RESIDENTIAL TENANCIES AMENDMENT BILL 2015

Second Reading

Resumed from 18 November 2015.

MS J.M. FREEMAN (Mirrabooka) [4.21 pm]: The parliamentary secretary has not spoken on the Residential Tenancies Amendment Bill 2015. He will get the first opportunity to speak on the bill during consideration in detail or the third reading stage. The second reading speech of the parliamentary secretary at the time that this bill was introduced into the house on 18 November 2015 —

Mr B.S. Wyatt: Are you the lead speaker?

Ms J.M. FREEMAN: I am the lead speaker.

The member for Mandurah will be interested in this point, so I would detain him for a moment. The bill was introduced on 18 November and the parliamentary secretary at the time said in his second reading speech that it was another example of reducing red tape. The bill was introduced on 18 November 2015 and we are debating it on 11 October 2016. I do not know about members, but that sounds like spin to me! Although this bill has some important aspects to be debated and it is a very important bill, it is a misnomer to try to package this bill as somehow being part of the government's red tape reduction policy. It is trying to deliver something to property owners and property managers in particular; it does not necessarily have anything to do with reducing red tape.

Let me take members through some of the particulars of the bill. One of the most important things about this bill—the whole reason for suggesting that it may in some way reduce red tape—is that it will give property managers and property owners the right to set a date to attend a property for an inspection. It will simplify the process whereby a lessor is required to issue a notice of proposed entry to a tenant. That is in clause 4 of the bill, which amends section 46 of the act. The words "before the lessor gives notice under subsection (2) of a proposed entry to the premises" will be deleted and the words "if it would unduly inconvenience the tenant for the lessor to enter the premises as specified in a notice given under subsection (2)" will be inserted. This amendment will allow tenants to say that it will inconvenience them and to give reasons. Previously, an inspection by a property manager had to be done by agreement. I thank the advisers. We met some time ago. I am not sure whether it was the same advisers. We met back in the hallowed halls of time after the bill was introduced. I understand that this provision is for the industry, not for the tenants.

We all know that tenancy legislation provides a balance between tenants and property owners and property managers, but we have to hold that balance with the knowledge that when a person rents out a property, they are not renting out their home; they live in their home. Renting out a property is a business; people gain income from renting out their property. Rental properties are extraordinarily important in our community. We had a major debate in the lead-up to the last federal election about negative gearing and the concept that if negative gearing on existing houses were removed, it would have an impact on the quantity of rental properties in the market. I am not going to go into that debate. Anyone in this place will have heard me say that I believe that negative gearing is a major disruptor to the delivery of rental properties. It means that people can constantly claim issues around housing. It benefits people with property and encourages them to continuously buy property. It takes first home buyers and other people entering the housing market out of the market and subsidises those who already own property. It is a big subsidy. My view, and that of many housing organisations, is that negative gearing is not the best way to ensure that there is housing affordability. It also keeps superannuation companies out of the social housing space because they cannot compete with the taxation benefits that are given to mum-and-dad investors through negative gearing. I know that because in the past I sat on a superannuation board, and when we did investigations into investing in social housing, the superannuation companies pointed out that they could not get the same returns as someone who accessed negative gearing could get.

The first part of this bill will simplify the process. At the moment, property managers and property owners have to negotiate a time. This amendment will allow the inspection date to be set by the lessor or the property manager. The adviser said that it is a reasonable change for the property industry, but one questions whether the balance between tenants and property managers or lessors will be a good one with this change.

