to the evolving environment.

Mr President, I take this opportunity to thank all those people who briefed us this morning. It answered many questions for members. I commend the bill to the House.

[12.17 p.m.]

Ms RATTRAY (McIntyre) - Mr President, from the outset I have had an interest in how this last budget announcement on a point of consumption tax was going to be implemented and how the moneys perceived to be gained were going to be distributed, particularly to the racing industry. I have been asking questions about this in the House since early August.

I also appreciate those people who briefed us and also those on behalf of the Government who briefed us. We still do not know where the money will be split up and that is one of the difficulties, not that I do not want to pass this particular piece of legislation because we have been told by everybody who came this morning that it is important to the industry, particularly the racing industry.

We heard from a government representative that it is important to the Government because it will also help to fund health, education and law enforcement. It is an important tax and will generate some extra funds. There is not a government in the country that does not need extra funds, and we know that.

We have been talking about this for a long time. The announcement was made in the May budget. It has been in the Government's mind for a long time. We also heard from representatives of Racing Clubs Tasmania that they had been asking for a point of consumption tax for a long time before that. It has certainly been on the radar and obviously the Government saw fit to go with that request and announce it in the budget.

Today we are almost at the eleventh hour, given this is going to be put in place from 1 January 2020. There is not a lot of time for us to say to the Government, no, we need to see what the agreement is. In some respects, we have been asked to trust the Government and hope that industry stakeholders who see they should benefit more so from this increase of funds through the point of consumption tax get a better share than perhaps what the Government sees they should.

My understanding, from the briefings this morning, is that the Government would like a 50:50 split. I put that question to the representatives of Racing Clubs Tasmania and they would like 100 per cent. They did not hold back on that. Tasracing wants 80 per cent, 80:20, and then we have the Government at 50:50. We do not know what it is likely to be and whether there is any compromise between the two.

We also heard that this is on all wagering, so it is on sports bets as well. The member for Windermere asked: has AFL Tasmania, Cricket Tasmania or anyone else put their hand up? They are part of generating this tax. The answer was no. They probably will after they hear this contribution, but at this time, it is no.

We get back to where and how we are going to settle on who gets the share. I am somewhat concerned that given we have known for quite a long time now, in my view, and I have been asking questions in this place since early August, what negotiations have been taking place, how are we with the agreement? We heard that Tasracing has not put a formal proposal forward. Unfortunately, we heard that after Tasracing presented this morning so it probably would have been helpful had we known that beforehand. We could have said to them, 'Why haven't you?' It clearly outlined its three key pillars - not in this order but I wrote them down - animal welfare; the stakes and prize money; and infrastructure. They were the three key pillars and Tasracing felt it should have that 80 per cent split of this money to address those issues.

While I am talking about it, and we will go through those issues, on the animal welfare issue, in my view, the requirement to deal with rehoming of race animals is only going to get greater. We have seen that just in the past weeks where there is an expectation in the community that every racing animal will be rehomed in some way. There, immediately, we are heading down to the Greyhound Adoption Program. We have seen that come into play and we have seen the effects of that program and that expectation within the community on the greyhound industry.

I saw some recent figures this morning which I want to put on the record. I think it will continue to be this way, and it will be difficult for the racing industry to generate the funds it needs in the future because there is no incentive program anymore for greyhounds. There is for thoroughbreds - the Government announced the Thoroughbred Breeding Incentive Program in the budget before last - but the greyhound breeding incentive scheme has ceased. On 1 July 2017, 97 greyhound pups were born and registered in Tasmania. On 1 July 2018, 60 were, heading down. On 1 July 2019, there were 28 pups, five litters only. It does not take anyone very long to work out you will struggle to field races and have dogs if you are not breeding them. Much has to do with the fact there is community expectation - and industry has signed up to it - that we will rehome our dogs and horses in the future once they have finished their racing careers or that if they are not of the calibre needed to continue, they will be rehomed.

Already we see in the greyhound industry that where we used to have 10 races at a race meet, we now have nine. You know how quickly nine races are held - bang, bang, bang, they whip around that track and it is all over. I really have concerns when you see a decrease of two-thirds of the breeding stock of greyhounds in Tasmania since 2017. I suggest if we do not hurry up and have a greyhound breeding incentive program back in the system, we will not be breeding enough dogs to sustain the industry.

We heard this morning of the same issue in the harness industry with the numbers of trainers, horses and events. This obviously comes back to the stakemoney that comes with a race, but it also comes back to the fact of having enough animals participating in a race. I suggest that if we do not as a state decide to put that breeding incentive program in place not only for thoroughbreds, but also for harness and greyhounds, the industry will struggle no matter how many extra dollars it gets, because you are not going to have an industry without animals.

There are some concerns about this and the codes are going to have to work together. I was really pleased when the Tasmanian Racing Clubs presented this morning talking about representing three codes and three regions. Finally in my time being around the parliament, and certainly knowing a little bit about the industry, I see the codes are working together, which has not always been the case. Anyone who has been part of the GBE process over a number of years will know around GBE time we often had participants of the various codes coming in and not delivering a very positive message about how they work together and the fact one code received a significantly higher percentage of the money available than the other two codes. There has been some dissatisfaction over many years.

That percentage breakup or allocation is going to be looked at and that has to be done by about July next year. It will be interesting to see how the percentage is divided up next year when the current arrangement ceases.

Ms Forrest - There was also the Government Administration Committee A inquiry into Tasracing that clearly identified the disjointed approach the industry was taking at the time. It has improved since then, but that was clearly identified.

Ms RATTRAY - The fact that body came in this morning and said they were here on behalf of three codes and three regions.

Ms Forrest - Why? Was it because you got different stories from each region previously in each code?

Ms RATTRAY - Just as an aside, I was somewhat disappointed to hear that with the works being undertaken at Elwick, the races held at Spreyton, Devonport were not as well supported as hoped. Here we have industry codes that need to support each other. The state and the industry are working hard to bring that particular facility up to the standard that it needs to be. Using the synthetic track at Spreyton was the only option, yet it has not been well supported. Some could say, 'Yes, we are a bit put out by that,' but look at the benefit you are going to get in the end by having this whiz-bang new track and fit for purpose -

Mr Willie - A magnificent venue, in a very good electorate.

Ms RATTRAY - A magnificent venue, a fit-for-purpose track, but that has been the issue. The member for Elwick espouses the attributes of Elwick, but it was not fit for purpose. That was the issue. Some of us have looked at it - not that I knew a lot about whether the track was suitable but the experts said it was not.

Mr Willie - It needs upgrading.

Ms Forrest - Basically, it needed a heap of upgrades done as soon as it was opened.

Ms RATTRAY - As a state and an industry, we are putting the money needed to make that facility a first-class facility, and it now also meets the occupational health standards, which are vital for any industry regardless of whether it is for animal welfare. Certainly when you have a human mix as well, we have to look at all those aspects. You might think it is a bit of a stretch to get to Devonport, but I assure you, Mr President, it is exactly the same stretch if you are coming from Devonport to Hobart. Unfortunately, sometimes, it seems that people from the south do not always appreciate that they may have to go north at various times. I never mind coming south; it is an absolute delight to be here, Mr President.

Mr Valentine - I enjoyed my trip to Penguin on Monday.

Ms RATTRAY - So there we are. That is a bit of an aside, but I hope it gives members some indication of what is going on in the industry, from what I have been told.

Interestingly, I was informed that the Melbourne Cup race field fees were down by 25 per cent in 2019. That is telling you something; it is not only our state that is grappling with this - it is a nationwide issue. I do not waste my money on putting on bets because I have never been able to win a race so it was pretty easy to decide not to bother. I know people do enjoy it. It is a big and important industry. I note the information we received this morning from Racing Clubs Tasmania and the Thoroughbred Advisory Network. They said -

> Our industry is a major contributor to the Tasmanian economy with approximately 5500 direct and indirect jobs. It employs people across the skills spectrum in many regional areas of Tasmania, and this is an important step to moving the industry towards sustainability and setting it up for future growth.

If we do not have those breeding incentive programs in place for all codes, it is going to be difficult to grow the industry because we are not going to have the product. We need a very proactive approach from the industry and from government when they settle on the agreement. Then, in turn, once the agreement is in place, the codes and Tasracing will get into the distribution and the percentage distribution that goes to each code.

I sincerely hope that the greyhound industry, which does a lot of the heavy lifting in this space, is rewarded for that heavy lifting. It is about time it was not treated like the poor relation of the industry. I have no involvement in it, but I will be watching. I am sure the greyhound racing representatives will be pushing hard, but in the end they can only do so much. They have to make sure they can impress upon Tasracing and the other codes that they should also be treated with an increase in that percentage split.

I do not intend to comment too much about the other aspects of the bill, but I am pleased to see the issue of harm minimisation being addressed. I expect the member for Nelson will have a contribution on that because she has a high level of understanding of what is expected in that area.

We do not want people who cannot afford to be involved in wagering putting their money into that situation. Again, people make their own choices.

I am not sure whether there was an updated second reading speech. Was something left out?

Mrs Hiscutt - There was an updated speech and I probably should have explained that at the time. As I walked in here today, it was presented to me. I can forward that to members if you like. It was to bring into line some things that happened downstairs. Would you like a copy of that?

Ms RATTRAY - No, I am happy to read out what you left out, thank you.

Mrs Hiscutt - It might not be appropriate now is what I am saying.

Ms RATTRAY - All right, I will read it out and see if there is an issue with what we received. The piece that was left out was about the second amendment, which -

> … removes provisions for trading accounts to be consistent with recent amendments to the Commonwealth's Interactive Gambling Act 2001

Is that the right one? It continues -

> … which prohibits the offering or provision of credit by a betting operator for wagering purposes, with the exception of oncourse bookmakers who have been exempt. This measure aims to mitigate risks of customers gambling beyond their capacity to pay.

I have marked up two here. I am interested if that was left out, why was it left out? We are talking about the Commonwealth's Interactive Gambling Act 2001. It is about mitigating risks of customers gambling beyond their capacity, and that is really important.

The Leader, in her reply to the debate, will certainly let me know.

I think that might have been in; I think I have found the one you might have left out -'Whilst five jurisdictions, including Tasmania …'. That might have been it.

Ms Forrest - That was the sentence she left out. There were a few other minor changes in that.

Ms RATTRAY - Yes, but this one is a whole paragraph -

> Whilst five jurisdictions including Tasmania will now have a consistent rate applied at 15 per cent, Victoria and New South Wales have rates of 8 per cent and 10 per cent respectively.

That is what we heard this morning, so I see no reason that would be left out -

> Noting that harmonisation across the country was the original aim, Treasury will continue to monitor and review developments in other jurisdictions.

I am pretty sure the reason we have it is that everyone else has it - not so much harmonisation, it is just that we do not want to miss out. Also, the industry has been calling for it. Perhaps that is why. I will not die in the ditch in regard to that but as I was following the speech, I just noticed it.

As I said in the briefing, UBET TAS is going to be paying less. UBET TAS was happy to sign up to the deal negotiated in 2012 with government for a 50-year licence with 15 years exclusivity. Its current arrangement is in place until 2027 and hence there had to be a renegotiation by the Government. I have no issue with that. I suggest that UBET TAS is possibly paying less because the product has changed is business. If you sign a deal and you have had a benefit since 2012 and then things might change after 2020, I would not expect that the state and the industry would have to take that hit. I would expect that UBET TAS would have to wear that. I was somewhat surprised to hear that it will possibly be paying less. Even if it is $100 000 less. I apologise that I did not write down the difference between what is already being paid through the $7.3 million. We heard that it was $7 million for the licence fee. Then $300 000 extra was paid, so $7.3 million. It concerns me that the Government decided that the industry and our state are the ones that are going to compensate for changes in how people wager. We know about the online stuff and sports bets and betting on the election of the Prosser member and the like.

Ms Forrest - And *The Bachelor*.

Ms RATTRAY - And *The Bachelor*. We heard that as well.

The fact is that an agreement is an agreement. I put on the record that I am disappointed the Government in its negotiations decided that the people of Tasmania and the racing industry are the losers in the changes in the community when it comes to wagering. Business is business. You win some and you lose some. We have all done it. I have lost money on things I should not have done, but that is the way it is. You just get on with it.

I make that point although I am sure that nothing will change from it. I think it is important to let people know we know that it has happened now and we will be watching. I think that the industry itself will not be pleased. UBET TAS got itself a good arrangement back in 2012. It appears now that it is very comfortable with the new arrangement. I am sure that it can see benefits for itself as well. I am here to protect the industry as well as the people of Tasmania for whom we do this at

the end of the day. We are here and we ask the questions, and we look for the answers on behalf of those people.

We heard this morning that Tasracing's asset base is $80 million. That is nothing to be sneezed at. The $14 million that it spends on animal welfare, stakes and infrastructure, and running on top of the $31 million it gets from the deed of agreement - that is a concern because nine years will just go by in a flash. Ask the member for Rosevears how quickly nine years goes and he can tell you. Nine years ago he was just a young fellow in this Chamber and now he is still -

Mr Finch - Eighteen years ago - just like that.

Ms RATTRAY - It certainly goes quickly and there has to be a lot of work put into putting this industry on a sustainable footing. We have been hearing about it for a long time now. Those in the industry are well aware that those nine years are coming up very quickly.

I am here to support the industry - all three codes - as much as I possibly can. If having a point of consumption tax is one way to support the racing industry, I support it.

Again, a couple of points: I am disappointed we do not have an agreement where we know exactly what the split is of the additional money. I am keen to have some understanding in the future how those in the industry see they are going to grow their industry if they are not breeding enough animals to provide the product we need to put the races on and have people wager and have the entertainment through their activities while also supporting the community with, as I have read out, 5500 direct and indirect jobs, a lot of which are in the rural and regional areas of Tasmania. We need to really work hard on how we can support everyone in the industry in the future.

I will be supporting the bill. I look forward to the Leader's response on behalf of the Government and the minister about a time frame for this agreement and whether there is any movement on the 80:20 split that Tasracing is looking for, compared to the Government's position of 50 per cent for industry and 50 per cent for government. As we know, the Government has a large commitment to our community, and certainly nobody can argue that health, education and law enforcement are not exceedingly important in this state.

If you asked anybody who is probably sitting at the Royal Hobart Hospital waiting at the moment, 'Do you want to see more money going into hospitals or do you want to see it going into the racing industry?', unless they are probably directly connected to the racing industry, I have a fair idea what they will come back and say to the member for Hobart if he is their member. Again, we have to look at the big picture, which is what I do wherever and whenever possible. I support the principle. There is just some detail that needs to be clearly articulated and outlined.

