

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018

Committee

Resumed from 17 October. The Deputy Chair of Committees (Hon Robin Chapple) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 227: Net loss —

Progress was reported on the following amendments moved by Hon Colin Tincknell —

Page 143, line 5 — To insert before “In this Division” —

Subject to subsection (4),

Page 143, line 16 — To insert before “In this Division” —

Subject to subsection (4),

Page 143, line 27 — To insert before “In this Division” —

Subject to subsection (4),

Hon COLIN TINCKNELL: I would like to respond and give further information on these amendments. Hon Martin Aldridge mentioned yesterday that this chamber was given fairly late notice of my first amendment. It is clear to me that over a week ago, the industry emailed a copy of this amendment to every member in this chamber and Hon Martin Aldridge’s name was on top of the list.

As I mentioned before, the reason for these amendments is that a few owners will be financially devastated by the generalisation and categorisation of the band of net losses. We understand that some members of the taxi industry will be okay under this new bill. Hon Simon O’Brien quite rightly questioned the validity and the accuracy of the net losses. That is a reason for these amendments. We are of the view that the government has provided insufficient supporting information on the net losses. The figures set out in clause 227 are over-simplistic. Hon Martin Aldridge asked another question of me yesterday. If we look further into the bill, we will notice that clauses 228(4) and 228(5) give the CEO similar discretionary powers in the assessment of plate prices. As Hon Simon O’Brien explained and as I touched on briefly yesterday, those are the reasons for these amendments. We recognise that some drivers and plate owners will do well out of this, but we are asking for some discretionary powers for the CEO to allow those who will be adversely affected to have an avenue, and the CEO can make a determination from that.

Hon MARTIN ALDRIDGE: I thank Hon Colin Tincknell for his remarks just now. I recognise that someone outside this place may have made suggestions about how this bill ought to be dealt with, but as far as I am aware, Hon Colin Tincknell gave notice of these amendments only yesterday. There is no requirement to provide notice. I simply referred to the fact that relatively short notice had been provided in considering these matters. Obviously, further conversations could not be had nor briefings held to fully understand the impact of these amendments. Therefore, the committee stage of this bill is the appropriate place to thrash out the application of these amendments so that we can fully understand them.

Before we were interrupted yesterday afternoon, I was pursuing a line of questioning around the first amendment and its application to clause 227, which is obviously the clause that we are dealing with. If this amendment were to pass, and an eligible owner under clause 227(4) were to exercise his or her right for the CEO to make a determination around actual loss and the CEO determined that that amount of money was indeed less than the amount of money that would ordinarily have been available to the eligible owner under clause 227(1), (2) or (3), what ability does the eligible owner have to perhaps withdraw that application to the CEO and indeed return to the calculations for net losses as set out in the government’s clause 227?

Hon COLIN TINCKNELL: The CEO, as mentioned before, is the appropriate person and has the discretionary powers to make that assessment. We know that the base was \$100 000, so there is a protection there that that would be the minimum amount required. We also looked at raising the minimum amount but we knew that that would take extra time in Parliament and would slow down the whole process, so we looked at this alternative. That is the reason for the amendment. We are looking for an avenue for these people who will be financially devastated from this bill going through.

Hon STEPHEN DAWSON: I take the opportunity to reiterate some of the points that I made yesterday in the context of these amendments as a whole. One of the considerations in the development of the buyback scheme was to ensure that the proposal involves a degree of certainty for both plate owners and the government, and a scheme that is not administratively cumbersome. This is important for a number of reasons. It is important to ensure that payments can be made as quickly as possible, that plate owners have certainty of what they may receive,

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and that government can budget accordingly to make payments to the plate owners and plan for the administration of the levy. If the amendments proposed resulted in higher than estimated buyback payments, it would impact state finances and potentially the period for which the levy will need to be in place.

A buyback formula involving the degree of discretion resting with the CEO that has been put forward in these amendments would remove the certainty provided by the bill. The buyback payment needs to be set in the bill to ensure a consistent and, more importantly, transparent application of the scheme. It would also result in applications for buyback payments taking significantly longer to process, meaning plate owners will need to wait longer to receive their payments. Enabling the payment amounts to be determined in part based on reviewable decisions may further exacerbate this delay, as disputes would have to go through a tribunal process to be resolved. From a technical perspective, as Hon Martin Aldridge's comments touched on, these amendments do not clarify what is to happen should the CEO be satisfied that a plate owner's actual loss is different from that provided for in the bill. The government believes that the scheme provided for in the bill offers a fair formula for the calculation of the buyback payments and one that is best placed to ensure that the administration of the payments occurs in an efficient manner. As I stated yesterday, the floor payment in the bill provides for a minimum payment for plate owners that is the most generous in the country.

To respond to the earlier point, the discretion provided to the CEO in clause 228(4) and (5) is limited to determining the plate purchase amount based on information already held in departmental records. It involves a much more predictable and expedient process than the amendment on net loss. This is because clause 228(5) involves the plate purchase price being based on an average of the plate purchase amounts.