Tenancy WA has responded, and I will go through a number of points that it has raised about the changes in the bill. It supports the provision of a standard notice of entry. That is a good thing, because the reality is that some people do not know their rights, and many lessors and property managers sometimes just turn up on the front step and say that they are there to inspect the property and if the tenant does not know any better, they will just say, "Okay; you can come in." Tenancy WA supports the provision of a standard notice of entry to ensure that renters receive clear information about their rights. It advised that in most instances tenants were not aware that they had the right to say that it was not a reasonable request; therefore, Tenancy WA believes that the

requirement for a form to be issued before the lessor obtains entry will place the tenant in a position of knowing that they can negotiate in good faith. We all know that good faith negotiations are important in the ongoing success of tenancies. Tenants, especially with Western Australian tenancy laws, have limited rights over the length of their tenancy. Under WA tenancy laws, and without any reason being given, a tenant can be given 60 days' notice to vacate the tenancy and 30 days' notice with a reason, such as the sale of the property. That is unlike some other countries, and the member for Gosnells, who is in the house at the moment, will point out that in places like France tenants have greater tenure rights. I want members to step back and recognise that a rental property is not the lessor's home. People live in their home, and if they rent out a property, it is part of a business. Nowadays, a rental property can be part of a self-managed superannuation fund. When someone is running a business, they have to recognise the rights of people occupying business premises. A rental house is part of a business and it is important to note that the capacity for tenants to be aware of the opportunity for good faith negotiations with the lessor is very important and integral to their tenancy. Tenancy WA says that the form will perhaps place the tenants in a situation in which they can say that the date they have been given does not work for them, whereas previously they were not aware. But Tenancy WA also felt the result of this change could be the opposite and that a lessor could use this provision as a lever to create uncertainty for the tenant about their rights, which would be a bad thing. The form should clearly state that a tenant suffers no adverse effect from changing the entry time if there is a good reason for doing that. There is no definition in the bill of "undue inconvenience", which will cause problems. Although Tenancy WA gives cautious support to that change, Shelter WA does not support it because "unduly inconvenience" is not defined and is open to interpretation.

The DEPUTY SPEAKER: Order, member for Butler, I have someone on their feet.

Ms J.M. FREEMAN: We also need to recognise that when the act was introduced in 1987, at its heart was the right to peaceful and quiet enjoyment of a tenancy. If the provisions in this bill can be interpreted by a lessor to demand the right of entry at any time, it will take away the tenant's right to quiet enjoyment.

The second part of the bill proposes to remove the requirement for notices about abandoned goods to be advertised in a newspaper circulating throughout the state—the poor old *The West Australian* loses another advertising revenue! Previously, that occurred when someone abandoned a tenancy or they were evicted and they left their goods, which happens in circumstances when the tenancy relationship has broken down quite considerably. They are still the tenant's possessions and are part of the assets of that tenant. I recall that in 2011 some really good changes were proposed in cases of tenancies being broken due to domestic violence. I would not mind the parliamentary secretary giving an update, through his advisers, on those changes. For example, it was proposed that the provisions would be less arduous in cases when someone had to very quickly abandon a tenancy for good reason, such as personal safety because of domestic violence or other extenuating circumstances. The act puts the onus upon the lessor and property managers not to simply throw out a tenant's goods, the asset of that tenant, if those goods were not picked up within a reasonable time. I understand the act provides a process for contacting someone and asking them to pick up their goods in a reasonable time, and to dispose of those goods if that does not occur. Again I ask the parliamentary secretary to clarify that for me. I think the property manager can sell these goods and put the money from their sale to cover expenses and the rest of the money probably needs to go into the bond central trust of the Consumer Protection Division as unclaimed moneys.

The bill will take away the requirement for a notice of sale of abandoned goods to be advertised in *The West Australian*, and for such a notice to go on a website. I will tell members that Tenancy WA does not believe this will increase the likelihood of tenants being made aware of the sale of their goods, because in every instance the property manager should make reasonable attempts to contact the person before resorting to a public listing, and because a cost is associated with advertising, it is likely the property manager will make all those reasonable attempts to contact the person by using the information available to them, such as a phone number, email and last known address. If the property manager only has to post it on a website, the inconvenience caused or the cost of advertising is taken away. It is expensive to advertise in *The West Australian*. I understand that, but at least it meant that property managers would have resorted to other measures to get those goods identified and picked up. However, if they can just put a notice on a website, that expense has been removed and it may be that they do not try to contact the tenant and simply put the notice on the website for the required length of time and then dispose of the goods. When I asked the advisers about this, they referred me to proposed new section 79(3)(b)(i), which states that notice must be —