[12.49 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thought there might have been more debate.

First, I apologise to members for the beginning of my second reading speech; I am just letting you know that it was the same speech the Treasurer delivered in the other place. However, he made a few -

Mr Finch - We always follow what goes on down there.

Mrs HISCUTT - Well, it should be the same. Evidently, he made a few changes on the fly and that was reflected in the speech I delivered; I would have had it to you earlier had I had it, so I am sorry.

Ms Rattray - It shows I was watching and listening.

Mrs HISCUTT - You were; you are doing a good job. We have tried to clarify some of the things that happened through the briefings this morning. I think the member for McIntyre's question about the division of the gains is probably the biggest thing everybody is thinking about, so I will go through this to start with.

The expected additional revenue is estimated at around $5 million a year, with net benefits to be shared with the local racing industry and for the broader benefit of the Tasmanian community. The Government is currently consulting with the racing industry to appropriately share the net benefits with the POC tax with discussions with all the three racing codes and through the Minister for Racing and Tasracing.

A public announcement will be made once the arrangements are finalised. The likely areas of interest include things like stakes based on strong feedback from the key stakeholders, animal welfare and infrastructure. The Government is waiting for Tasracing to come back with its final priorities. There has been some toing and froing already, members, but I am led to believe we are awaiting the final priority list to come back from Tasracing. That is imminent and will inform final deliberations once that has happened.

Given the need for some of the revenue increase to assist other government services, the amount available based on an estimate of up to $5 million would be around $2.5 million or one-half of the new proceeds available in the first full year of operation.

It is interesting, because the Government had a look back and it was not aware of any predetermination of distribution of tax revenue prior to the introduction or passing of a bill anywhere else. That has not happened but we need to know the priorities.

Ms Rattray - The Legislative Council is leading the way.

Mrs HISCUTT - Possibly. We are waiting on Tasracing to come back with its final list of determinations of what it would like.

The member for McIntyre also went on to ask why will UBET TAS be paying less to the state after the POC tax is introduced. The answer is in 2018-19, UBET paid an effective waging levy of $6.95 million, replacing the current fixed waging levy with the POC tax based on commercial activity, which requires removal of the current levy. A new annual levy of $925 000 fee units, which is approximately $1.5 million indexed annually, will apply, covering licensing and totalisator exclusivity. UBET will also pay the 15 per cent tax of net wage and revenue over $150 000 tied to commercial activity.

Based on 2018-19 data, Treasury has estimated the POC tax will be around $5 million in the first full year of operation. In total, it is estimated UBET will pay approximately $6.5 million in the first full year.

While initially UBET revenue is estimated to be $450 000 less than 2018-19, the new tax arrangement provides the opportunity for greater revenue upside for Government in the medium- to longer term, compared to the current fixed levy tied to the consumer price index.

This arrangement is considered in the spirit of the arrangements that accompanied the sale of Tote Tasmania, where the government of the day had committed that UBET would be no worse off under the new arrangements and this was the basis for the discussion with UBET on the new arrangements.

Since 2012, the betting environment has changed. More people are gambling online and betting on fixed-odds wagering. This has led to a greater proliferation of online corporate bookmakers operating in Australia and competing with totalisators generally. These charges are reflected in the outcome of the new arrangements for Tabcorp.

The member asked why the paragraph in the second reading speech was not read out. The Treasurer made some minor amendments to the speech that did not affect the debate on the bill. It was an oversight that it was not circulated. As I said, I apologise for that.

I thank the member for McIntyre; she was quite looking forward to making a contribution on this. She has her thoughts on record, which is wonderful. I once again apologise for the mix-up with the second reading speech. Thank you, Mr President.

Bill read the second time.

GAMING CONTROL AMENDMENT (WAGERING) BILL 2019 (No. 51)

In Committee

Madam CHAIR - Just for honourable members' benefit, when we get to part 3, clauses 19 and 20, we will take 20 individually as subparts because that is where a lot of the detail is in this bill. We will do it that way to enable members to have a call on every subclause, if they wish to.

Clauses 1 to 7 agreed to.

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

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I welcome members of the Australasian Parliamentary Educators Conference who have joined us in the Chamber today. This week, one of our members gave a special interest speech on the importance of parliamentary education and the work done in this area. Members of parliament very much appreciate making the broader parliamentary practices and procedures more widely known to people who should know about it. I am sure every member of the parliament will join me in making the parliamentary educators most welcome in our Chamber today.

Members - Hear, hear.

QUESTIONS

Bees - Roadside Herbicide Spraying

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

[2.32 p.m.]

Given the importance of bees to agriculture and our ecosystems and particularly after a very challenging winter and bushfires impacting on foraging areas for many bees -

(1) What measures are taken to ensure agricultural and roadside spraying with herbicides in rural areas avoids contact with bees?

(2) Has the cause or causes of mass bee death in Tasmania over recent months been identified?

(a) If yes, what was the cause of these mass deaths?
(b) If not, when is the cause of the mass deaths expected to be known?

(3) How is the potential negative impact on bees of agricultural chemical products used for spraying weeds in rural areas monitored and prevented?

ANSWER

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

(1) Biosecurity Tasmania provides services aimed at ensuring that agricultural chemical use and animal health and welfare practices are consistent with legislative requirements and community expectations.

The department administers the Agricultural and Veterinary Chemicals (Control of Use) Act 1995, which imposes controls on the handling and use of agricultural and veterinary chemicals in Tasmania. This involves spray contractor and pest control operator licensing; investigating alleged contravention of the legislation, including spraying complaints and incidents; and authorising the use of certain restricted products.

All agricultural chemicals are assessed by the Australian Pesticides and Veterinary Medicines Authority before registration. The assessment addresses impacts on human, animal and environmental health. Agricultural chemical products that may be harmful to bees have appropriately labelled instructions to manage the risk. As you can imagine, nearly all the label warnings with respect to bees are associated with insecticides.

Furthermore, in Tasmania under the Agricultural and Veterinary Chemical (Control of Use) Act 1995 chemicals registered by the APVMA must be used according to product label instructions. Chemicals must also be applied in a manner that avoids spray drift onto neighbouring properties.

The Government places a high value on our state's honey and pollination industries, which is why we are delivering on our $750 000 Bee Industry Futures program.

The Government will continue to work closely with the Tasmanian Beekeepers Association, the Tasmanian Crop Pollination Association, the TFGA, Fruit Growers Tasmania and others to ensure a strong sustainable future for the Tasmanian honey and pollination industries.

(2) Biosecurity Tasmania is investigating recent reports of bee deaths in north-west Tasmania. The cause of death has not yet been identified; however, investigations are continuing in an endeavour to determine the cause.

(3) The potential negative impact of agricultural chemical products on bees is prevented by the persons spraying these products adhering to appropriate product label warnings associated with bees.

In relation to roadside spraying, many Tasmanian councils allow residents to apply to be on their No Spray Register if the resident does not want the council to spray on the road reserve in front of or alongside their properties. The department will also continue to work with landholders to ensure awareness of chemical usage in accordance with best practice - that is, in accordance with the label and permit conditions.

On a personal note, I have followed instructions and sometimes had to spray after dark to avoid any damage to bees, so it is there on the labels and it should be adhered to.

Bob Brown Foundation - Tarkine Protests

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

[2.36 p.m.]

The Bob Brown Foundation has been conducting protests in the Tarkine area that have resulted in several arrests. There have been reports in the media that removal of the protestors has involved a large police presence and the use of search and rescue personnel and the search and rescue helicopter.

(1) How many times was the search and rescue helicopter deployed to assist police operations, and what was the cost?

(2) How many police and search and rescue personnel were deployed in each operation to remove protestors?

(3) What is the estimated cost for police operations, including resources cost, in these operations?

ANSWER

Mr President, I thank the member for Windermere for his questions. There are some short answers -

(1) Nil.

(2) On 18 October 2019, six operational uniform officers and two search and rescue personnel were used. On 22 October 2019, four operational uniform officers were used and nine search and rescue personnel were used.

(3) Tasmania Police does not collate costs associated with individual protests.

Tasmania Fire Service - Community Protection Plans

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

[2.38 p.m.]

I also want to welcome everyone to the Chamber. I said we would give a big welcome, so I am very pleased with that.

The Tasmania Fire Service website provides community bushfire protection plans for communities across Tasmania. Some communities do not appear to have a plan at all.

(1) Has the TFS identified which communities should have a community bushfire protection plan?

(2) If so, how many identified communities do not have a current community bushfire protection plan?

(3) Which communities? Of the plans available online, some have been updated this year while others do not appear to have updated since at least 2012.

(4) How frequently is each plan supposed to be updated?

(5) Are any updates overdue? If so, for which areas?

(6) If updates are overdue for any areas, for how long have they been overdue?

ANSWER

Mr President, I thank the member for Pembroke for her questions, the answers to which are -

(1) Yes, community protection plans - CPPs - are prepared for communities classified by TFS as being within a bushfire-prone area and at a higher level of risk. The level of bushfire risk varies within bushfire-prone areas. New community protection plans are prioritised annually, based on risk assessment by the TFS.

Currently, 125 community protection plans have been produced, many of which cover multiple communities. For example, the Kettering CPP includes Kettering and Woodbridge.

(2) CPPs are in place for all communities in bushfire-prone areas assessed as being subject to the highest level of risk and where other mitigation measures are not the most strategic way of mitigating risk. Even without a specific plan, the TFS provides information and resources to all community members to assist them in developing their own plans, which should include options such as a nearby safer place.

(3) Communities identified that may require development of new bushfire protections plans in the future include Bridport, Ringarooma, Queenstown, Marrawah/Redpa, Somerset, the West Tamar, Penguin and areas of Hobart's eastern shore.

(4) Plans are reviewed annually and updated if required.

(5) Same as above. Also, it is important to note that place names are critical in an emergency and are often subject to ongoing community debate and input. Updates to aspects of the plans such as location names are therefore updated in an ongoing manner.

(6) See (4) above.

Gambling - Social and Economic Impact Study

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

[2.41 p.m.]

The Government's current Gambling Support Program Strategic Framework 2014-19, page 4, says -

> Whilst it seems that there is no one factor or influence that leads to an individual having a problem with gambling it does appear lower socioeconomic areas are more susceptible to problem gambling. This is certainly reflected in Tasmania, with the SEIS (2014) revealing the prevalence of moderate risk and problem gambling is higher in lower socioeconomic areas.

(1) Do the findings of the latest social and economic impact study - SEIS - for 2017, similarly to the SEIS for 2014, indicate a higher prevalence of problem gambling in lower socio-economic areas of Tasmania?

(2) If the data on the incidence of problem gambling linked to socio-economic areas in Tasmania is not included in the most recent SEIS 2017 report -

(a) Was data on this collected but not included in the analysis and reporting?

(b) Was data on this not collected in the research for the 2017 SEIS, and why not?

ANSWER

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

(1) and (2)

The social and economic impact study 2014 indicated that the four low socio-economic status local government areas showed -

- a higher rate of overall gambling participation than the Tasmanian adult population
- a higher frequency rate of gambling and a higher risk of problem gamblers.

During the planning process for the social and economic impact study for 2017, it was identified that the local government area component included in the prior two studies was unnecessary at that time as the nature of gambling at this level was considered to have been comprehensively researched.

A number of key stakeholders, including the community services sector in Tasmania, were consulted on the reduced scope of the 2017 study during the planning stage and they understood the circumstances.

School Intake Areas

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

[2.43 p.m.]

The second stage of community consultation regarding the review of school intake areas for Tasmanian government primary and combined (district) schools concluded on Friday, 27 September 2019.

(1) How many feedback submissions for the second stage of community consultation were received on or before Friday, 27 September?

(2) As the website is still active, how many feedback submissions for the second stage of community consultation were received after Friday, 27 September?

(3) How many feedback submissions were received for the first stage of the community consultation?

(4) When will the Government finalise the intake areas applicable from 2021 and then make them public?

ANSWER

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

(1) In the second stage of community consultation, the Department of Education received a total of 190 submissions on or before 27 September 2019.

(2) DoE received a further six submissions after Friday, 27 September 2019. All submissions received will be considered as part of the extensive process.

(3) In the first stage of community consultation, DoE received 896 submissions (running between August and October 2018).

(4) Under Section 99 of the Education Act 2016, the secretary of DoE is required to determine the intake area boundaries for Tasmanian government schools at least once in every five years. It is anticipated that the DoE will complete the current review of intake areas in 2020.

The DoE will work closely with schools to ensure they understand any intake area changes that may affect them and to help them communicate changes to their school communities ahead of any implementations.

Public Hospitals - Patient Access to Televisions

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

[2.45 p.m.]

Mr President, following up on questions I asked in March and August this year with regard to access to televisions for patients in Tasmanian public hospitals -

(1) Given that Merlin Technology's contract was due to expire on 31 August 2019 and the Tasmanian Health Service - THS - was to consider the terms of the already expired Hills Health Solutions agreement along with Merlin Technology arrangements, can you provide an update on the likely solutions for the provision of television for patients? I noticed when I was in the LGH the other day, it seems that they are still using these same service providers.

(2) Are patients still required to pay to access a bedside television, and if so -

    (a) What public hospitals require that payment?
    (b) What are the costs per day by hospital?

(3) Does the Government accept this cost impost is significant for many Tasmanians who wish to watch television while in hospital, especially during extended stays?

(4) Is the THS considering any alternative options for service provision?

ANSWER

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

(1) to (4)

Patients are required to pay and continue to pay to access a bedside television. Contractors charge a maximum of $10 per day for non-concession card holders and $9 per day for concession card holders.

Ms Forrest - A massive saving.

Mrs HISCUTT - This rate reduces to $49.90 per week or a concessional rate of $42.90 per week. Existing arrangements remain in place with each hospital while the Tasmanian Health Service continues to consider options for future service provisions.

Paediatric Surgeons - North-West Coast

[2.47 p.m.]

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

This question follows up a couple of others I have asked over recent weeks. Very simple; it is an easy question to answer. I do not want a whole heap of guff.

How often do paediatric surgeons visit the north-west coast to consult?

ANSWER

Mr President, I thank the member for Murchison for her question. I was very pleased to receive this answer. Paediatric surgeons do not attend the north-west.

Children in Care - Removal from Foster Carers

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

My question is also a supplementary one. How many children in care have been removed from their foster carer in the past 12 months?

