

TREASURY — MAJOR STRATEGIC PROJECTS — PENALTY CLAUSES

933. Hon MARTIN PRITCHARD to the Attorney General representing the Treasurer:

I refer to major strategic projects managed by Treasury.

- (1) Do the contracts for any of these projects contain penalty clauses; and, if so, which projects?
- (2) If yes to (1), for each project —
 - (a) is there a penalty clause for failure to meet specified deadlines; and, if not, why not; and
 - (b) what is the dollar value for each penalty?

Hon MICHAEL MISCHIN replied:

On behalf of the Treasurer, I thank the honourable member for some notice of the question.

- (1) None of the major capital works contracts managed by the Department of Treasury's Strategic Projects and Asset Sales business unit contains penalty clauses. It is assumed that the question is in fact directed at relevant provisions enabling the state to recover costs incurred as a result of contractor delay. All the major capital works contracts managed by SPAS contain provisions of this nature, which take the form of, for publicly funded projects, the application of liquidated damages whereby a pre-estimated daily rate applies for each calendar day of delay caused by the contractor; or, for public-private partnerships, a reduction in the operating term of the contract equal to the length of the delay caused by the contractor, with a consequent reduction in the contractor's payment entitlement and/or capacity to earn revenue, in the latter case effectively transferring the revenue entitlement to the state.
- (2)
 - (a) As above; it is assumed that the question is directed at liquidated damages provisions.
 - (b) Liquidated damages are calculated for each relevant SPAS contract, reflecting the pre-estimated costs incurred by the state by way of contractor-caused delay under the particular contract in question. The liquidated damages daily rates included in SPAS contracts to date range from \$7 000 to \$220 000.