Hon MARTIN ALDRIDGE: Thank you for that, minister. I want to anticipate a circumstance. The amendments before us refer to the application and determination process; it is not a negotiation. If I were a taxi plate owner under clause 227(1), (2) or (3) and my payout figure was calculated to be \$180 000, but I feel that my actual losses were more in the vicinity of \$400 000 hypothetically speaking, and I made an application to the CEO and the CEO could reasonably satisfy themselves that my losses were more in the order of only \$150 000, that is \$30 000 less than the formula provides for. Would I have an ability to withdraw that application? I assume from reading this that that would be known only once the CEO made a determination. Could it arise when a determination for an applicant could result in a figure less than what is calculated under subclause (1), (2) or (3)?

Hon STEPHEN DAWSON: I am advised that the amendment is silent on that issue.

Hon MARTIN ALDRIDGE: The minister mentioned that one of the reasons the government does not support these amendments is that it goes to the issue of certainty of funding. He will have to forgive me because I am dealing with this bill in a representative capacity. The primary person in the National Party is in the other place.

Hon Stephen Dawson: As am I, member.

Hon MARTIN ALDRIDGE: The minister will appreciate that.

Hon Stephen Dawson: I do.

Hon MARTIN ALDRIDGE: I understand that this Transport (Road Passenger Services) Bill will create a levy for a fixed period to raise the funds that are estimated to be required to deal with these payments. Does the bill terminate that levy after that period or is there any discretion on the government's behalf? I am thinking about the following scenario: if these amendments were to pass and some additional payments were made, would that be a matter of the government having to find the funding for it or could the levy be extended to cover it? What certainty or uncertainty is there in relation to the government's ability to raise the funds required if this provision were to pass?

Hon STEPHEN DAWSON: Sorry; we took our time to make sure we gave the member a proper answer. I am advised that it could extend the period so long as under clause 257, the day specified in the notice has not passed. Does that make it clear for the member?

Hon MARTIN ALDRIDGE: I do not want to progress questions on this matter any further, apart from saying that, I think, with those few questions I have asked, the National Party is not satisfied that these amendments have had enough consideration for it to receive our support in the chamber today. I think a number of issues are associated with these amendments, not the least being that we could see some eligible owners disadvantaged in some respects by a process in which they believe they are entitled to more and the CEO making a determination that they are entitled to less than the net loss provisions set out in the government's clause 227. I think the application of these amendments would be very difficult to achieve. Certainly, there is no cap on the amount of actual loss that could be determined by the CEO. That, obviously, would be determined by one person—an uncapped amount to an application made by an eligible owner.

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The other issue is, I think, around actual net losses and, I guess, actual net losses could include a range of things, many of which may be unrelated to the regime under which the government has regulated taxi plate issuing in Western Australia. In fact, actual net losses could include other things that relate perhaps more specifically to business decisions, so to what extent should the state be involved in compensating an eligible owner for those types of arrangements? To that end, the National Party will not support these amendments.

Division

Amendments put and a division taken, the Deputy Chair (Hon Robin Chapple) casting his vote with the noes, with the following result —

Ayes (2)

Hon Charles Smith

Hon Colin Tincknell (*Teller*)

Noes (27)

Hon Martin Aldridge
Hon Ken Baston
Hon Jacqui Boydell
Hon Robin Chapple
Hon Jim Chown
Hon Tim Clifford
Hon Alanna Clohesy

Hon Peter Collier
Hon Stephen Dawson
Hon Sue Ellery
Hon Diane Evers
Hon Donna Faragher
Hon Nick Goiran
Hon Laurie Graham

Hon Colin Holt
Hon Alannah MacTiernan
Hon Rick Mazza
Hon Michael Mischin
Hon Simon O'Brien
Hon Martin Pritchard
Hon Tjorn Sibma

Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Steve Thomas
Hon Darren West
Hon Alison Xamon
Hon Pierre Yang (*Teller*)

Amendments thus negatived.

Hon COLIN TINCKNELL: I move —

Page 144, after line 6 — To insert —

- (4) An eligible owner (buyback) of the taxi plates may apply to the CEO for a determination by the CEO of the eligible owner's actual net loss, if the eligible owner can establish to the reasonable satisfaction of the CEO that the deductions referred to in subsections (1), (2) and (3) do not reasonably apply to the eligible owner's ownership of the plates.

I have already spoken to this amendment and I will let it stand as is.

Hon STEPHEN DAWSON: I reiterate that I made some comments yesterday and earlier today and have indicated the reasons that the government will not be supporting this amendment.

Amendment put and negatived.