> made publicly available in any manner prescribed for the purposes of this paragraph, including (without limitation) by means of a website within 7 days after the day on which the goods were stored;

That does not make clear on which website the notice will be lodged. I have not seen the prescribed manner in which that will be done. It does not seem that a website has been created, even though this bill was introduced in

November 2015. It is not clear whether that website is the property manager's website or what a mum-and-dad lessor would do. Frankly, if we are getting rid of red tape with this legislation, what we have done here is create a bit more red tape, because no-one knows where this will be posted. It would be really good if the parliamentary secretary could outline that.

The legislation allows for notices and documents under the act to be served by electronic means. Many advocates express extreme caution over this provision. This is not unknown; it happens in New South Wales and, I think, Victoria. Tenancy WA cautiously supports this provision. I will read correspondence sent by Tenancy WA to Hon Kate Doust, member for South Metropolitan Region, who is the shadow spokesperson in this area. The letter is dated 9 May 2016 and reads —

> We note that the *Electronic Transaction Act 2011* already makes provision for service of notices and other documents by electronic means, with the consent of the parties. The prescribed Residential Tenancy Agreement Form 1AA includes a section for recording the parties' consent or otherwise for electronic communication.

Currently, under the Electronic Transactions Act, people have the capacity to receive documents by email. In the pursuit of red tape reduction, which we are supposedly doing, we are making more red tape, because we are bringing in new legislation that refers to emailing these documents. Tenancy WA is concerned that there will be a mismatching of these pieces of legislation, and it is already there. When people consent on the electronic form, they are giving consent to receive documents electronically. By consenting to do that, they are fully aware that they will receive electronic notification. This takes away the necessity for the lessor or the property manager to tell a tenant that they will receive notification by electronic means. That is a major problem if eviction notices are sent electronically.

Tenancy WA's major concern is that tenants are not always on the internet because internet services are expensive. Often people get into rental arrears and have problems with their tenancy because they are financially strapped and facing financial difficulty. They have lost work or various other things have occurred. One would think that one of the first bills that those people would stop paying would be to their internet provider—maybe not, but maybe—or they may start having problems meeting the costs of their mobile provider, so having access to electronic means of getting those emails or text messages may be reduced. People are not always on the internet, especially people who are at housing risk. Access to email is expensive and people in the regions are not always in phone range. Interestingly, this legislation was written for the mainstream, not for people at housing risk. But people whose tenancies are at risk are always the ones who are at risk of homelessness, and homelessness creates most of the costs involved in providing government services; therefore, the taxation of our communities. Homelessness is a big cost and we do not want unnecessary situations and misunderstandings because we have introduced a manner of making people aware that their tenancies are at risk that people cannot be aware of.

Tenancy WA's major concern is that tenants might not understand that email can be used for service of a termination notice and court proceedings. The letter goes on to state that it will cause court difficulties because electronic transmission does not deem a tenant to have received it for the purposes of court action. If a certified letter is sent to a person's last known address and that is the only way it can be done, it can be deemed in the courts as a person having received that letter. Tenancy WA refers to that in this letter. I am pretty sure that the parliamentary secretary has a copy of this letter. For the deeming provisions under section 85, postal service and personal service deem that a person has received the document, so there is no way that a person does not know that they are getting evicted or that there is going to be a court proceeding. Electronic procedures will not be deemed for the purposes of section 85. If electronic procedures are not going to be deemed for the purposes of section 85, then this legislation causes a bit of red tape, because the lessor or property manager is going to think that they can send an eviction notice by email. If the person does not receive the email and they go to court and an email is sent stating the court date, they will turn up to the court to be told that the email does not get deemed and they have to service the tenant by postal provision.

The Tenancy WA letter continues —

> We strongly recommend that the parliament does not include further areas of overlapping and inconsistent provisions, by the inclusion of provisions for electronic communication in terms which differ from the *Electronic Transactions Act*.