ANSWER

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

In terms of removal for reasons other than reunification and as per advice from the Department of Communities Tasmania, the minister would like to reiterate that the number is so low there is a high probability that reporting it publicly would lead to children and carers being identified, which would risk infringement of section 103 of the Children, Young Persons and Their Families Act 1997. I am sure the member can appreciate we do not want to make that public.

Mr Willie - I think you use that for cover.

Taxi Industry - Report

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

I will see if I can do any better. My questions relate to the taxi industry and are supplementary to questions and answers provided on 13 June 2018 and mid-September 2019.

Would the Leader please advise -

(1) On 13 June 2018 I was advised the review of the taxi, hire car, and ridesharing services was ongoing. Where is it at now?

(2) In mid-September 2019 I was advised the report was expected to be released later this year. With only six weeks to go in 2019, will it be released this year?

(3) If so, when?

(4) If not, what is the hold-up and when will it be released?

(5) This question identifies the heartache of the industry. When the Taxi and Hire Vehicle Industries Amendment Bill 2016 was debated, the late honourable Vanessa Goodwin said the report would be released within two years. The taxi industry is really concerned about this and about its future and is asking 'What is the hold-up?' and 'Why is this review taking so long?'

That will probably be answering my first question. They wanted that question put there, so I have done that.

(6) How is it proposed the report will be released? Will be provided to the industry? Will it be tabled in parliament and electronically? How will it occur?

ANSWER

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

(1) to (4)

A draft framework for the on-demand passenger transport sector was released for consultation in September 2018, and there was significant feedback from the taxi industry in particular.

The minister expects a draft bill will be released for public consultation before the end of this year.

(5) The Government's continued priority has been to take the time required to undertake meaningful consultation and develop a robust and considered regulatory framework.

(6) Refer to the answers (1) to (4).

GAMING CONTROL AMENDMENT (WAGERING) BILL 2019 (No. 51)

In Committee

Resumed from above.

Madam CHAIR - Honourable members, before we commence, in view of the challenges we have had, there are many questions in these various clauses. The Deputy Clerk will call two or three of these at a time. They will be called slowly, so there is time for people to listen out for those clauses. Please be aware and listen when the clauses are called if you have a call on any of them.

Clause 6, as previously discussed, needs recommittal at the end; we will come back to that, because of the usual process, if members agree.

Clause 8 -
Section 76ZL inserted

Ms WEBB - My questions are on clause 8, proposed new section 76ZL(2)

I have a couple of questions relating to the deposit limit. First, to what extent is this already occurring across these forms of betting in this state?

I am interested to have you clarify whether this is in effect an opt-out mechanism and how it will be done. Will it automatically be available and somebody opts out rather than opts in? Could you clarify for me?

Proposed new section 76ZL(3) deals with the offer of a deposit limit. Is that made only when a person is initially registering, or are further offers made across the duration of that term for which the person might be registered with the organisation?

Madam CHAIR - While the member is on her feet, do you have multiple questions? Keep going as long as the advisers can keep up.

Mrs Hiscutt - We have those questions if you wanted to proceed with another couple.

Ms WEBB - How will this be monitored? If operators do not meet these requirements, how will it be monitored to assess the penalties?

Mrs HISCUTT - I think we have most, if not all of it. UBET TAS is the only Tasmanian gaming licence holder affected by this amendment. It has already implemented system changes enforced by the requirements of the Tasmanian Liquor and Gaming Commission's Tasmanian Gaming Licence Technical Standard, which requires the following -

- deposit limits to be promoted and easily accessible to customers
- for the customer to nominate time periods for their deposit limit, including daily, weekly, fortnightly and monthly
- prevent customers from making further deposits after their limits have been exceeded
- immediately applying a decrease to a deposit limit by providing a cooling-off period of seven days to a request for an increase in a deposit limit
- prompt all customers at least annually to set and review deposit limit.

Setting of deposit limits in the bill is in addition to the existing provisions that allow dollar amount net loss spending limits to be set by customers. Both these options provide customers with tools to help them monitor and manage their gambling, and pre-committing deposits and net loss limits.

It only applies to UBET TAS. One of the questions was the extent it is occurring now. Since 6 June 2019, it is required under the commission's technical standards for a Tasmanian gaming

licence holder. That comes from the Tasmanian Gaming Licence Technical Standard, version 4.2, June 2019, point 5.17.7, which says -

> Account holders (including account holders who have previously opted not to set a deposit limit) must be prompted by the licensed provider at least annually to set and review their deposit limit. As a minimum the licensed provider must ensure that prompts are provided to account holders at or prior to the time of their next bet placement following each anniversary of their first bet. Note: This requirement to annually prompt account holders to consider setting deposit limits is only applicable to active accounts where a betting transaction has been made on their betting account within the preceding:
>
> a. 12 months for non-player loyalty program members; or
>
> b. 6 months for player loyalty program members.

The answer to the last question - how will it be monitored - is that it would be part of the normal compliance activities of the licence holder. I think we have answered all those questions.

Ms WEBB - I think it was probably my lack of clarity in putting it so that one question was not quite what I meant. Just to clarify, it is the degree to which that option to set a deposit limit is being utilised now by patrons - not the fact that it is there and the measures under which it is. What proportion of patrons or what sort of coverage is there in utilisation of that function?

Mrs HISCUTT - That is a question for UBET TAS; that is not information the Government holds. If you are on the GBE scrutiny committee for Tasracing, you may be able to put that question to them.

Ms Webb - So it is not having to be reported to the Government?

Mrs HISCUTT - That is correct.

Mr VALENTINE - On this matter, where a punter has an account, they have set a deposit limit and they also receive winnings into that account. That account exceeds its limit - it might not be a deposit by the punter, but winnings that go into that account. How is that handled? Is the punter advised that their account is now over the limit in some way? Can you clarify how that is handled?

Mrs HISCUTT - It seems that winnings are considered to be a deposit. A deposit is only when a transfer that is not a winning is made from a financial institution. This means that winnings would be available. You would be able to bet with your winnings, but no more than your deposit once it comes in from another financial institution.

Clause 8 agreed to.

Clause 9 agreed to.

Clause 10 -
Section 76ZZG amended (Approval of gaming equipment)

Ms WEBB - I have a question in relation to clause 10(a) and (b). It also relates to clause 11(a) and (b) as well, so we will cover both.

On paper, that looks like a reduction in public visibility of notifying of the amendments that it refers to. Can you detail how this lower visibility and less public notification will be mitigated on paper?

My second question about clause 10(c) is about omitting subsection (12) from section 76ZZG of the principal act. Subsection (12) is -

> A notice under subsection (11) is not a statutory rule for the purposes of the Rules Publication Act 1953.

Why are we omitting that? What function does it have to omit that from the principal act?

Mrs HISCUTT - I can answer your first question, and I will seek an answer for your second question.

Publishing a notice in the *Tasmanian Government Gazette* to advise licence holders of gaming standards is considered outdated and unnecessary. The amendments to the act will enshrine the current practice already undertaken by the Tasmanian Liquor and Gaming Commission to publish general gaming equipment and general control system standards on the Treasury website and advise affected licence holders of the standards.

The same practice is used to inform licence holders of other requirements under the act, such as issue or amendments to commission rules. Those most interested in the technical standards are operators, testers and suppliers, who will be consulted on the draft amendments.

The broader public is unlikely to have an interest, given its technical nature. This was discussed during the briefings.

The Liquor and Gaming Branch also advises of such amendments in its regular newsletter directly distributed by email to over 2000 subscribers. Material changes of this nature will typically be included in other push notifications such as a branch article in the THA's bimonthly publication *Hospitality Review*.

I will seek an answer to the second part of your question, member for Nelson.

The reason is because in the original act it is no longer a notice, because subsection 11(a) is saying it is not a notice, so it is irrelevant.

Clause 10 agreed to.

Clause 11 agreed to.

Clause 12 -
Section 77V amended (Approval of certain contracts by Commission)

Ms RATTRAY - We discussed this clause in the briefing session this morning, and this related to clause 6 with licensing and not being required to have a licence to work on various machines. The clause notes say -

> The approval granted by the Commission for the "relevant contract" may be subject to conditions as the Commission considers appropriate.

What conditions would be appropriate? I am looking for some examples because this is a change and obviously the integrity of gaming is very important. We talked about those licensed to operate, but what might the commission consider appropriate conditions and why?

Mrs HISCUTT - The intention of the amendments is to futureproof the legislation to provide for emerging technological advancements in the gaming environment and also to include the ability for the commission to impose conditions on its approval of any relevant contracts between licence holders and third-party providers to mitigate any potential risks. For example, the commission may determine a cloud storage provider implement additional security control or something like that. It provides the commission with greater powers to help them protect themselves.

Clause 12 agreed to.

Clause 13 -
Section 132 amended (Investigation of complaints)

Ms WEBB - This will be relevant to clauses 13 and 14, and perhaps others such as clause 16. We can probably cover it nicely here. It is really an explanation which we did not go into in the briefing earlier on clauses dealing with inserting the term 'gaming activity' into various places in the original act. Often things would read 'gaming, gaming activity such-and-such'. In other cases, though we are switching out the word 'wagering' and inserting 'gaming activity'.

Could the Leader explain the rationale around the use of the term 'gaming activity', particularly where it switches out. That is not in clause 13; it comes into play in clause 14, so if we need to wait until then, that is fine about the switching of 'wagering'. Either way it is all part of the same question.

Mrs HISCUTT - The definition of gaming activity includes wagering. It is the appropriate term to use in the bill. It provides consistency throughout the legislation.

Clause 13 agreed to.

Clauses 14 to 16 agreed to.

Clause 17 -
Section 150A amended (Taxation in respect of Tasmanian gaming licence)

Ms WEBB - For clarity, we touched on this briefly in the briefing session earlier. In clause 17, what effect does changing the wording from 'the Treasurer' to 'the Commissioner of State Revenue'? Is there any particular practical reason that has been switched or is there another rationale for it?

Mrs HISCUTT - An opportunity has been taken to amend that act to require tax relating to a Tasmanian gaming licence holder, under only UBET TAS, to be paid to the Commissioner of State Revenue instead of the Treasurer. This will provide the clarity of the act as Part 9, Financial Provisions is already a taxation law by virtue of section 153B and is administered by the Commissioner of State Revenue under the Taxation Administration Act 1997. So it provides clarity and keeps it consistent.

Clause 17 agreed to.

Clauses 18 and 19 agreed to.

Clause 20, subclause 145A agreed to.

Clause 20, subclause 145B -
Interpretation of Division

Ms RATTRAY - Madam Chair, I thought this was the best place to ask about the point of consumption tax. I asked some questions during the second reading debate, and the Leader provided some answers in her reply. I am still concerned about the 15 per cent and how that agreement is to be negotiated.

I wrote this down in the briefing but I did not mention it earlier because the question was asked by the member for Windermere, as I recall. How much of the point of consumption tax will come from racing?

We were told in 2016-17 that it was 75 per cent and 25 per cent came from sports betting. Do we have any more up-to-date figures? If 75 per cent of this comes from racing - and I know that there are still some negotiations to go - you would expect the racing industry could very well expect more than 50 per cent. We talked about the Government's competing interests but, given they are going to generate 75 per cent, do we have a more up-to-date figure? How we are going to decide on what the percentage split is? I am looking for some rationale, not just the Government needing more money.

Mrs HISCUTT - We have no further update other than what was given. I do not think I will need to go through the answer again, as it was said before, but negotiations will take place and as you know, we are waiting on Tasracing to come back with a final proposition I cannot give you any more information at this stage.

Mr WILLIE - I rise on this same matter. There is obviously ongoing negotiation: has there been any negotiation on where that percentage of revenue will go in terms of prize money, welfare and infrastructure? It is well known the industry is struggling and needs an injection of funds into stakes. Has there been a negotiation on where that share will go across those three areas, given the industry is struggling in terms of stakes and prize money.

Mrs HISCUTT - I understand the concern of the member and other members, but all I can do is reiterate that the Government is waiting for Tasracing to come back with its final priorities. That is where the negotiations will start. We have to have a starting point, so we are waiting on Tasracing for its final priority list, which will inform deliberations.

Given the need for some of the revenue increase to assist other government services, the amount available, based on an estimate of up to $5 million, could be around $2.5 million or a half of the new proceeds which become available in the first full year of operation. I cannot really give any more information until the negotiations happen, but we are waiting on that final prioritisation list from Tasracing.

Ms WEBB - I am probably picking up on some of the reasoning or thinking of the member for McIntyre. What is the intended duration of an agreement being currently negotiated? Is it

anticipated to be a particular time frame, which would then be renegotiated and forward-looking from there? One of the reasons I am asking is because the member for McIntyre drew a link between the proportion of this tax revenue that comes from the racing industry versus the betting and other industries, and whether there is correlation between the sharing of that revenue to the Government, and looking ahead expecting the proportion of the revenue, the non-racing part, to increase. There was a suggestion in the briefing that 2016-17 figure of 75:25 per cent has probably already shifted towards the non-racing component being higher. Would we look ahead and would any changes in the proportion of racing, non-racing be a reason or a factor to consider in future renegotiating?

Mrs HISCUTT - We talked about time frames. This is a matter for Tasracing to raise with the Government. We presume it will be part of the final negotiations. If it is not there, it will be raised. I cannot give you an answer on when or how long because it is yet to be determined.

The Government will need to consider all its commitments for spending as part of the budget process. There are many things that have to be considered before I can come up with an answer. The Government is mindful that wagering is on events other than racing. This will also be part of the negotiations so there is still a lot to come forward. I presume many of these things will be mentioned in Tasracing's final proposal when it brings it forward.

Ms Webb - The duration of the agreement is something that is also still in negotiation?

Mrs HISCUTT - Yes.

Mr WILLIE - If I can go back to the matter I was discussing earlier. We were talking about the percentage the industry will share with the Government. There is much uncertainty about where and how prize money, welfare and infrastructure will be distributed.

We heard from the industry today that it benchmarks itself against Victorian country races and that they are well behind and are struggling as an industry. If it collapses, the industry is not going to be able to raise any revenue at all for the Government. I would like some clarity on where the revenue will go across those three areas and whether there will be a significant increase into stakes for the industry.

Mrs Hiscutt - Are you asking how the share that goes to Tasracing is to be distributed?

Mr WILLIE - We know that is up in the air. Tasracing is obviously making its claim. It is an 80:20 split.