Hon SIMON O'BRIEN: Clause 227 is a key clause in this bill. As we have seen from the protracted debate on a potential amendment, it is also a clause that is causing a large part of the angst in the taxi plate owner sector. In acknowledgement of that, I want members of this chamber to be clear on what this clause is about. The government has set out in the second reading speech and in a number of other ways what it is proposing to do in this bill. A lot of that hinges around the concept of net loss. Indeed, I am not sure from some of the explanatory material that has been provided that the government is not talking about net gain—it depends on how we approach the equation. If where I am going with this sounds a bit confusing, it is because I want to cut out that confusion. I will do that, firstly, by referring to some briefing material that was provided by the government by way of a PowerPoint presentation that was printed and distributed. Page 9 of that presentation contains a table entitled "Buy-back examples". That is very useful, because it enables us to compare and contrast what is on offer under the buyback package. As I have said, a lot of that hinges on the concept of net loss. In arriving at that is the concept of what I describe as presumed monopoly profits. Monopoly profits are what the government in its package presumes have accrued to plate owners since they purchased their plates, whenever that might have been. The presumption that I will refer to relates to conventional full-time taxi plates. There are a number of other categories, but for the sake of simplicity I will refer to that major category. In that conventional taxi plate category, monopoly profits are presumed to be the sum of average private lease rates since the owner purchased the plate—in other words, what an investor in that plate would have derived as income having leased it out to an operator. Clause 227(1) states that the amount is \$355 per week multiplied by the number of weeks between the purchase date of the plates and 31 December 2015. Therefore, a person who had purchased their plates 10 weeks before 31 December would get 10 times \$355, or \$3 550, and a further \$225 for the number of weeks after the date of 31 December 2015. I understand there is a particular reason for picking the date of 31 December 2015. Can the minister please indicate why that date was picked?

Hon STEPHEN DAWSON: That date recognises that since January 2016 when reform of the industry was mooted by government, the price that could be asked for taxi plate leases fell from the industry maximum of \$355 a week to around its current level of \$225 a week.

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Hon SIMON O'BRIEN: I understand that that is sometimes referred to as “pre-disruption”. Is that correct?

Hon Stephen Dawson: Yes. We have been using the terms “pre” and “post” disruption.

Hon SIMON O'BRIEN: That was also my understanding. Finally, the \$225 cuts out at 2 November 2017. For the record, why was that date selected?

The DEPUTY CHAIR: Minister, noting the time, I will leave the chair until the ringing of the bells.

Sitting suspended from 1.00 to 2.00 pm

Hon STEPHEN DAWSON: Before we broke for lunch, Hon Simon O'Brien asked a question about the 2 November 2017 date in the bill. I advise the member that that was the date on which the minister announced the proposed buyback scheme.

Hon SIMON O'BRIEN: I thank the minister for that second answer to my question on this clause. Gosh, it was an awfully long lunchbreak as we sweated on getting that answer. I thank him for it now.

It is as we expected. They are the appropriate dates for the purposes that have been outlined. Members would understand that that helped inform the government in its development of its buyback package. I think we all understand that. What I want to air during this process of the Committee of the Whole is to make sure we have a clear understanding of the concerns that have been raised by a number of taxi plate owners. When it boils down, they believe they should receive more, substantially more, than has been provided for in the government's buyback package. That is understandable. I am sure that various plate owners can make a case for why they in particular should receive more. Other plate owners to whom I referred in my second reading remarks just want to get on with it; they want access to their payment. Perhaps they are captured by the floor price of \$100 000 for conventional taxi plates and are happy with that. Perhaps, using the formula, if they bought their plates more recently and therefore have a much lesser amount calculated as their estimated monopoly profit, they might be from that smaller number of taxi plate owners who will receive more, perhaps even substantially more, than the floor price and so they are happy. They want their money so they want us to get on with it. We have recognised all that with the passing of the bill at the second reading stage.

Let us go back to the people who I know were behind the previous amendment that was moved and look at their claims before we proceed past this clause. This is where the page 9 table of buyback examples is useful in this discussion for members who are following this closely. It gives a range of examples of plate owners who purchased a plate in a certain year and what they would have paid typically to buy that plate at that time. As reflected in clause 227 before us now, the government calculated from that date the estimated monopoly profit earned since purchase, took into account the \$20 000 payment that the government gave for financial assistance some time ago and came up with a figure of net gain profit, if you like, or loss. The terminology is a bit difficult. For example, if someone purchased a plate in March 2000 for \$180 000—this is one of the examples that the table gives—the estimated monopoly profit since then would be \$314 475, plus they would have received \$20 000 in assistance, and their net profit in raw dollars terms would be \$154 475. The government's view, which is reflected in the policy of this bill, is that they are already \$154 475 ahead.

Hon Colin Tincknell interjected.

Hon SIMON O'BRIEN: It does not take into account other earnings that might have accrued. If they had been driving with that plate themselves, they might well have accrued substantially more than \$355 a week—I certainly hope they did—and they would have had the benefit of tax deductibility, depreciation of their vehicle and various things, so it becomes a complicated equation. The bottom line is that it is assumed that if they have simply invested in a plate and done nothing else to affect the equation except lease it out and receive the assumed amount that they would have received—again, it is an averaged amount, the best guess of the government—they are well ahead on the deal by the tune of \$154 475. Good luck to them. In addition, the government will give them the minimum amount payable of a further \$108 000, which is the buyback amount that the plate owner will receive.