If this legislation is a bit of red tape reduction, it fails very badly in delivering that to the community. Shelter WA does not believe that only electronic means should be used when details are known. It basically states that the situation should revert to how it was before and people should sign a form to allow communication by electronic means to happen, and that is all well and good.

The Northern Suburbs Community Legal Centre's top issue is that private owners do not follow correct procedures to terminate tenancies and they often do it by text message. Can the parliamentary secretary tell me whether text messages will come under electronic means in this bill? The legal centre also said that lessors and property managers can be intimidating when using electronic means and harass tenants and tell them that they have been evicted without following proper procedures. The legal centre did not give me an example of this, but I found an example from Sydney. I accept that this may not occur here, but I think that it probably does. This example is from an article in *The Sydney Morning Herald*, on 3 October 2006. The New South Wales Residential Tenancies Act allows for tenants to be evicted on a no-grounds basis, and we have a similar provision in our Residential Tenancies Act. The article points out —

> Penny McCall Howard received an email from her agent at Richardson & Wrench Elizabeth Bay in July, telling her she would be evicted from her rented home in Dulwich Hill. The fateful email came just nine minutes after she had sent an email asking for repairs to be carried out before a rent increase, and objecting to the removal of a lawn mowing service.

There you go. A person can send an email asking their agent to come and fix bits and pieces and the agent can send an email back stating—I think this is the way they put it—that it feels the tenancy has reached the end of its life. We really need to be careful. I often think that writing a letter makes you stop and think. In this job we all know that sometimes we have to write the email and put it into the draft box before we hit send. Again, I worry—taking us back to that step—that a goodwill relationship has to be established in the rental–lessor relationship for ongoing clients. That is very important and I will talk about it later, because housing stress and housing security have a big impact on the wellbeing of our community and on mental health in our community.

The Northern Suburbs Community Legal Centre said that at least 50 per cent of its clients did not have access to the internet or web 100 per cent of the time. Indeed, I am told—this was just quoted to me—that that figure is backed up by research by community legal centres on community legal centre clients' use of technology. The findings are that the community legal centres' clients use technology at significantly lower rates than is the case with other justice service customers. If members look at CLCs and other justice service customers, they will see that CLC clients use technology significantly less than is the case with other justice service customers.

The last major change in the bill, as I understand it, is to provide for forms that were formerly prescribed to be forms approved by the Commissioner for Consumer Protection. This amendment allows for the forms to be flexible. Tenancy WA maintains that prescribed forms are better because they are brought into the Parliament and are laid before the house to be disallowed or allowed. It is not so much that we look at them, but that stakeholders look at them. They are a red flag that stakeholders should look at those things. Tenancy WA says that if the commissioner ensures that stakeholders are consulted in the drafting of any form to ensure that important feedback is provided and to avoid unintended consequences, it is not completely opposed to this amendment. I would appreciate it if the parliamentary secretary could put on record that the commissioner will make a commitment to stakeholders that a process will include them with any changes to any forms.

One of the things not addressed in this bill is the non-lodgement of bonds and the lack of action taken by the Department of Commerce. We now have a central bond agency, but my understanding is that there has been little action to pursue non-lodgement. That creates major problems and issues for many community legal services and other services that deal with tenancies. The primary issue is bonds and bond disputes. The top tenancy issue at the Edmund Rice Centre is bond disputes at the end of the tenancy. That centre deals with a lot of newly arrived Australians who have English as a second language and who do not fill in or do not know to fill in the property condition report when they enter into a tenancy. When they come to the end of the tenancy and the property condition report is assessed, the property manager or the lessor states that this is damaged and that is damaged, but the tenant has nothing to show the property condition at the beginning of the tenancy. This is also an issue partly because owners or lessors have not held bonds in the central bond account. Domain Rental Management, a residential rental and property management agency, made the comment that of 1 000 analysed complaints, the first most frequent complaint for tenants was unfair bond claims. The second was black mould—which is interesting in itself! The third most frequent complaint was illegal landlord access, which is probably very pertinent given that this bill will give greater capacity for landlords to enter properties.