Mrs Hiscutt - Are you asking how is the Government going to share it?

Mr WILLIE - From my understanding, the Government is more at a 50:50. Obviously, some negotiation will happen there, but once that is decided, where is the money going to go across prize money, welfare, infrastructure? Is it going to be a 33 per cent split across each? Are some needs more in demand than others, given that the industry has been saying for a number of years now that the stakes are not sufficient to sustain the industry, that it is struggling with its breeding programs and a whole range of other issues? Could the Government clarify that?

Mrs HISCUTT - The Government is committed to working closely with the local racing industry to ensure that net benefits are appropriately shared between government and the industry. The share of revenue is currently being determined in consultation with Tasracing and the Minister

for Racing and will be discussed with all three racing codes, so the crux is that it is still in negotiations.

Mr Willie - It is more about the split across the three areas, so that is also up in the air?

Mrs HISCUTT - Yes, it is still being negotiated; we are waiting on the final consultation from Tasracing.

Mr DEAN - Pursuing the agreement and some questions I asked during the briefing this morning. To follow up, the agreement will be a year-to-year matter. It will form part of the funding for Tasracing. There is $31 million, which is CPI-adjusted. The agreement reached here is if it is 50:50, 50 per cent of the profits from this tax - if the Government has its way - will go into Tasracing. Is it the case that agreement can be altered whenever the Government wants? The question was also asked by the member for Nelson as to how long will that initial agreement be in place. Is it in place for 12 months only on a 50:50 basis, or if Tasracing gets its way on an 80:20 basis, or will it be able to be negotiated and changed every 12 months? Some detail on how long is it in place - is it flexible?

The other question, which was raised by the member for Elwick, Tasracing is in a very ordinary position at this present time without being able to keep horses on the track and low stakes compared to country Victoria. If Tasracing is able with some of the extra money to improve and increase the business and wagering amounts collected through this tax, it will not benefit from that. Is that the position that the agreement will be in place, and that will be it? Will or can it be negotiated annually, biannually or whatever?

Mrs HISCUTT - I thank the member for his question and I can see he is trying to get a definitive answer but as it has not been negotiated yet, I cannot -

Mr Dean - But you must know how long the agreement is going to be in place for.

Mrs HISCUTT - That question was asked by a previous member and the answer was it is part of the negotiations. The Treasurer has made a promise there will be a public announcement once the arrangements are finalised. Until they are actually finalised, I cannot answer any of your questions, because it is being negotiated as we speak. We are waiting on Tasracing to put its final proposal in. It may say it wants it for a year or wants it in place for five years, but we do not know yet. We have to wait until the negotiations are finished and the Treasurer will make it public once the last negotiations are completed -

Mr Willie - Make the agreement public or will it be a public announcement?

Mrs HISCUTT - It will be a public announcement made once the arrangements are finalised.

Mr Willie - But not the agreement?

Mrs HISCUTT - Possibly not at this stage; we tend to think not, but I am not sure. I am sorry you can stand on your feet and ask the same questions and I can only give you the same answer because they were not finalised in the negotiations. Tasracing might come back with something outrageous or it might come back with something very manageable, we just do not know yet.

Mr WILLIE - Obviously, it is ongoing with the negotiations. Does the Government have a position on when it would like to revisit this agreement? Has the Government put forward a time frame when this should be periodically revisited in that negotiation?

It is a two-part question. The second one is: will the agreement be made public, and if it will not be made public, what reasoning is behind that? I would not imagine there would be too many immunity claims on that, given that it is state revenue and it is going to sectors of government. That is in the public interest to be made public.

Mrs HISCUTT - In answer to your first question, I can only reiterate what I have already said. Given the need for some of the revenue increases to assist in other government services, the amount available is up for negotiation.

Mr WILLIE - No, it was whether the Government had a position to revisit the agreement periodically.

Mrs HISCUTT - That was your first question and we are seeking an answer to that. That was the answer to your second question.

Mr WILLIE - The second question was: will the agreement be made public? I do not think you answered that. Will it be made public and if not, why not? There would not be too many immunity claims on that.

Mrs HISCUTT - I will seek some advice on that.

The Government expects that Tasracing will provide information on its needs as part of its annual corporate planning process and this is considered ahead of any budget process. A request for funds under the POC tax revenue into the future would be reflected in this process. Tasracing's corporate plan would be informed by a consultation with industry players and made available to the Government.

Mr Willie - What about the agreement? Will that be made public? If not, why not? I cannot imagine too many immunity claims would be valid.

Mrs HISCUTT - The public announcement will be made once the arrangements are finalised.

Mr Willie - No, that is a public announcement. That is not the agreement.

Madam CHAIR - Order. There is no-one on their feet.

Mr DEAN - Just to follow that up, will the announcement be an announcement as to what the position is in regard to the agreement? With the greatest respect to you, Leader, I cannot accept that at this final stage of a bill going through this place to enact a consumption tax - and we are talking about agreements and the agreement has been talked about for quite a long time; we were told by Tasracing this morning and by the industry people it has been negotiated over a long period - that the Government does not have a very clear direction on where it is going. The only thing I think would not be clear at this stage, from what we have been told, is the percentage. We understand the Government wants 50, and the industry is saying it wants 80:20 or whatever it is. I think that would be the only the negotiation.

I will ask my earlier question again. I find it hard to believe that a government at this final stage of the process does not know where it is going with the agreement - that it is not able to say whether an agreement will be entered into annually or will be a standing agreement for five or 10 years, or will be discussed and negotiated every time there is a significant change in it or whatever. If the Government does not have all that in place now, to me it is very poor indeed. We are being asked today to support this bill - and what is more, we are told that this bill will commence, or it is wanted to commence, on 1 January 2020. We are talking about a very short time.

Madam CHAIR - This section does.

Mr DEAN - This section. The Government wants it in place by 1 January 2020. I ask that question again: is that the position, or do we know exactly where it is going?

Mrs Hiscutt - I could nearly take the member's question as a comment.

Mr DEAN - No, it is a question.

Mrs HISCUTT - Having said that, we are waiting on the final priority listing from Tasracing. As soon as that comes, negotiations will continue in earnest.

Mr DEAN - It is not a comment. My question is: what is the structure around the agreement? Is it a solid, concrete agreement? Or is it an agreement that can be negotiated at any time by either party? How long will it stand for?

The other question is the one the member for Elwick was following up: will there be a public release of all of the circumstances and positions of the agreement?

Mrs HISCUTT - The length of the revenue-sharing arrangement has not been determined and will be part of the negotiations with Tasracing. There will be a public announcement on where the arrangement has landed.

Ms RATTRAY - Madam Chair, these are really important questions. I share the concerns that the members for Elwick, Windermere and Nelson have in regard to this. I know that it is difficult for you, Leader, because you do not have the answer. But if the codes do not know what the agreement is, if only the Government and Tasracing know, how will they be the ones that will be put on a sustainable footing if they do not know what the agreement was or how much Tasracing have? The codes are the ones that generate the money; they are generating this tax.

Mrs Hiscutt - The codes are having input into this.

Ms RATTRAY - Input is one thing; knowing what the final outcome is, is something completely different.

Mrs Hiscutt - Tasracing needs to hurry up then.

Mr Willie - This is about making any agreement public.

Ms RATTRAY - Yes, I said you are in a difficult position because you do not have the answer. Hopefully you can see that is why members are concerned. If it is not made public, the codes might not know. Obviously, if the Government has said, 'We do not want it public', Tasracing will be

bound to not make it public, and it will not be able to tell the codes how much money they are getting. How is it to be a sustainable industry, moving forward, if the codes do not know what Tasracing has been able to negotiate, even if they have been a part of the negotiations? They want 100 per cent, Tasracing want 80 per cent, the Government wants to give them 50 per cent. I do not know where they are going to land; I have no idea. I have a fair idea, but it is probably not the best outcome.

Mr Dean - And what is more, they want the bill to be signed off by us today.

Ms RATTRAY - Yes. Is there is a way of contacting and asking the minister? If they at least have the codes - whether the codes make it public will be up to the codes, making sure that they keep the things in-house -

Ms Webb - Why should it not be public, full stop?

Ms RATTRAY - Why should it not be public, full stop? But at least the codes, at the very least, have to know how much Tasracing have negotiated for what the codes are generating. It is a fair and reasonable question and again I believe you are in a very difficult position because it has not been negotiated, but this is about once it has been negotiated it is a public document, so the codes at the very least know what is in it for them.

Madam CHAIR - It looks like the advice has disappeared.

Mrs HISCUTT - Tasmanian Racing Clubs represents the three codes and has been actively involved with Tasracing, so I should imagine at the end everybody will know what is going on. Then there will be a public announcement about the arrangements when they are all finalised.

I have some other advice coming relating to this, so I am happy to take more questions on this if there are any more or put this to one side and wait and come back to it if that is the case.

Madam CHAIR - We will continue to take questions on this clause and we can come back.

Mrs HISCUTT - We will see what else comes in.

Ms WEBB - It is an extension. We could potentially revisit it attached to other clauses as we go, rather than bog it down now further. What is the process if the negotiation does not deliver an agreed outcome? What is the default position and when is the deadline for going to a default position, in the event of unsuccessful negotiations? Is the default position the Government's position and would that come into effect?

Mrs HISCUTT - I am sure the members will be happy with this answer. We have just made a few phone calls relating to the pressure put on with regards to this and the Government will now make the agreement on revenue sharing with the racing industry public.

I will say it again: the Government will make the agreement on revenue sharing with the racing industry public.

Ms Webb - Was there an answer to the question I just asked now?

Madam CHAIR - The member for Nelson asked about the default position.

Mrs HISCUTT - There have been many discussions backwards and forwards, and we are waiting on the final prioritising list from Tasracing. We anticipate that it will be happening very soon. There will be ongoing discussions until an agreement position is reached by both parties in good faith.

Ms Webb - There is no deadline at which, if there is not an agreement, then something kicks in? A default?

Mrs HISCUTT - No. It will keep going until it is reached. Because of the fact we are waiting for that final prioritising list from Tasracing, and there will be something happening in due course.

Clause 20, proposed section 145B agreed to.

Clause 20, proposed section 145C -
Meaning of *Tasmanian bet*

Mr WILLIE - I am not sure if this is the right place to ask this. In the other place, the Treasurer said there had been some modelling done around the impact to revenue from this tax.

I am interested in why that is not being released; he said he would not release it. Also, through that modelling, is the Government expecting revenue to continue to increase or is there going to be a period of settlement when this is implemented?

Some of the stakeholders have said they have consulted with some of the bigger players in the industry. They have told them they are not going to move interstate to, say, the Northern Territory, where the tax does not apply, so they are confident that is not going to happen just through consultation, but obviously there would be modelling that sits over the top of that.

In that consultation, the caveat on them not moving was that money was invested back into stakes and back into the industry to grow it. My question is more about the modelling: why is it not being released and what is that projecting?

Madam CHAIR - That question actually sits better at 145D, but I will let the Leader answer it under here.

Mrs HISCUTT - I have the first part of the answer while we look for the second part. Treasury modelling and/or options for the POC tax was undertaken and this reflects some information not in the public domain and so would not be released. It is not usual for Treasury modelling for the Treasurer to be publicly released, so it would be the same answer relayed in the other place.

Mr Willie - It is usually released if it helps the Government.

Mrs HISCUTT - Could the member for Elwick please clarify the intent of the second part of his question?

Mr Willie - Whether there is going to be an impact for revenue. What is the modelling predicting? Does the Government expect it to keep growing?

Mrs HISCUTT - You are talking race fields or the POC?

Mr Willie - Both.

Mrs HISCUTT - The POC tax revenue estimates are reflecting a modest growth over the forward Estimates and Tasracing advises it does not expect a material impact on race field fees revenue.

Mr VALENTINE - I want on the record exactly what 'Tasmanian bet' means. I know it is described there, but it could be slightly ambiguous. Does this apply to a person who is in Tasmania making a bet with an operator on a Tasmanian event as well as an interstate event, or interstate? I want to have it 100 per cent clear that is what this is saying. You do not have to be a Tasmanian resident - you could be a visitor to the state, you could a resident, anyone who is in Tasmania at the time they are placing a bet with a mainland operator, but they are in Tasmania making the bet. It might be a Tasmanian event, it might be a mainland event.

I want to make sure it applies to all those.

Mrs HISCUTT - We will seek advice to make it really clear.

Mr Valentine - Thank you.

Mrs HISCUTT - The POC tax captures all wagering operated licences in Australia offering wagering services to Tasmanians. This also includes visitors who are in Tasmania and who place a cash bet at a UBET outlet or terminal in Tasmania. Events bet on can be conducted in other states.

Mr VALENTINE - I split this into two questions because I thought it was complicated. A Tasmanian on the mainland betting through an operator on a Tasmanian event, is that picked up? There is no tax charged on that. The other states capture that percentage if they charge it?

Mrs HISCUTT - Take me, for example. I have registered with an online betting agency on my phone and I live in Penguin. If I go anywhere interstate and I place a bet, POC will be captured for Tasmania because it is at my place of residence. I have the phone, it has to be online and it has to be trackable. If I place a cash bet there is no trace. Does that help?

Mr VALENTINE - It does.

Mr DEAN - I go to proposed subsection 145C(2). I need some clarity. To understand a lot of this, you have to understand racing language. It reads -

> For the avoidance of doubt, a lay-off bet made by a betting operator -

Perhaps we need some explanation of that as well.

> who is located in Tasmania when it is made is a Tasmanian bet, whether or not the liability, that the betting operator seeks to reduce by making the lay-off bet, relates to Tasmanian bets made with the betting operator.

So, it could relate to other bets in New South Wales, Victoria or Queensland: is that what it is saying?

Mrs Hiscutt - Made by whom?

Mr DEAN - The operator is located in Tasmania. Can you give me an explanation of proposed subsection 145C(2)?

Mrs HISCUTT - All this proposed section is saying is that if a Tasmania-licensed operator makes a lay-off bet, it is counted as a Tasmanian bet for the purposes of calculating net wagering revenue. Proposed section 145B of the bill tells you what a lay-off bet is. For those of us who do not understand or wager much, a lay-off bet -

> means a wager made by a betting operator (the *first betting operator*) with another betting operator to reduce, wholly or partly, the liability of the first betting operator in relation to one or more wagers made with the first betting operator;

Clause 20, proposed section 145C agreed to.