Similarly, in another example that I will take from the same table—this one is quite different—the purchase price of a plate purchased in June 2015 was \$262 000 and the monopoly profit is estimated to be \$31 185, which, together with a financial assistance payment of \$20 000, comes to \$51 185. In that case, they would still be \$210 815 in deficit from where they started. Remember, they paid \$262 000 and, under clause 227, they are presumed to have made a certain amount of return, but they are still \$210 815 shy—a net loss, if you will, if the plate is taken off them now. Under this scheme, that plate owner will receive the full amount of that calculated loss of \$210 815. In the first example I gave, even though they have made their money back, they will get \$100 000 in cash on top of that; whereas in the second example I gave, the owner of the \$262 000 plate bought in June 2015 will at least get their money back and break even. I am not making a case for the government; I am just trying to explain this for members who perhaps have not had the opportunity to be as briefed on this as others. Again, that does not take account of any other variables in the taxi business that we are all aware of. Again, does

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the person also have a taxi, so they have the expenses of setting up the vehicle and getting cameras, lights and other equipment? Are there finance costs? Obviously, there would be if they are borrowing this sort of money; or, if they had the money hidden in a jar under the bed, obviously there would also be a financial impact because they would be allocating money to buy a plate, whereas they might have put the money in the bank to get a return through a term deposit or something. They are the two extremes, we might say.

This is the package that the government has put forward. If either of those plate owners are not in the aforementioned group that we recognised in the second reading debate that is saying, “No, please just support this bill. Go ahead. We want to get our money and walk away”, chances are that they are in another group.

The DEPUTY CHAIR: The question is that clause 227 stand as printed. I call Hon Simon O'Brien.

Hon SIMON O'BRIEN: Either of the plate owners I have mentioned in my examples with reference to the table might be saying, “No; hang on.” First, they might want to argue the toss about whether the amounts as prescribed are right—should it be \$355 000, \$255 000, \$410 000 or whatever? People may want to take issue with that minutiae. I mentioned other on-costs, such as finance costs, stamp duty or whatever it might be. People may want to argue the toss about those sorts of things, and that is their position, which I respect. This is something that I need to put just to make sure that we have got this clear, minister. A lot of those plate owners, particularly if they are investors—I think this buyback is aimed at investors—would have been saying, “Hang on; we want to keep getting our monopoly profit week after week in perpetuity, because that is what we thought we signed up for when we bought the plate back in March 2000. That is our superannuation provision. We thought that when we purchased the plate in June 2015 at \$262 000, we would be able to sell it for \$450 000 a few years down the track, after receiving what you now call monopoly profits.” None of that has been taken into consideration.

I think that briefly encapsulates the argument that has been put by many correspondents to members. I think I have encapsulated it as near as I can when we are talking about all these people—many hundreds of them—who have their own individual stories. That is the key issue, minister. I think I have managed to drill it down to what it is. We can talk about what has been laid out in this table, and that is fine. I think all members understand where that has come from, and that is reflected in clause 227, but it is the answer to the wrong question. I guess I am just seeking for the record whether the government acknowledges that there are people who have that sense that—I do not want to use a pejorative term because I do not think that would necessarily help, but people have probably used some pretty strong language about this—it is not sufficient recompense for the financial disappointment that they are now experiencing. In the first example, the person who paid \$180 000 for a plate in March 2000 and is now being offered \$100 000 by us will be saying, “Hang on; I could have sold my plate in June 2015 for \$262 000 or in February 2014 for \$320 000.” I think that case is made for the record, and I wonder whether the minister would kindly respond.

Hon STEPHEN DAWSON: I will make the point again: the government believes that the scheme proposed in this bill is fair. The world has moved on over the last few years, particularly since the advent of Uber. Essentially, the industry has been turned on its head. I can acknowledge on behalf of government that not everybody is happy with this bill. Certain people in the community feel aggrieved by the provisions in this bill and the provisions in the buyback scheme. I make the point that the current market value for these plates is around \$80 000, so the buyback will see plate owners get more than the current rate. Yes, I understand that people feel aggrieved by it, but the world has changed and the market value of these plates is a lot less than it was. We are seeking with this bill to establish a fair scheme and to do it expeditiously so that those people who are suffering, frankly, as a result of Uber will get some recompense as quickly as possible once this bill is passed.

Hon SIMON O'BRIEN: I thank the minister for that. I think it is important that we get all of that on the record. I think the minister's response was a fair and balanced response to the question. When I posed it, I said that I was not trying to couch it in any sort of pejorative terms that perhaps a disappointed taxi plate owner might want me to use. In this place I am a legislator in a house of review and I want to make sure that we have some legislation that is fair to the extent that it can be, is just without question, and is also administratively going to work. A lot of people need to access this scheme and there are some very large sums of money in total. What is the total amount proposed to be paid out by government, minister?