Clause 20, proposed section 145D -
Meaning of net wagering revenue

Ms WEBB - My questions relate to the free bets referred to in proposed section 145D(2). I have a few questions so will go through them all slowly. The first is a broader question, but important because it underpins this. What does the Government understand to be the impact of free bets on the behaviour of gamblers?

Second, what, if any, regulations or restrictions apply currently to the offering of free bets in Tasmania or Australia more broadly?

Third, does the Government regard free bets as a mechanism that could drive greater harm in terms of problem gambling?

Fourth - and probably in light of the answers to those other three questions - has consideration been given to the impact of free bets in terms of harm when the decision not to include them in the POC tax was weighed up?

Finally, and more broadly, other than whether consideration was given to the impact of free bets in terms of harm - that previous question - could you provide the rationale for not including free bets in the POC, perhaps with reference to other jurisdictions or the mix of taxes that apply in this industry and how the decision was made to exclude free bets?

Mrs HISCUTT - I will have to seek quite a few answers there. We will do the best we can, but I think we have the wrong department here to answer many of those social questions you are alluding to. We will take a few moments to see if we can do the best we can.

Ms Webb - I do not regard it as social to ask about gambling behaviour. Treasury has to assess that sort of thing in modelling, I presume. It would have to inform themselves, I assume.

Mrs HISCUTT - I can start with hopefully putting some answers to question 2, and then come backwards and forwards.

Regarding the behaviour, to offer free or bonus bets - the Commonwealth Government has already prohibited sign-up bonuses to attract new customers, or for an existing customer to refer someone to open an account under the National Consumer Protection Framework. Tasmania has

implemented this measure because it applies to sole licence holder UBET TAS through the Tasmanian Liquor and Gaming Commission technical standards.

Ms Webb - That is the only regulation or restriction in place around free bets currently?

Mrs HISCUTT - That is the seventh question, so I will have to see how we go.

Ms Webb - No, I am just clarifying your answer to question 2, which is what you have just answered. It was about the current restrictions or regulations that exist. Is that the only one?

Mrs HISCUTT - Under UBET, we only have one.

Ms Webb - Thank you.

Mrs HISCUTT - To answer your fifth question, the Government determined the face value of any free bets be excluded in the calculations of net wagering revenue following consultation with the wagering and racing industry and consideration of the impact on total effective tax impost on race wagering in Tasmania.

This policy position is consistent with the POC tax base of Queensland. The inclusion of free bets in the net wagering revenue definition has the effect of increasing the tax rate. This is because the face value of free or bonus bets that have no monetary value are being counted as wagering revenue. The POC tax seeks to recognise only the real revenue impacts of free bets.

The impact of including free bets in the net wagering revenue would result in Tasmania having the highest effective costs for wagering operators, when coupled with Tasmania's highest race field fees for fixed odds thoroughbred races.

In response to the member's third and fourth questions - in theory, capturing free bets into the tax area might be considered a disincentive to wagering operators. However, advice from a number of larger jurisdictions that include free bets in the tax base is revenue has been higher than anticipated, and this suggests inclusion of free bets has not reduced the level of promotions or changed betting behaviour.

Ms Webb - To clarify that was in answer to my third and fourth questions?

Mrs HISCUTT - Yes.

Ms Webb - The Government does not regard that -

MADAM CHAIR - You have another call when she is finished. Wait for the other answer and then come back to that one.

Mrs HISCUTT - The answer to your first question - Treasury does not yet have data to assess the impact free bets would have on our gambling behaviour. The Government commissions the study of social and economic impact every three years and therefore expects this will be measured through this study and also the experience of Queensland.

Ms WEBB - To clarify a couple of those things. I will start with that final one. Your answer to question (1) I heard as 'we do not have local data on whether free bets impact gambler behaviour'.

You do not have an understanding on the basis of data from elsewhere? Data was not sought in considering the inclusion or exclusion of free bets? There is that.

I want to clarify there is an expectation that the next social and economic impact study - SEIS - will seek to monitor or measure the impact of free bets on gambler behaviour.

I want to follow up with the answer prior to that, your answer to my questions (3) and (4). I would like you to explain in more detail why you think the data from other states that include free bets in their POC and have a higher revenue can be taken to mean that free bets do not impact gambler behaviour or drive gambler behaviour. I would like a greater rationale around that link you made to the revenue in the other jurisdictions that do have it included.

Mrs HISCUTT - The next SEIS could have, as part of its prevalent survey questions, something on inducements and their impacts.

Going to part of your other question, Treasury's understanding is that other jurisdictions are yet to undertake reviews of their tax frameworks and therefore are unlikely to have assessed gambling behaviour in relation to free bets. However, Treasury's understanding is other jurisdictions have experienced increased revenue on budgeted revenue, which indicates gambling behaviour has not reduced.

Ms WEBB - Just to lock it down in regard to the social economic impact study. Yes, there could be all kinds of questions in the SEIS. Is the Government seeking to measure it and planning to measure it in the next SEIS? Not could - but planning to - because the format of the next SEIS is being developed right now. Is the planning to include and measure those elements around prevalence? Will it be included - not could it - be but will it? That is one thing I would like you to give the most clarity on.

With those other states, I accept they are yet to be assessed and it is a really broad stroke to talk about expected revenue versus what did happen and then to track that back to whether there has been an impact through the inclusion or non-inclusion of free bets. Are we aware whether they are assessing not just changes to gamblers' behaviour, but changes to gambling operators' behaviour? Because what would be particularly interesting to know from those other jurisdictions that have included free bets in their POC tax is whether there was a change in the rate, the quantum, of free bets that used to be offered prior to the introduction of the POC tax in which they are included and then after the introduction. Did the operators change their behaviour because of the inclusion of free bets, around the number of free bets they offered? That is what would be particularly the measure, not necessarily the other ones or broad revenue observations. Do we know that? Whether they have or plan to assess those things?

Mrs HISCUTT - A tender process has just opened and the design of the prevalence survey will be a matter to be informed by the successful tenderer. Treasury will discuss inducements with the successful proponent and be guided by their advice on how best to capture the information.

Clause 20, proposed section 145D agreed to.

Ms Webb - I did not receive an answer to the second clarification.

Mrs Hiscutt - I think we do not know that information, so we could not deliver it.

Ms Webb - Thank you for the answer.

Clause 20, proposed sections 145E to 145H agreed to.

Clause 20, proposed section 145I -
Obligation to identify person's location

Ms WEBB - I think this is the area in which we talked about the potential application of GO location in our briefing.

In practical terms what would reasonable steps extend to at this present time? It refers to betting operators taking 'reasonable steps'. Is it envisaged that there is an eventual transition to GO location? Proposed section 145I(3) reads -

> However, subsection (2) does not apply if the betting operator knows, or has reasonable grounds to suspect, that an address specified in subsection (2)(a) or (b) is not the location of the person when the bet is made.

What does that mean? If the betting operator does have reasonable grounds to suspect that, what happens then? What is the situation with their reasonable steps and their obligations?

Mrs HISCUTT - I have answers to two of your questions. In question (1) you talk about reasonable steps. Essentially it relates to telephone betting. Cash bets are in person and your location is already apparent. Online betting essentially uses the registered address - for example, if there is telephone betting, the operator will ask the customer for their location or whether their address is current.

For question (2), there is scope in the bill for regulations to be made should more reliable methods for determining the location of persons making the bets be available. Therefore, if all jurisdictions agree to adopt geolocations then Tasmania would have the ability to move to this approach. It would require consensus from all jurisdictions and agreement on common timing for implementation.

I will seek the answer to your last question.

This is part 3 of the question. If the betting operator knows or suspects the person making the bet is making the bet from a state different to the one used for their betting account, the location of where that bet is made prevails. We said earlier that you have to ask for the name and address.

It will primarily be people betting by phone. This clause overrides the other two clauses; that is, you cannot rely on an account address if you have reason to think otherwise.

Clause 20, proposed section 145I agreed to.

Clause 20, proposed sections 145J to 145L agreed to.

Clause 20, proposed section 145M -
Treasurer may enter into agreements

Ms RATTRAY - I seek some clarification of how the Treasurer may enter into agreements under this proposed section. I am particularly interested in the multi-jurisdictional agreement. It

talks about providing for the collection of taxes, interest and penalties by participating jurisdictions. Can I have some explanation? Obviously it is put here because there is something potentially in the future. I need to understand what it really means because I did not think we were able to interfere in other jurisdictions.

When you look at proposed section 145M(4) -

(a) must be consistent with the provisions of this Act and the *Taxation Administration Act 1997*; and

(b) cannot authorise a participating jurisdiction -

(i) to make a binding determination of the amount of tax, interest or penalties …; or

(ii) to take enforcement action in respect of tax, interest or penalties payable by a betting operator under the laws of another participating jurisdiction.

Proposed section 145M(2) is the first one I asked about as the overarching question. The other one is about (4)(a) and (b) and what that means. I want to get it clear in my mind what it is intended to be used for in the future.

Mrs HISCUTT - This proposed subsection will enable the Treasurer to agree with other jurisdictions on harmonised approaches to the collection of the tax.

A good example would be if all jurisdictions agreed to some form of geotracking. This proposed section has been replicated in the legislation of other jurisdictions to cover this. I have another answer coming for the member for the second part of her question, which I will get in a moment.

All proposed subsection 145M(4) provides is assurance jurisdictions will not interfere in their respective regulatory laws. Jurisdictions already work together to deal with breaches that occur across borders.

Clause 20, proposed section 145M agreed to.

Clause 20, proposed sections 145N to 145O agreed to.

Clause 20 agreed to.

Clauses 21 and 22 agreed to.

Clause 23 -
Section 150AC inserted

Mr WILLIE - I have some questions on the UBET licence and its tax liability. We heard in the briefing that some of the stakeholders felt they were better off under this arrangement because the tax liability and the $1.5 million licensing would not reach the current amount they are paying to government. It was also clarified in the briefing through the Government that it is expected over

the medium term that UBET will potentially pay more because of the tax revenue that will grow, rather than being a fixed fee at consumer price index.

Can we have some clarification for the record, please?

Mrs HISCUTT - While initially UBET revenue is estimated to be $450 000 less than in 2018-19, the new tax arrangement provides the opportunity for greater revenue upside for the Government in the medium- to longer term compared to the current fixed levy that is tied to CPI because the POC tax will be based on commercial activity.

This arrangement is considered in the spirit of the agreements that accompanied the sale of Tote Tasmania in 2012, where the Government had committed that UBET would be no worse off under the new arrangements. This was the basis for the discussion with UBET on the new arrangements.

Since 2012, the betting environment has changed and there are more people gambling online, and on betting on fixed-odds wagering. This has led to a greater proliferation of online corporate bookmakers operating in Tasmania and competing with totalisators generally. These changes are reflected in the outcome of the new arrangements for Tabcorp.

Clause 23 agreed to.

Clauses 24 to 26 agreed to and bill taken through the remainder of the Committee stage.

INLAND FISHERIES AMENDMENT (ROYALTIES) BILL 2019 (No. 46)

Second Reading

[5.01 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be now read the second time.

I am pleased to bring this bill to the House as the Hodgman Government continues to improve the legislative framework by addressing unforeseen historical issues as they arise.

This bill provides for an amendment to the Inland Fisheries Act 1995 to correct an historical administrative oversight dating back to at least 1996. During the remake of the Inland Fisheries regulations, as required upon their 10-year anniversary, it became apparent certain commercial fee provisions were not supported by the head of power sections of the Inland Fisheries Act 1995.

Tasmania's commercial freshwater fisheries include the wild harvest eel fishery, freshwater hatcheries for the salmon industry, fish dealers and registered private fisheries. Collectively, commercial freshwater fisheries are a significant contributor to the Tasmanian economy and it is therefore imperative they are regulated and managed to ensure their viability. The Inland Fisheries Service undertakes this important role on behalf of the Government.

The Inland Fisheries Service ensures the sustainability of commercial freshwater resources, the protection of biodiversity and the natural environment, equity across the sector and access to premium export markets. This important service is largely funded by industry on a cost recovery basis with the Inland Fisheries Service investing all revenue from licence fees and charges back into commercial fisheries support, compliance and administration.

The Tasmanian Freshwater Eel Fishery is a small commercial fishery based mainly on short-finned eels. The total held catch for 2018-19 was 32 595 kilograms with an estimated market value of $450 000. Tasmanian eels are marketed domestically and internationally. The Inland Fisheries Service ensures compliance with sustainability measures for the wild harvest eel fishery as required through the Environment Protection and Biodiversity Conservation Act 1999. This supports the inclusion of Tasmanian freshwater eels on the List of Exempt Native Specimens that permits their export from Australia to international markets.

The fishery is managed by 12 geographically defined commercial fishing licences that are transferrable and provide exclusive commercial rights within the defined area. Each licence, issued under the Inland Fisheries Act 1995, includes a suite of conditions that reflect sustainability and management measures appropriate to the waters included in the licence.

The Inland Fisheries Service administers these measures, provides fishery compliance and supports each licence holder with an allocation of juvenile eels each season to allow for stock supplementation. Through good management, the fishery has remained viable since 1965. The wild harvest fishery is at capacity; however, there is potential for increased production through aquaculture.

To support management and regulation, each licence holder pays an annual licence fee as well as a fee for each kilogram of eel taken from this state fishery.

Freshwater hatcheries are the foundation of the expanding salmon industry and a vital component of the Government's sustainable industry growth plan for the salmon industry. The Inland Fisheries Act 1995 regulates the operation and biosecurity of freshwater hatcheries by licence.

In recent years, there have been major changes to the operation and scale of freshwater fish farms because of expansion in the salmon industry. This includes technological change from flow-through to recirculating water-based hatcheries, significant increases in standing biomass and an increased focus on biosecurity measures.

It is critically important this expansion of the industry is well regulated and managed to protect freshwater resources and ecosystems. The Inland Fisheries Service works to ensure sustainable industry practices, the promotion and enhancement of biosecurity and the application of ongoing contemporary management systems, including compliance and audit.

Historically fish farm fees included a component that reflected water usage. This was based on flow-through technology, with larger water users paying higher fees, reflecting their higher production. With the change in the salmon industry to recirculating technology, water use is no longer an accurate measure of the size or complexity of a fish farm. The Government is considering alternative approaches in the remaking of the Inland Fisheries regulations this year.

The Inland Fisheries Act 1995 allows for fees relating to provision of services, but not fees relating to kilograms of wild eels caught commercially (royalties) or water used by fish farms. It was an historical administrative oversight that commercial fees for the eel fishery and freshwater hatcheries were incorrectly levied for an extended period of time.

The bill rectifies this situation by amending the Inland Fisheries Act 1995 with both validating and enabling provisions to endorse commercial fees and royalties received in the past and to allow the Director of Inland Fisheries to collect royalties from the wild harvest eel fishery into the future.

Mr President, I commend the bill to the House.

[5.08 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I feel compelled to make a contribution to this. The guy from whom I mostly source my fuel is an avid fisherman at an inland waterway out at Waterhouse. If I were not to make a contribution and ensure that the people in the Leader's Reserve were aware there were some issues at Waterhouse as well as the issues that are being addressed in this bill, I would not be doing my job and I probably would not get any fuel.

Mr Valentine - You'd need to declare an interest.

Ms RATTRAY - We have some issues with water flow at Waterhouse, which are causing some issues. There may already be some information in the department in regard to that. We know how important these bodies of water are to people who do not necessarily have a Bar Crusher Boat and find it difficult to fish in the sea. It is really important we make sure we are looking after all our recreational fishers. In this case we have some commercial.

I am interested that the Government is considering alternative approaches in the remaking of Inland Fisheries regulations this year. I am interested in what that looks like and if there is already some information we might take on board.

I am also interested in the fact that we are correcting an administrative oversight. We are correcting commercial fees for eel fishery and freshwater hatcheries that were incorrectly levied for an extended period of time. For how long? Who has been at a loss? Is it the state? Or who has benefited and who has not? I think it is important we know why we are doing what we are doing. Is there any retrospectivity? That is another important feature of any legislation. The reasons for bringing it forward were made very clear in the second reading speech by the Deputy Leader who is in charge of the bill.

But, as I said, it is important to know what the loss is to the state or whether the industry has been paying too much. I do not know. It is an administrative oversight. It says 'for an extended period of time' so it would be good to have that clarified as it has a market value of $450 000.

Mr Valentine - It is $1300 a kilogram.

Ms RATTRAY - Thank you for working that out. For just a year, that is quite a significant amount of money. I do not know I could even look at one, let alone eat one, but anyway, whatever. Other people have different tastes. It is an export market that is significant to our brand.

It says it is managed by 12 geographically defined commercial fishing licences that are transferable. The licences are of value. It would be interesting to know how often there is a transfer of a licence. Is it something that is quite popular?

I have just a few general information questions. The overarching question is: is the department aware the Waterhouse area is struggling for water? Is the department aware people in the Waterhouse area are in negotiations with Tasmanian Irrigation in sourcing some of the new irrigation water coming online fairly soon?

[5.13 p.m.]

Ms FORREST (Murchison) - Mr President, we should always look at legislation of this type. Even though they may be relatively small in size, natural resources are really important and need to be protected and well considered.

Here we are talking about natural resources, including water, one of our most precious resources, and fish - namely, eels and fish farm fish. Personally, I am not a fan of eels. I find it fascinating that people enjoy eating them. They used to be very muddy when we got them at the farm. They just taste like mud to me. I think a smoked eel is a little better. Anyway, it is not something that appeals to me, but some people absolutely love it and just devour it. Eel is very oily, very rich and not to my liking.

We need to take these things seriously and make sure that our natural resources such as water and our wild fishery are well protected.

As I understand, and as the member for McIntyre was referring to, this bill is to correct an administrative oversight. I am just seeking to clarify: people harvesting eels and using water in fish farms have been levied a fee when there was actually no head of power to do that. I am pretty sure the way I am reading it is correct. Now we are going to fix that so that we can now collect those fees legally, which makes sense to me. They should be paying a fee for this. It is a really important resource.

How much has been paid over that time? I assume there has been some consultation about who will continue to pay now with a legal requirement to do so. Was there any pushback when it was identified there was no head of power to actually impose that fee in the first place? Obviously, they have been paying it and will continue to pay it, but under the head of power that should have been there all the time.

I wanted to clarify that issue. The member for McIntyre asked: How long has this been going on, where there has been no head of power to actually collect this fee or fees? What sort of money are we talking about? That will give us an indication of how much is collected each year.

Other than that, it is appropriate to collect these fees and regulate the industry effectively, particularly where there are great concerns about the potential contamination of our waterways from fish farms. If there is a potential market to grow eels on land in farms, again, there is always waste water from those sort of productions unless it is completely recirculated.

There are 12 geographically defined commercial fishing licences for the eel. Do the eels stay in their own geographic location or have they been known to cross borders?

I support the bill. I am interested to see how the actual geographic locations work.

Mr Gaffney - Eels are migratory. They actually go to the Coral Sea to spawn and then they come back.

Ms FORREST - They certainly do cross geographical borders then. Do they all go away to spawn? I am interested in how those 12 geographic locations are determined. Are they geographically separate so in between these areas you cannot fish, but one could start in one, get to another and still get caught? Maybe the Deputy Leader can address this.

[5.17 p.m.]

Mr VALENTINE (Hobart) - Mr President, it is the locations where they are fished, not the fish themselves.

Ms Forrest - I was talking about whether they can cross locations.

Mr VALENTINE - I have heard they go a long way. The member for Mersey might be able to enlighten us when he finishes finding it on the net.

Quite clearly, I have the same questions the member for Murchison has raised. What sort of money are we are talking about since 1996, when they should have been charged? How many operators? Those sorts of questions.

My question is with regard to the environmental aspects with the hatcheries. We are bringing this in now and the second reading speech talks about that aspect. I am interested to know with the current standards, if any are applied, how many hatcheries have been found wanting, and have been charged for environmental impact of whatever sort.

For most part, it might be polluted water or it might be odour coming from those facilities or whatever. I would like some understanding as to what the current situation is, how many over time have been charged with breaches of the current laws, whatever they may be, and the issue with regard to the fees.

It works out at about $13.81 per kilogram of the $450 000 with 32 595 kilograms. A significant amount of eel. Years ago, back in 2002, I visited Japan. Hobart has a sister city in Japan. We went over there and we visited an eel farm where eel are grown commercially. I tell you what, it is a sight to see them feeding. You would not want to be in there: very frenetic, a feeding frenzy is all you could call it. The Japanese make eel biscuits, which I have tried and they are quite nice.

Ms Forrest - Are they chewy?

Mr VALENTINE - No, they are not chewy.

Ms Rattray - Are they smelly?

Mr VALENTINE - No, they are not smelly, so there you go.

I do not have any particular problem with this bill, as long as we get the environmental aspects under control and proper monitoring of the environment. Let us face it, some of these are on rivers. I believe there is one operating on the Huon River and others are operating near Mount Field. It is important there is a level of environmental compliance for the betterment of the environment, and

that is something we would want to see in place. These places are visited very regularly by international and mainland visitors, and we want to give a good impression.

I support the bill.

[5.21 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I support the bill. I think it makes sense.

Interestingly, the only reason I had any inkling about this topic is that my brother actually had an eel licence, with his mate from the north-west coast when they first started 25 years ago. When they first caught the eels, or the product, they had to take it from the north-west coast down here to Margate where there was the only exporting facility. The issue was keeping the eels alive from the north-west because of the oxygen content in the water. On the trip down, drivers had to drive and also help catch eel in dams and stuff. It was quite fascinating.

For those who do not know, in Europe, eel is quite a delicacy but they have a great deal of trouble with disease. That is why we have to be very careful.

To know what we are dealing with here, here are two paragraphs from the Derwent Estuary Program web page about wild eels, not the ones that may be cultivated, and they are really interesting -

> These snake-like fish spawn thousands of kilometres north of Tasmania in the warm waters of the Coral Sea. The tiny babies, called glass eels because they are transparent, are carried by currents down the east coast of Australia till they reach southern Tasmania. They then sense the fresh water and follow it, moving upstream, and travel as far inland as they can reaching farm dams and small streams in the upper catchment. When they enter freshwater, they turn black and become juvenile 'elvers'. They live there just feeding themselves until they get to 1 kg and mature, which takes between 10 and 35 years. Then the eels start the long trip back to the sea and migrate north to complete their amazing life cycle. Short-finned eel are widespread and common in Tasmania ...

When we talk about having an environmental process where we keep the eels separated from others, that is not going to happen because they are travelling the 2000 to 3000 kilometres, but it is how best to make use of the product here to grow the industry. In the initial stages when my brother and I were out in dams and rivers with these eel nets that are hugely long, it was quite an exciting type of catch if you are into fishing. For me it was just hard work and no pay, but that is what happens.

Yes, I understand, but in fledgling industries like that I hope there is a proactive approach by the Government and those involved to try to help them nurture this industry and get some return for money for whoever owns the licences, and to get the industry to a place where it is productive and sustainable. Like with any new industry, it takes a while for those processes to get in place and all the nuts and bolts.

While I very much support the legislation because it makes sense, I hope it is a proactive way of encouraging a fledgling little elvers industry to give - especially around Christmas time, little elvers - no.

Mr Willie - You were going really well until then.

Mr GAFFNEY - Until then. I do think they are very interesting. I had an Austrian uncle in the family when I was younger and he just loved his eel. It was like a delicacy for him. Around Christmas time we would not be very happy that he was eating eel, but it was the way to go. With that little contribution I will now sit down.

[5.25 p.m.]

Mr DEAN (Windermere) - Mr President, I support the legislation and I appreciated that lesson on eels. I did not know a lot about them -

Mr Gaffney - That is the first time you have listened to me, honourable member. I am so pleased.

Mr DEAN - That is not true, but I did know they were slippery little critters. I did know that much about them.

Inland fishing is a very important industry for Tasmania. The world's spotlight has been put on us by the World Fly Fishing Championships - that really has given us a world focus. I think the people involved in this industry would have much work on their hands at the present time making sure that it works well. That will bring a lot of focus on Tasmania and our inland fisheries - a great spectacle.

Little is known of this fishery and I would like to know more about it. Maybe I need to visit some of these fisheries and I may well do that in the short term to find out more about it, Mr President, so I may take up that opportunity.

Mr PRESIDENT - I believe, honourable member, that when the small eels leave the hatcheries the cry is that elvers have left the building.

Mr DEAN - I cannot get anywhere near that, Mr President, so I will keep going with my contribution.

I support the bill. Oversights do occur; it is not the first time one has occurred and it will not be last time one will occur either. When such oversights are identified, they need to be remedied as quickly as possible. That is what is happening here, retrospectively to pick up.

My question - and I think others might have asked this too - is whether anybody has been impacted detrimentally as a result of this. It is a fee that was always intended to be collected, as I understand, so it is not as though it is a fee that all of a sudden someone has thought should have been previously collected. The intent was always for it to be there.

Ms Forrest - And it has been collected.

Mr DEAN - Yes, it has been collected, so now it is simply making it legally right and so on. That is all it is about so I certainly support it. I admire our Inland Fisheries staff; they do a great job and I sing their praises at Estimates and all of those other activities we have. They do a great job, so well done.

[5.33 p.m.]

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

In response to the member for McIntyre, the Waterhouse Blackmans Lagoon is an aquifer-fed water body in Tasmania's north-east. It is also a popular fishery that is stocked with trout by the Inland Fisheries Service. The lagoon is managed by the Parks and Wildlife Service due to recent dry conditions. The level of the lagoon has dropped and an algal bloom has occurred, which is subject to testing by the Dorset Council. The PWS has installed signage on the lagoon regarding its current state. The PWS, the IFS and the Water and Marine Resources Division are working together in response to community concerns.

As far as regulations, there has been one transfer in the last five years.

Ms Rattray - That is licences?

Ms HOWLETT - Yes, that is right. The members for Murchison and Hobart asked about how long was there no head of power for collection of fees, and the member for Mersey educated us about eels and how they travel -

Mr Willie - She is calling you a science teacher.

Ms HOWLETT - Are you a science teacher?

Mr Gaffney - No.

Ms HOWLETT - The bill inserts proposed section 197C into the Inland Fisheries Act 1995, validating any amount paid not supported by the act.

What consultation has been undertaken on the proposed amendment? The Inland Fisheries Services wrote to all affected commercial licence holders on 28 October 2019 advising them of the oversight and the proposed amendment to the Inland Fisheries Act 1995. No criticism has been received.

The member for Windermere, thank you for supporting the amendment to this legislation. There is one question left to be answered.

Mr President, I have some additional information.

The oversight occurred during the transition from the Fisheries Act 1959 to the Inland Fisheries Act 1995. The provision to collect royalties was not carried forward due to an administrative oversight, which occurred during the making of the Inland Fisheries Act 1995 and the Inland Fisheries Regulations 1996 under the Rundle Liberal government. I note that the regulations were remade in 1999 under the Bacon Labor government and again in 2009 under the Bartlett Labor government, with fees and royalties charged under all governments since 1996.

Ms Forrest - Who picked up the problem? It went on for a long time. That is three remakes, so far.

Ms HOWLETT - Based on the available records, an estimated $290 000 of fees have been incorrectly levied on the wild eel harvest since 1996. Based on available records, an estimated $605 000 of fees have been incorrectly levied on fish farms from 1999.

Mr Dean - So the Liberal government is to blame because they started it.

Ms HOWLETT - Will there be any repayment or compensation for anyone affected? Repayment of fees collected or compensation is not being considered. Provisions enabling the prescribing of royalties has existed under the Fisheries Act 1959 but were not carried forward to the Inland Fisheries Act 1995 during transition due to an administrative oversight. Fees collected under the Inland Fisheries Act 1995 have been collected in good faith by the then Inland Fisheries Commission and the current Inland Fisheries Service, providing a measure of cost recovery in the management and regulation of the fishery and a direct benefit to commercial fisheries.

Going to the member for McIntyre: how does this amendment bill relate to remaking the regulations?

The bill is consistent with work being undertaken to remake the Inland Fisheries regulations 2019. The bill will enable royalties to be collected through the Inland Fisheries regulations 2019 once made.

Given the timing of the bill and the remaking of the regulations, the royalties will include a subsequent amendment to the regulations in 2020. The situation has arisen due to an inability to draft regulations without the head of power in the principal act. The approach to fees for fish farms is being addressed separately through the remaking of the regulations and is subject to a regulatory impact statement.

What consultation had been undertaken as part of the remake of the regulations? Letters to all impacted stakeholders, 53 in total - including commercial freshwater fishing licence holders, private fisheries, fish dealers and fish farm licence holders - were sent on or about 17 April 2019, informing them of the remake of the regulations and proposing an intent to -

- rename these regulations
- streamline licence classifications
- recognise some measures of cost recovery in line with Treasury requirements
- introduce measures to protect freshwater fish farm equipment from interference
- make all offences under the Inland Fisheries Act 1995 and subordinate legislation infringeable.