Hon Stephen Dawson: It is about \$118 million.

Hon SIMON O'BRIEN: I have seen so many figures floating around in all of this, so thanks for jogging my memory. These are big sums of money. For individuals, they are big sums of money as well. Even for a single plate owner, it is very important to them and their household, and for their future. The opposition recognises the point that the minister has made; that is, that the world has moved on and something has to be done about it. Successive governments have been unable to do that in the past, partly because of resistance from different groups and political realities, but now it has been forced on government. We have to deal with this bill and try to work

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out a future that takes into account all of the changes that we have seen coming that, frankly, our system was not equipped hitherto to really deal with adequately.

The minister made the good point that since the advent of a number of things—we have mentioned Uber, which seems to be a byword for all new rideshare arrangements and so on; I have been using it locally as well; Uber is a general term—plus of course successive government responses, and there have been several, the government has indicated a way forward that it will likely progress. All of those things, both within government and from without, have all conspired to mean that a \$262 000 plate purchased in June 2015 is not worth \$262 000. The minister just mentioned the going rate is \$82 000. These days, the only reason a person would buy a plate at \$82 000 is that they are hopeful the buyback will go through and they get something back out of it. That is the hard reality. A whole lot of factors have conspired to make sure that investors' prospects have been diminished greatly, regardless of what happens here. That is one of the detailed reasons why the opposition has decided not to oppose this legislation. We recognise that something has to be done. This is the prospect that is on the table. We have been told it is a complete package, take it or leave it, and we know that in the best interests of all concerned we have to take it. That is the brutal reality whether we like it or not. As we do that, I also want observers of this debate to know—I thank members for their attention—that this house has been contemplating those things that have been raised with us in correspondence. Although we can empathise, we are not in a position to turn back the clock to a former time when some things were taken for granted. We will support clause 227 as printed.

Clause put and passed.

Clause 228 put and passed.

Clause 229: Application for buyback payment —

Hon SIMON O'BRIEN: This has possibly already been notified during the course of debate, but if the minister will indulge me: is there an indicative date we could have if all goes according to plans?

Hon STEPHEN DAWSON: Applications will be taken once the regulations and the systems to support the bill are in place. We are hopeful that the bill will pass this place very soon, certainly by the end of the year. That would allow applications to be open in the first half of 2019.

Hon Simon O'Brien: And concluded?

Hon STEPHEN DAWSON: The aim is to open applications early in the new year; we are hoping for February. They would close likely around the end of May and then payment would happen after that.

Hon SIMON O'BRIEN: And payment is intended to be made, as I understand it, all in one go and I think that is in the new financial year—is that the government's intention?

Hon STEPHEN DAWSON: The member is correct, it will be paid in one go and will be paid early in the new financial year.

Clause put and passed.

Clauses 230 to 243 put and passed.

Clause 244: Leviable passenger service transactions —

Hon SIMON O'BRIEN: Before I move my amendment to address clause 244, I acknowledge that this clause is also very important. Basically, it says who is or is not to be responsible for leviable passenger service transactions; in other words, which road passenger services or road passenger service trips will be leviable, to use a fairly awkward vernacular. In summary, it is most providers in terms of scale of operation, and also the number of passenger trips will be subject to the levy. In due course I may well be moving the amendment, but as I understand it at the moment the services that will not be subject to the levy will include all services that occur at least partly outside the defined Perth–Peel area. It was initially the government's intention, I believe, that taxi trips that occurred wholly outside the defined Perth–Peel area would be exempt from paying the levy, but I understand that the government permitted an amendment in another place to address the problematic situation in which a trip started or concluded in, say, the metro area and finished outside the metro area or vice versa. Are they leviable or not? Ultimately, the bill before us exempts those services that are provided at least partly outside the defined Perth–Peel area. I am sure the minister will correct me if I have that wrong. The bill will not affect services that are wholly connected with tourism. I do not wish to explore the definition of tourism at this time. It will also not affect vehicles with more than 12 seats. I do not know whether we will end up with some sharp operators who have some sort of adapted taxis with more than 12 seats. Hopefully that is a fanciful notion, but it means that larger passenger vehicles such as coaches and the like will not be subject to the levy. Certain restricted forms of special events will be exempted on application. Apart from that, everyone else is covered. Although this clause provides for regulations for certain services to be specified as exempt—perhaps we will come to that in detail in just

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a moment—that is my understanding of this clause. Specifically, the group we used to know as luxury small charter vehicles or limousines will be leviable; that is the key point I want to make certain I have right, if the minister can assist.