The letters offered the opportunity to discuss these proposals with the Inland Fisheries Services and no submissions were received.

The regulatory impact statement was advertised in the *Tasmanian Government Gazette* and the three statewide newspapers for a formal 21-day consultation period on Wednesday, 25 September 2019 and closing on 15 October 2019, as required by the Subordinate Legislation Act 1992. The regulatory impact statement was also placed on the IFS website on 24 September 2019, inviting submissions. One submission was received and responded to from the Tasmanian Salmon Growers Association Pty Ltd.

Mr Valentine - There was a question about whether there had been any breaches by hatcheries to date.

Ms HOWLETT - There have been no breaches or offences in the last five years.

Bill read the second time.

INLAND FISHERIES AMENDMENT (ROYALTIES) BILL 2019 (No. 46)

In Committee

Clauses 1 to 6 agreed.

Clause 7 -
Section 197C inserted

Ms RATTRAY - In regard to the regulations, I thank the Deputy Leader for her answer. She mentioned there had only been one submission to the regulatory impact statement.

When will the regulations be completed? Is there is a time frame for that? Will any more consultations occur, given that the second reading speech talked about considering alternative approaches and the remaking of the regulations this year? They are not likely to arrive this year. I am looking for a time frame and broader consultation, given there was only one submission.

Second, I record my thanks for the information regarding Blackmans Lagoon at Waterhouse. I very much appreciate it. I will pass that on.

Ms HOWLETT - In response to your question member for McIntyre, the regulations have already gone to Executive Council and will be in place this year, so no more consultation will actually be required.

Mr DEAN - We were told very clearly there were no pending actions and nothing happening in this area. Are the people who have these licences aware of this? Have they been told about this, and has it been discussed with them? And if it was, did they raise any issues in relation to it?

Ms HOWLETT - I thank the member for his question. The Inland Fisheries Service wrote to all affected commercial licence holders on 28 October 2019, advising them of the oversight and the proposed amendments to the Inland Fisheries Act 1995; no criticism was received.

Clause 7 agreed to.

Clause 8 agreed to and bill taken through the remainder of the Committee stage.

RESTRAINT ORDERS BILL 2019 (No. 29)

Second Reading

Resumed from 19 September 2019 (page 44)

[5.54 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I have had to reacquaint myself with this bill, because the Leader gave the second reading speech quite some time ago.

I made a somewhat small contribution because this bill is cognate with the Magistrates Court (Criminal and General Division) Bill and it replaces Part XA of the Justices Act 1959, and it obviously deals with restraint orders. I had to go back and remind myself, but the most telling part of my contribution was that it was very clear much more detail needs to be looked at during its Committee stage. I actually quoted the member for Murchison saying the devil is in the detail and it is where the rubber hits the road, and mentioned I stole that from her. That is where we are really getting to the finer aspects of this bill. I certainly support the bill and I have completed my contribution at this stage.

[5.55 p.m.]

Ms FORREST (Murchison) - I wish to make a few comments on this bill even though it is cognate with the Magistrate Criminal (General Division) Bill which we dealt with a couple of weeks ago. It basically replaces the sections in the Justices Act 1959 under that whole review process.

This is such an important area and deserves some comment. The bill includes provisions relating to restraint orders, interim restraint orders, electronic interim restraint orders and external restraint orders which largely replicate what was previously in the Justices Act, as I said.

Restraint orders provide, as the Leader in her second reading speech said -

> … important protections for persons who have been subjected to violence, threats to their person or property, harassment or intimidation and they aim to prevent further violence or unwanted behaviours.

We do not have to look very far to see women, in particular, who are subject to this violence, threats of violence or intimidation, such that they are constantly on the run.

I am sure we have all had constituents who we have sought to assist in accessing services and support, and I commend the police on the work they do in this area. It is a very difficult area. There are always two sides to everything and it is not always the man who perpetrates the violence against a woman, it can be both at the same time perpetrating violence on each other. It can be same-sex couples, it can be neighbours, it can be anybody.

It is really important that the laws we pass in this place have restrained someone's behaviour, also considered their natural justice rights and human civil rights. It is a balance, but I know having helped some women in my role in this place particularly, even dealing with women in my former career as a midwife and nurse, that when you see the outcome of some of these impacts on victims of violence and the fear they live in on being returned to that partner, you realise how important it is to have this right.

I want to go through all the provisions of the bill. The court is required to undertake certain tests in determining whether an order should be made and needs to be satisfied on the balance of probabilities that the person to be restrained has caused this personal injury or damage to property, and unless restrained is likely to do so again - all of that is a bit of judgment call - or has threatened to cause personal injury or damage to property and unless restrained is likely to carry out that threat.

Again, this comes down to potentially where someone will say, 'he said', 'she said'. That is a really difficult situation. I do not know about other members, but I was appalled to hear some of

the comments from Senator Pauline Hanson regarding her suggestion women lie in the Family Court about their partners in order to get the upper hand.

Mr President, if you want to read Jess Hill's book, *See What You Made Me Do*, please do; there is a whole chapter on the Family Court. You will see there may be occasions where women do fabricate facts or lie but it is men overwhelmingly. It is not a gender-specific thing and maybe Pauline Hanson's particular experience with her own family that she related may have influenced her comments around this. But I think it is an appalling suggestion for a public figure to make that women lie in the Family Court for their own benefit.

If you have not read the book, get it and read it. Read that chapter. People who have worked in the Family Court are calling for a royal commission into the Family Court, not some parliamentary inquiry being led by some who already have a fairly defined position on the matter because they have said so publicly, but a proper inquiry with the proper powers necessary to actually understand what is going on and where these problems may exist.

There are people in my community - and I am sure in all of our communities - who are on the run, escaping family violence and other forms of violence, hiding in some of our more remote communities, trying to be invisible. What a way to live, Mr President. I have no concept of what that can be like - absolutely none. There are people, particularly women and children, again, who are faced with that decision to try to stay alive because still, in Australia, at least one woman a week is killed by a former or current intimate partner. At least one woman a week. I do not know what we have to do to get the message across but this has to stop.

This is a small measure to try to put protections around these people who are at risk. I recently dealt with a constituent who was totally fearful of her partner finding her and her two children. When the electronic bracelets became possible to be used, that was an option for this particular perpetrator, and the advice for her was not to have access to where the perpetrator was and that the police could manage that. She had to put in a completely lockable safe room that, when it was completely locked down, she and her children could hide in should that person approach the house.

What a way to live. You still have to get your kids to school, you still have to get food and supplies for yourself and your children, but you are living in constant fear, are hypervigilant and always looking over your shoulder.

These restraint orders are put in place by the court, as the second reading speech says, and I will not read all the matters here. The bill allows a wide range of orders to be available to the court, so they can be very targeted and very specific to the needs of that particular circumstance.

Also, again, it is modernising the way we do things because time moves on and we need to as well. Courts can be slow and cumbersome beasts to move, I guess. There is a provision whereby the court may order that the restrained person or the person who is subject to the order may remain in the precincts of the courthouse until they are provided with a copy of the order or, alternatively, the court may order that person to immediately provide the district registrar with their postal address or email address so the order or a copy of it can be provided to the person at that address. This is a new feature in this bill. It reflects the fact that electronic communication is now more commonplace and is designed to ensure that the restrained person or a person who is the subject of the order is served promptly with the relevant order.

I know how quickly communications happen now with electronic media, and that really contemporises it. If it is a person who is just so used to it - some do not even have a letterbox, everything is by email or other forms of electronic communication - there can be no doubt this person has been served with an order and they know these are the requirements placed on them.

I commend the Government for this whole suite of legislative reform. I know it has been a long time in the making, as we said with the magistrates bill - 18 years - but it does, in many respects, modernise it without changing the fundamental and key aspect of this, which is trying to put in place a system that balances natural justice and human rights of both parties with personal safety and protection of those who need it.

I support the bill and commend the Government for proceeding with this.

[6.05 p.m.]

Mr VALENTINE (Hobart) - Mr President, I too understand this legislation needs to support individuals who are finding themselves in dreadful circumstances. Obviously 95 per cent of the cases are indeed women. There is no question that men are quite often the perpetrators, but it does happen the other way around. Whichever way we legislate, we need to make sure the legislation is there to ensure that when orders are put in place, they are put in place fairly and people are not unduly impacted by the orders given.

Constituents of mine have come to me and talked about how they have been treated unfairly. The way that things have turned out for them is simply not good, and I can appreciate their circumstances in some ways.

The second reading speech mentions something important. It says -

> In deciding whether to make a restraint order, and what orders should be included in the restraint order, the bill also provides that the court must consider -

It goes through a few things and on the fourth dot point it says, 'any relevant Family Court orders'.

Quite clearly, it is important we understand what standing Family Court orders, which are from a federal court, have in relation to police family violence orders or family violence orders.

These things are really important to understand because in some cases, for either party, it can mean a parent does not get to see their child for 12 months. That is a long time not to see your children. Of course, if you brought that on yourself by your own actions - and there is violence - obviously there is a good reason to keep people apart and this legislation needs to be able to handle that. It is important that we understand where the various instruments lie in relation to say the federal Family Court.

I support this bill because it touches on all those things. I will ask some questions in the Committee stage to make sure that it is fair and reasonable to all parties involved - that the children, as well as those who may have been a victim, whether through mistruths in a court or whatever it might be, are well and truly protected in all of this. That is important, as most of us around here would agree.

I look forward to the Committee stage and I broadly support this bill.

[6.09 p.m.]

Mr DEAN (Windermere) - Mr President, domestic violence, as we all know, is abhorrent. As the member for Murchison said, it has to stop, but unfortunately it has been going on for a long time.

Police statistics over a long period show that domestic violence keeps increasing. I am not sure where they are this year. I think parts have increased again. I have not looked closely at the police annual report this year. If you look back over the previous years, the numbers keep rising. The explanation given is people are more comfortable with reporting. It might not necessarily be they are having more domestic violence issues, but people are now more comfortable with reporting it. Whether that is the situation or not, and I question it, it is an apparent problem and we need to sort it all out and get on top of it as best we can. Restraint orders are quite prevalent today; the sad fact is some people wear restraint orders as some badge of honour and what is happening -

Mr Valentine - It is a bit warped.

Mr DEAN - It is a warped sense of behaviour. Talking to me, they seem to be quite proud saying they have a restraint order as though it is a very minor issue. We know it is a very serious matter. I am not sure how we change that attitude and get on top of this.

There are a couple of issues I wanted to raise. There are cases with restraint orders where there needs to be a lot of care. The courts do show care; I understand that. In this case, we have bench justices able to issue restraint orders in certain circumstances. I do not want to be disrespectful to them, but in fact it lowers the bar in giving out restraint orders. Some people have been hard done by with restraint orders. I can give a couple of examples. An example of a plumber - with a very good business and lived at Dodges Ferry - who came to me for help and support because his wife had taken out a restraint order against him. He was required to leave his home at Dodges Ferry and as a result he said he could not run his business in the right manner. He was appealing for help from me and I took the matter up for him and sought some advice for him and so on. He was proclaiming his innocence, which was not a matter for me to look at. Because another male had become involved with his wife, there were other, sinister issues behind all of this. As a result, he had to give up his business and finished up moving out of Tasmania and going to the mainland. I have lost contact with him now and I am not sure where he has gone. He continually proclaimed his innocence all the way through, saying it was a set-up. There was some evidence to suggest he could be right, but, as I said, I did not investigate it. We need to be careful.

Another case was dealt with even more recently, involving a professional person in a position of trust in a public service position in this state. His wife took out a restraint order against him. It was well known his wife was an alcoholic and there were lots of issues. His government position was put at risk and he was beside himself. He came to me in tears and it was a terrible situation. I did give him some help and support, and after a time the restraint order was withdrawn, but the damage had been done in the meantime. He was a career man and had a great record. I can probably mention his profession - I do not think we can identify him - he was in the Education department and it was a sad, sad situation. Restraint orders are there for good purposes and we need them. Mostly they work well, but there are two sides to every story, and when we think restraint orders can be taken out in the absence of the other person in the first instance we need to be ultra-careful as to how that occurs. I have always said that some other fairly good corroborating evidence should be provided when a restraint order has been taken out because of the damage that can occur to the other party as well. I have made that statement a number of times, and it does concern me somewhat.

Ms Rattray - I was recently made aware of a situation where there was an issue and a threat of a restraint order being put in place. It was suggested by the police that this would be the best way so they could deal with the matter if one was put in place. Again, as you said, it can be a very difficult time for the person who has a restraint order put on them. It could affect their career and their livelihood.

Mr DEAN - In this instance, it was a mature person, and you have them sitting down with tears rolling from their eyes because of the threat to their career. They have had a great career all their life, and it is soul-destroying.

I know there are two sides to a story. The bar is fairly low. I am going to raise a couple of issues here. An order can be taken out because there is some evidence the other party has behaved provocatively or in an offensive manner.

I know the courts put a test on what some of those things are, but what is offensive to some is not necessarily offensive to others.

Mr President, I see the bar as being fairly low in some instances. For instance, if you were to give your neighbour the bird, it could well be offensive to some. Others would probably laugh it off and not think anything of it. That is just how low it could get. I know that courts are careful but I am not quite sure we ought to be going as low as that. Offensive behaviour and provocative behaviour should be fairly strong actions of a provocative nature or of an offensive nature. It is one of those things where a court would weigh it up, but I am not so sure we need some of that.

In those cases, a court, as I interpret the legislation, is only going to be satisfied to approve a restraint order if it is satisfied that it might happen again - not that it will happen. That is my interpretation. Is that enough to cause significant restrictions to be applied to another party? That is a rhetorical question.

Where orders are made, police will be provided with all the powers and authority to hit them with the order - that is, to enter properties with a warrant and use force to recover any firearms specified in the warrant and aggregate the firearms. I am not sure why just taking possession of property would only relate to firearms or parts of a firearm, as I understand it, as specified in the warrant. Maybe it falls within the definition of firearm, but it could be a sabre, for instance. It could be a bow and arrow. There could be some other item that might be able to project a missile. I wonder why we are so fixated on firearms. I know they are dangerous - of course they are - but I just wonder why that is the case.