Hon STEPHEN DAWSON: I will put on the record that the levy will apply only to bookings for journeys that both start and finish in the defined levy areas. If a journey commences outside the defined area and it finishes inside the defined area, the journey will not be leviable. The member correctly pointed out that bookings for trips and vehicles that seat more than 12 people are exempt from the levy. It will apply only to on-demand passenger transport, so timetabled passenger transport services and tourism services that run according to a publicly available itinerary will not be subject to the levy. Community and courtesy services are not treated as on-demand transport by the bill and therefore are not subject to the levy. The regulations will provide that booking services that exclusively offer charters for weddings, funerals, balls, tours and other special event charter services in limousines or luxury vehicles will be eligible for an exemption from the levy on application to the chief executive officer. If they solely carry out those services, they can apply to the CEO for an exemption to the levy.

Hon TJORN SIBMA: Would those exemptions also apply to services provided to sporting fixtures, concerts, or events of that nature?

Hon STEPHEN DAWSON: If the vehicle was chartered as an on-demand vehicle, it would be captured. To clarify, is the member talking about going to the footy on the weekend and potentially using a Hughes car, for example? Is that what the member is talking about?

Hon TJORN SIBMA: I am talking about services to sporting events at Optus Stadium or RAC Arena, for example.

Hon STEPHEN DAWSON: I am trying to clarify that if it is a community or courtesy service to the footy, the stadium, or anywhere, it would not be leviable. If it is done by a community group, it would not be leviable. If it was a small charter vehicle that was chartered to go to the footy, it would be captured by the levy.

Hon TJORN SIBMA: At the risk of going over old ground, how does the process of applying for these exemptions operate?

Hon STEPHEN DAWSON: Individuals or businesses seeking the exemption will need to apply to the Department of Transport in writing and supply the necessary information to support their claim for exemption. The department will then assess the application and, if successful, it will amend the conditions of the applicant's on-demand booking service authorisation to show they are exempt from the requirement to pay the levy. If they are found at a later date to be offering other leviable services, this would be a breach of authorisation conditions and penalties would apply. It is an application process, member.

Hon PETER COLLIER: I am sure that we all know, but can the minister clarify for *Hansard* the distinction between a charter vehicle and a taxi?

Hon STEPHEN DAWSON: I am told that taxis can do rank and hail but charter vehicles cannot. I am also advised that taxis require a camera, livery and a meter.

Hon PETER COLLIER: Was a minimum charge previously required for charter vehicles?

Hon STEPHEN DAWSON: There was a minimum charge until mid-2016. At that time, the requirement was removed.

Hon PETER COLLIER: As it currently stands with this new legislation, charter vehicles are going to be—dare I say it—the roadkill for this bill because they will be captured by the legislation but, in effect, they are not taxis, aside from not having cameras and the other things the minister mentioned.

Hon STEPHEN DAWSON: No, charter vehicles will not be roadkill as a result of this bill. They already compete. I will put on the record again some of the ground I covered yesterday, because the honourable member may not have been in the chamber. I am happy to answer his question. Like taxi services, charter services, including those provided by limousines, involve the hirer determining the time as well as the start and finish locations of the journey. The charter sector has been competing with the taxi industry at an increasing rate in recent years, including as a result of the reforms made in 2016 under the former government that sought to level the playing field between the sectors to facilitate such competition. That included the removal of the \$60 minimum fare that was historically applied to charter vehicles and the requirements for charter vehicles to be in the luxury category. This is anecdotal, but the member also might find that when an Uber is called, a sport utility vehicle comes along to provide the service. They are already playing in that field and competing against taxidrivrs. Since 2016, they have had those extra requirements removed that had previously made it harder for them—that is, the \$60 fee and the requirement for charter vehicles to be in the luxury category of cars.

Hon PETER COLLIER: Was it always the government's intent to include charter vehicles within the legislation or was this actually considered after the implementation of the legislation?

Hon Colin Tincknell; Hon Martin Aldridge; Hon Stephen Dawson; Hon Simon O'Brien; Hon Tjorn Sibma; Hon Peter Collier; Deputy Chair

Hon Stephen Dawson: Yes.

Hon PETER COLLIER: Really?

Hon Stephen Dawson: Yes.

Hon SIMON O'BRIEN: I think we are right to pause on this clause and to have this examination in detail because members are obviously reflecting on concerns raised with them. I will now come to one concern that is outstanding. In the highly regulated environment that we have had, certainly up until recent years if not quite up to the present day, there has been what might be called by some as the protected species of taxis. Then we have had other service providers that do not operate by rank and hail, but by bookings. Sure, a lot of taxis operate by bookings as well, but a class of on-demand passenger transport in this state was created, and within it a category called "small charter vehicles". Indeed, vehicles in this class had their own numberplates—SCV and so on. If my memory serves me correctly, the regime was that those operators not only could not compete against taxis by rank and hail and had to use only bookings, but also had to charge a minimum of quite a high fare, even if it was for a short trip.

Hon Stephen Dawson: It was \$60.

Hon SIMON O'BRIEN: It was \$60, and that was from some years ago. It is worth a bit more than \$60, even today. Typically, it would be for what we might call the higher end of the market. We are talking about luxury vehicles that come in a very well presented way. It did include some quite extraordinary vehicles, some of which were called stretch limousines, but it could simply be a vintage Rolls-Royce or something like that that was being used for that purpose. The nature of the vehicle was such that a customer would pay a minimum of \$60, and quite often much higher than \$60, for a fare, because it was a certain class of vehicle, an exclusive booking and an absolute guarantee that it was there at a passenger's disposal. Sometimes they would even have built-in waiting periods for the passenger's convenience. Of course, the minister and his advisers are aware of what I am talking about. I have contemplated in response to representations made to Liberal Party members, the following question. That class of vehicle, of which there are relatively few operators as I understand it—maybe 50, I do not know, but a limited number—was most explicitly not part of the taxi plate regime that this bill is seeking to undo. Those operators were definitely not part of it and they were actively excluded from it: "You have to charge a minimum rate, which is way higher than a taxi would charge. You're restricted in this way and you're restricted in that way." They are not getting a cracker from any buyback scheme because, of course, they do not have taxi plates. Correct me if I am wrong, but we are certainly not talking about a buyback of SCV plates. That is the question that I am raising for discussion, minister. I fear that perhaps the world has moved on already and that changes have been made that will be quite unfortunate for the future prospects of this part of the sector. Minister, has the government contemplated this discrete group; and, if they are not getting any buyback and given that they never had the benefits of a monopoly plate, why should their passengers be having to pay a 10 per cent levy?

Hon STEPHEN DAWSON: I thank Hon Simon O'Brien for his questions. I will just give a bit of history. Since July 2016, the small charter vehicle category of omnibus licences was removed. The then six SCV categories of 1 040 licences were consolidated into a single charter vehicle category.

Hon Simon O'Brien: So there were that many.

Hon STEPHEN DAWSON: There were 1 040 licences, not 50, so it was substantial. This change was made as part of the reforms under the former Liberal–National government, which sought to level the playing field between the sectors, to facilitate competition and to allow operators the flexibility to provide a range of services to meet customer demand. As I referred to earlier, the changes included the removal of the requirements to have a luxury vehicle and a minimum \$60 fare charge. The charter vehicle sector has been growing in recent years and operates in the same market as other taxi and ride-sourcing charter services. There is little distinction of service in the upmarket, on-demand vehicle offering, apart from price. The types of services being offered include airport and corporate transfers and cars for special nights out and the like. This is no different from other services offered by taxis and ridesharing, including UberBLACK, that people can choose from. I am told that as at the end of June 2018, there were 13 086 licensed charter vehicles in Western Australia. An exemption from the levy is already proposed for those luxury and limousine vehicles that do not operate in the taxi and ride-sourcing space. These are for booking services that solely use these vehicles for special events such as weddings, balls, tours, funerals and other special occasions. I also make the point that these small charter vehicles are subject to only an annual authorisation, which is currently \$281 a year. This is substantially less than the cost of participation in relation to taxis. They pay \$281 a year to participate.

Hon Simon O'Brien: How does that compare with taxis?

Hon STEPHEN DAWSON: I am advised that taxis pay over \$1 000. It is a big difference.

Hon Colin Tincknell; Hon Martin Aldridge; Hon Stephen Dawson; Hon Simon O'Brien; Hon Tjorn Sibma; Hon Peter Collier; Deputy Chair

Hon SIMON O'BRIEN: I thank the minister for that and it appears that my fears are certainly partially realised in the sense that things have moved on. From what the minister is saying, I understand that whereas we had a relatively small number of licensed SCVs—I think the minister mentioned just over 1 000, which is a lot more than I thought it would have been actually, but even so it is a fairly discrete number—it now numbers 13 000 because of the licensing of all the Uber and other rideshare people that are not taxis. Do we have that many participating now, minister?

Hon STEPHEN DAWSON: Yes, that is correct, member.

Hon SIMON O'BRIEN: That changes things a bit. Before I ask a question that I need to get to about grandfathering certain licence holders, I want to investigate another matter that is directly relevant to this one. The minister mentioned a figure that henceforth rideshare or non-taxi car services—that is, the booking-only services—will be paying about \$241 a year. I think that is what he said.

Hon Stephen Dawson: That figure that I spoke about in relation to SCVs is \$281.

Hon SIMON O'BRIEN: Sorry—\$281 per year. What was an SCV operator of the previous category paying per year? This is back when we had only 1 000 of them, and they were all upmarket vehicles.

Hon STEPHEN DAWSON: I am told that the fee was \$210 then.