Clause 8 - not only can a restraint order be taken out in the absence of a second party or without their knowledge, but a warrant can be issued for the arrest of that person. If a restraint order has been taken out, a warrant to arrest can be issued at the same time, without the second party having had a say in it at that time. This concerns me somewhat. You could be at work and the police could suddenly rock up with a warrant to arrest you, without you knowing anything about it. You might, but you might not either. That was the case for one of the matters I referred to.

Orders can also be varied without the respondent being present or without their knowledge. When does the variation commence in those cases? When a person goes back to a court and has an order varied without the other party being present? I understand that can happen.

When does the variation commence? Does it start after the respondent is notified and served with the variation? Is that the time it occurs? There are issues there as well because many people avoid them. A variation might be made and then the person deliberately avoids service of that notice of the variation. That is a fairly common practice as well among some of these people. I am not sure when the variation actually commences.

The member for Murchison raised the issue of electronic bracelets. She asked whether the department might be able to say in how many cases of domestic violence restraint orders are involved where bracelets are currently in use. It would be interesting to have that information as well as information on whether that has resolved the issue while the restraint order has been in place and whether there have been any breaches of restraint orders where you might have electronic bracelets in place.

Mrs Hiscutt - For clarity, there are people with bracelets who are perpetrators and people with bracelets for their own safety. Your question is: how many are related to family violence?

Mr DEAN - Yes, family violence. Not court orders, but related only to family violence. Also, the number of victims who have seen fit to wear the bracelet for their own protection.

I was involved in a case in Launceston where we tried to negotiate that position. I am not sure whether it ever came off. We tried to convince a victim she should wear an electronic bracelet. If I could be given those numbers, I would appreciate it.

I support the legislation but we need to be careful. There are two sides. The second party is entitled to support and protection in certain cases. In other cases, they are not entitled to too much protection as far as I am concerned.

[6,24 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank the members for their contributions. It is terrible to need this legislation. One of the member for Windermere's questions was about e-bracelets and how many there were. This is dealt with under the Family Violence Act, not the Justices Act. This is the Justices Act we are dealing with. The data is held by the police, not the advisors I had here. Had it been earlier in the day, we probably could have accessed the information for you. I think I have previously answered questions on notice with regard to this, but, yes, please ask it again and we will take care of that. I will just seek another answer. The member was asking about the variation and when it commences. In respect to variation of orders, where they are made, I will have to come back to that.

Where they are interim restraint orders, the order will take affect when the variation to the order is made. Because these types of orders are made in urgent and sometimes violent situations, they can be made in the absence of the respondent.

I have another answer coming. An arrest warrant can only be issued with a restraint order and taken without the party present. The clause provides this can only occur in a case of urgency and with sufficient cause; that is a matter for the court.

Your last question was around firearms and the member asked at what point do you stop - you can go even further and ask a lump of four by two. I will have an answer for that.

Mr President, would you believe that a member of the other team, whom you may remember, Mr Luke Manhood, is listening in and has provided a response to your question. He said that 36 perpetrators are fitted with bracelets and 15 victims are being voluntarily monitored. Thank you very much to Mr Manhood.

The last answer wrapped around your firearms question. Under clause 7(1), if the court issues a warrant, it may authorise a police officer 'using such force as is necessary' to -

> (c) enter and remain in the premises specified in the warrant or any premises on or in which the police officer reasonably believes such a firearm, or firearm accessory, may be situated; and
>
> (d) seize any such firearm or firearm accessory as specified in the warrant.

Given the inherent dangers associated with firearms, it is important there is a provision that allows a warrant to be issued in circumstances where there is a risk of personal injury or damage to property, and that police have the ability to enter and search premises as well as things on those premises and to seize firearms in order to minimise or eliminate the risk. If other items pose a risk and need to be seized, clause 23 provides that other items may very well be seized in those certain cases.

I thank members for their contributions and we will move on.

Bill read the second time.

RESTRAINT ORDERS BILL 2019 (No. 29)

In Committee

Clauses 1 and 2 agreed to.

Clause 3 -
Interpretation

Mr DEAN - Clause 3(2) says -

> For the purposes of the definition of *stalking* in subsection (1), an act is done for a lawful purpose if the act is done -
>
> …
>
> (e) by another person as part of his or her professional occupation.

I am wondering what the position is. A person could be a commercial agent, a commercial subagent or an inquiry agent - that could be a professional purpose in that regard; their partner or their wife or husband might have taken out a restraint order, so another person working for that person in that professional capacity could undertake work in a professional capacity. In other words, the professional capacity might be keeping an eye on this person for whatever reason it is a restraint order has been taken out.

The person taking out the restraint order, their partner, could well be a professional person, holding an agent's licence. As I read this, another person, as part of their professional occupation could carry out surveillance on that person for a number of reasons. Is that the way it is? Or would that technically be a breach of the restraining order by the first person?

Mrs HISCUTT - It has to be part of your official duties. It has to enforce the criminal law; administer the act; enforce a law imposing a pecuniary penalty; execute a warrant; or protect the public revenue. It has to be a lawful act and also by another person as part of their professional occupation, so it has to be a professional occupation.

Clause 3 agreed to.

Clauses 4 and 5 agreed to.

Clause 6 -
Making restraint order

Mr VALENTINE - Madam Chair, I am looking at clause 6(3) -

> In deciding whether or not to make a restraint order, and what orders should be included in the restraint order, the Court must consider -

As I said in my second reading offering -

> (d) any relevant Family Court order of which the Court has been informed.

I am wondering what power a Tasmanian court has to override a federal Family Court order. I raise this because if you think of a scenario where a mother or father is given access to their children, at some time, whether it is at school or some other location, they think they have the right to do it because the Family Court order says they can do it. So they go ahead and do it and all of a sudden they have the police on their case because, for some reason, it may breach a police family violence order or a family violence order.

What status does a Family Court order have in Tasmanian legislation?

Mrs HISCUTT - Clause 29 provides that if there are any inconsistencies between a restraint order and a Family Court order, the relevant Family Court order prevails. That is pretty well what you are asking.

Under clause 5, an application for a restraint order must include any relevant Family Court order or pending application for a Family Court order of which the applicant is aware.

Further, under clause 6(4), in deciding whether to make a restraint order, the court must consider any relevant Family Court order, which the court is informed of. However, a restraint order will not be invalid simply because the applicant has not informed the court of the Family Court order or if the court fails to consider any relevant Family Court order.

In respect to family violence matters, until the introduction of the Family Violence Act 2004, the restraint order provisions, under the Justices Act, applied to both domestic and non-domestic situations. The Family Violence Act 2004 brought in separate provisions for family violence orders

under the act, while retaining the restraint order provision in the Justices Act for other situations. The Restraint Orders Bill retains this separation and does not make any changes to the provisions for family violence orders made under the Family Violence Act.

Under clause 9(2) of the bill, if the court considers the application should have been made as an application for the family violence order under section 15 of the Family Violence Act, the court can proceed with the matter as if it is a family violence order application.

Section 24 of the Family Violence Act has a similar effect as clause 9(2) of the bill. Section 24 will provide that if a court hearing an application under part 4 of the Family Violence Act is not satisfied of the matters in section 16(1) of the Family Violence Act, it may, if it is satisfied of the matter set out in section 6(2) of the Restraint Orders Act 2019, make a restraint order under that act.

Until the introduction of the Family Violence Act 2004, the provisions of Part XA of the Justices Act applied to both domestic and non-domestic situations. The Family Violence Act 2004 brought in separate provisions for family violence orders while retaining the restraint order provision in the Justices Act 1959 for other situations.

This bill retains this separation and does not make any changes to the provisions for family violence orders made under the Family Violence Act.

Clause 6 agreed to.

Clause 7 -
Warrants and ancillary and other orders on making restraint order

Mr DEAN - I raised this matter during the second reading debate, and I raise it again. The Leader referred me to clause 23 of the bill, which I have read. Clause 7 relates to where warrants and ancillary and other orders make restraint orders. This is where a restraint order has been taken out and, on making a restraint order that includes an order prohibiting or restricting a restrained person to have possession, custody and control of firearms et cetera, they can issue a warrant and the police act to recover those firearms or firearm accessories as specified in the warrant.

My first question is: if there is another firearm and it has not been registered, I think the police could still take possession of it. They have to be careful, and they cannot abuse their powers et cetera. If they have a warrant here to take possession of a particular firearm and it is found there is another firearm that might be legally owned by that person, the police officer could not take possession of it if that were the case. They could not take possession of any bow and arrow, or some other item that projects a projectile. I should have looked at a definition of 'firearm', as to whether it covers this.

Clause 23 is totally different because it relates to the power of a police officer to enter premises -

(a) at the request of a person who apparently resides at any premises; or
(b) if he or she reasonably suspects -

(i) that a person on any premises is being, may be imminently or has recently been injured, or threatened …

(ii) that a person on any premises is damaging, may imminently damage or has recently damaged any property …

(iii) that a person on any premises is behaving, may imminently behave or has recently behaved in a provocative or offensive manner –

The police officer can do certain things. The police officer can take possession of any other properties they think might be used by the person who is causing injury and so on.

It is two different things. You cannot say that clause 23 can be used in the other situation where the warrant is issued to take possession of a firearm. It does not apply at all, in my opinion. I am wondering why clause 7 is written the way it is. I guess police officers would find a way of taking possession of the other firearm, just in case one happened to be missed. It does happen, unfortunately. I have had cases where people have had registered firearms and on an inspection, a police officer did not have the second or third one listed. They took possession of it only to find later it had been, and an error had been made. It does happen.

I am wondering why it is written that way - there must be some specific and logical answer for it.

Mrs HISCUTT - I'll just go through the definition of a firearm. Under the original act it says -

A firearm means -

(a) a gun or other weapon that is capable of propelling anything wholly or partly by means of an explosive; and

(b) a blankfire firearm; and

(c) an air rifle; and

(d) an air pistol; and

(e) an imitation firearm, other than a toy; and

(f) any other prescribed thing.

It goes on to talk about -

(g) any thing that would be a firearm under paragraph (a), (b), (c) or (d) if it did not have something missing from it or a defect or obstruction in it.

That pretty well covers what a firearm is. I think the member is talking about other things.

Mr Dean - I am talking about other things.

Madam CHAIR - You are waiting on information in relation to what they can seize. It is done in a warrant, is it not?

Mrs HISCUTT - To follow on, the order would prohibit possession of any firearm, not a particular firearm. The point is not to let the restrained person have access to firearms.

Police on searching for firearms under a clause 7 warrant would take possession of all firearms. This has come from our policeman listening in.

Mr DEAN - That really complicates it even more as far as I am concerned. Clause 7 relates to warrants and orders making restraint orders. It specifically says -

> On making a restraint order that includes an order ... prohibiting or restricting ... any firearm or firearm accessory ...
>
> … directing the forfeit, disposal or surrender of any firearm or firearm accessory …

It goes on that -

> the court may issue a warrant authorising a police officer, using such force as is necessary to ... enter and remain in the premises …

It then goes on to say -

> seize any such firearm or firearm accessory as specified in the warrant

The warrant would have to have in it 'one double-barrel shotgun, Boito make' or 'Remington make', or whatever it is, stating calibre et cetera. The warrant has to specify the firearm or firearms that the police officers are to take possession of - only the specified ones. They cannot, in my understanding, take possession of another one that might legally be there in the control of this person. They would find a way to do it, though I am not quite sure how they would do it. I am wondering why this clause is written the way it is. I would prefer it to have been written as 'to take possession of any firearm found on those premises' - including the ones that they know they have that are licensed. That would have satisfied it, in my opinion.

I raise that issue to see whether I can get an answer to it.

Mrs HISCUTT - It appears that most warrants use generic language, and this would be particularly the case under clause 7. The warrant is unlikely to specify individual firearms. What it is saying is that, under clause 7, the warrant would most generically probably say something like 'seize any firearms located on the premises' as opposed to a particular type, brand or part thereof.

Mr DEAN - I do not know whether any other members are looking at this.

Ms Rattray - I am listening to you.

Mr DEAN - I am looking at the way it is written -

> (d) seize any such firearm or firearm accessory as specified in the warrant.

Am I interpreting that wrongly or something?

Ms Rattray - Would 'identify' be better than 'specified'?

Mr DEAN - As specified in the warrant. It could not be 'seize any such firearm'. That is what it says - it is identifying. If I am interpreting that incorrectly, I have it all wrong. The more I look at it, the more I am convinced I am right, but I could be wrong.

Mr Valentine - If 'such' were not there, it could be 'any firearm or firearm accessory as specified', so it could be multiples.

Mr DEAN - That is right.

Mr Valentine - If 'such' were taken out?

Mr DEAN - Yes, absolutely. I could accept that. I want to make sure we have this right. I want to make sure we are being fair to everybody, but that police are not going to be hindered in their functions and duties.

Mrs HISCUTT - Madam Chair, I hope this answer can satisfy the member. As you have said here, 'directing the forfeiture, disposal or surrender of any firearm' - this is your point, is it not? The warrant would more than likely have 'collect any firearm'.

Mr DEAN - Yes, but it says it has to be 'as specified in the warrant' - 'seize any such' -

Mrs HISCUTT - As specified in the warrant. On the warrant it might say 'collect any' or 'all firearms', not a particular brand or name. It is any firearm you find. It is highly unlikely to actually specify in a warrant what is on the warrant. The warrant will specify firearms. That is, the warrant is to seize firearms, not other things, so what is specified is a firearm - not a particular firearm - so they have to collect firearms as opposed to anything else.

Ms Rattray - An axe.

Mrs HISCUTT - So any firearm, not a particular brand A or brand B, but any firearm.

Ms RATTRAY - Following on from the member for Windermere, as long as this is no impediment to officers carrying out their duty and seizing firearms regardless of whether they are a Browning or a whatever - that was a long time ago, wasn't it? You probably cannot even have a Browning anymore. As long as they can do that unimpeded and the warrant says firearms, it does not have to state a type of firearm or whatever. It is good to have it clearly identified, and I thank the member for alerting us.

Mrs HISCUTT - I will take that as comment because it is correct.

Clause 7 agreed to.

Clauses 8 to 36 agreed to and bill taken through the remainder of the Committee stage.

ADJOURNMENT

[6.59 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 Thursday 21 November 2019.

I remind members of the 9.30 a.m. briefing on the Poisons Amendment Bill and the 10.00 a.m. briefing on the Long Service Leave (State Employees) Amendment Bill.

Motion agreed to.

The Council adjourned at 7.00 p.m.