Hon SIMON O'BRIEN: That gives me some optimism, because if the minister were to say that they used to be charged \$5 000 a year so that they could ply their trade to quite a limited clientele, and now they will be paying only \$281, there would be a case for saying that they were getting some relief in perpetuity by way of much lower licence fees, but they are not. Their fee used to be about \$210 a year, and now it will be \$281, so that sort of relief obviously is not there. I will now move to the grandfathering question that I alluded to. I want to go back to that exclusive class of SCV—by that I mean the former class that existed before the ridesharing phenomenon—when they were well and truly restricted and could not operate in the way that they can now. If it is possible to identify those particular drivers who were restricted for so long when they were trying to pay off very expensive motorcars and the like, and they will not have the benefit of the plate buyback, is it possible to put in a grandfather type of arrangement to exempt just those 1 000 or so limo drivers—as I will call them—who previously operated before the disruption date? Is it possible for a grandfathering concession to apply to the plates that existed then?

Hon STEPHEN DAWSON: I am told that exempting limousines and charter vehicles from the levy would see services provided in those vehicles given an unfair competitive advantage, as compared with providers of pre-booked taxi and charter services. It will result in an uneven playing field, which is contrary to the intent of the reforms.

Hon SIMON O'BRIEN: Quite often, there is an uneven playing field in a lot of these matters, and some of it has been government induced over the decades. We have had restricted area plates, restricted peak period plates, and metro and non-metro plates. All sorts of artificial restrictions were applied as well as what we are referring to now, which is the distinction between the SCV operator and the other. By definition, with the grandfathering clause, one would think that the facility of such a concession would actually die out in due course. Can the concession be extended historically to those official SCVs that existed pre-disruption? Some of them have probably stopped trading already, others will be finishing up this year, and those selfsame vehicles will be past their utilisation date in due course—cars do not last that long. Is there no prospect of a grandfathering concession recognising that we have had an unlevel playing field, and it will die out, in the way I described, in a few short years anyway?

Hon STEPHEN DAWSON: We do not believe that putting in a grandfathering clause would be equitable for the sector, so it is not supported.

The DEPUTY CHAIR (Hon Dr Steve Thomas): The question is that clause 244 stand as printed. Hon Simon O'Brien, you have an amendment on the supplementary notice paper. I do not want to proceed without giving you the opportunity to move that amendment, should you wish to do so.

Hon SIMON O'BRIEN: Sorry, Mr Deputy Chair, I was just clearing my throat.

The DEPUTY CHAIR: Certainly; there is a lot of it going around at the moment.

Hon SIMON O'BRIEN: I will test this. I am not going to die in a ditch over it, but in keeping with the undertakings, and on behalf of my party, I have been asked to move the amendment that stands in my name. The mood of the government is obvious. I do not treat that with disrespect, and I think the amendment is probably unlikely to pass. I move —

Page 153, after line 22 — To insert —

(5) This section does not apply to limousine or small charter vehicle services.

Hon Colin Tincknell; Hon Martin Aldridge; Hon Stephen Dawson; Hon Simon O'Brien; Hon Tjorn Sibma; Hon Peter Collier; Deputy Chair

Hon STEPHEN DAWSON: The government does not support the amendment, as I said. I am told that the term “small charter vehicle” is not used in the bill, so the intended scope of the amendment is not clear. The intended scope of the term is not in the legislation. I understand what the member is trying to do, but because we do not use that term in the bill, it does not resolve what the member wants, to his satisfaction.

Hon SIMON O'BRIEN: I thank the minister for that. Can I just say what a pleasure it is to have such a courteous minister at the table? I will not introduce any discordant note by comparisons and contrasts, but I just want to say that I appreciate the minister's attitude. Similarly, I also indicate that I have been speaking behind the Chair, in the twenty-first century equivalent of the smoke-filled back room, with advisers and others, and I have received nothing but courtesy from them. Through the minister, I want to thank the minister's office for that. I listened closely, as you might imagine, to the final remarks of the minister here. He points out that not only does he disagree with the policy of the amendment, but also there is a lack of utility in the wording. There is no law—members can check the Interpretation Act or anything else if they want to—that actually says that what comes out of this place has to make sense. However, I think it is preferable that it does, and even though I was fairly confident that this amendment would not succeed, I am not going to allow myself the indulgence of a hollow gesture of moving it for the sake of it. With that in mind, and in deference to the advice that we have, I am not so pigheaded that I want to proceed with something that is discordant with the bill. I seek leave of the chamber to withdraw the amendment that I have moved, and let the house decide.

Amendment, by leave, withdrawn.

Clause put and passed.

Visitors — Anna Stewart Memorial Project

The DEPUTY CHAIR (Hon Dr Steve Thomas): Just before we proceed, I welcome the participants from the Anna Stewart Memorial Project who are in the gallery this afternoon. We welcome you to the exciting proceedings of the Legislative Council of Western Australia!

Committee Resumed

Clauses 245 to 261 put and passed.

Clause 262: Term used: Reviewable decisions —

The DEPUTY CHAIR: Hon Colin Tincknell, there are amendments standing in your name on the supplementary notice paper.

Hon COLIN TINCKNELL: I will not proceed with those amendments.

Clause put and passed.

Clauses 263 to 346 put and passed.

Title put and passed.