We are here, supposedly, talking about some sort of red tape reduction. We already know that this legislation will not reduce red tape because it will introduce another complexity. The government cannot really be serious about red tape reduction because it has taken a year for the bill to get here. When we debated significant amendments in 2011 to the Residential Tenancy Act 1987, the biggest issue raised was boarders and lodgers and the fact that that issue had remained unaddressed in 2011. I tried to find the reference, but I could not, but I am certain that the minister at the time, Hon Troy Buswell, said in 2011 that that was a very important issue for the government, that it recognised the precarious tenancy situation that boarders and lodgers are placed in, and that the government would be addressing it. Therefore, it is absolutely outrageous that on 28 September 2016, the

Department of Commerce said that it will come out and have a consultation about what is needed for boarders and lodgers. That is very disrespectful considering the many consultations that took place with the sector between 1987 and the major amendments of 2011. The government finally introduced some measure into this place and got it through, and now we are told that it will have another consultation process for the most vulnerable tenants in Western Australia with a closing date of 16 December 2016. The government is just not genuine.

This quote is from the Department of Commerce —

> Occupants of boarding houses are often vulnerable people on low incomes such as the unemployed, disability pensioners and single parents.

As we have said, they are not covered by the Residential Tenancies Act. It goes on —

> Many boarders and lodgers have limited financial resources and their lack of alternative accommodation options can sometimes put them in a vulnerable position, leaving them open to exploitation or eviction without reason or reasonable notice. So we need to consider if there is a need to provide these people with specific legal protection.

Can I answer that question for the parliamentary secretary? There is absolutely a need to give them specific legal protection. There is absolutely a need. No consultation is needed. The government should have just brought it in. It has a bill before us. As I understand it, there is legislation and discussion on an ongoing basis in this regard in other states.

These changes are happening when there has been a major cut to tenancy advocacy. I accept that the cut has come about because bonds go into the central bond deposit account and there has been some difficulty with low interest rates. Department of Commerce funding for the tenant advice and education programs has been cut by 28 per cent. I think there are 13 services providing tenant advice services throughout the state. There is the Northern Suburbs Community Legal Centre, the Welfare Rights and Advocacy Service, the Midland Information Debt and Legal Advocacy Service and the Sussex Street Community Law Service—to name a few. I am sure there is one in Mandurah that also provides this service. There has been a 28 per cent cut! When I asked in estimates committee hearings about these cuts, the commissioner for the Department of Commerce pointed out that the reduction is because the pool has been declining. I can tell members why the pool has been declining; I know why. It is not the interest rates; it is because the Magistrates Court has been using it as a source of funding. It takes money out to run stuff. It has found a really nifty little pool of money and it pulls from that pool. This is to the extent that the Department of Commerce did not even pull from that pool; that is, it did not take money that it could have taken from that pool of money from interest that accrues on bond deposits. The money is generated from interest from that bonds fund. That has been depleted. Firstly, it was depleted by the Department of Commerce when it set up its online bonds process, which it has finished. It took money from that fund and decreased the nest egg. The poor old community legal centres have continued to get the funding that they were supposed to get. It is specified in the act that they get an amount. Meanwhile, everyone else has been using that pool as a source of additional funds. When there has to be belt-tightening, it should not come from the community sector that well delivers services to those vulnerable tenants who need advocacy and advice. The effect for the Northern Suburbs Community Legal Centre specifically is that it cannot deliver a duty lawyer for a court service in the Perth Magistrates Court anymore. This service, which was recently commended by magistrates for the good work of the advocate and the assistance it provided to the court process in resolving cases swiftly, has had to be removed because of this lack of funding—this 28 per cent cut in funding. It is worth noting that from 1 July 2015 to 30 June 2016 the Northern Suburbs Community Legal Centre provided advice to tenants on 3 716 problems relating to tenancies. On the other hand, the commonwealth, through the Department of Social Services, has also cut funding for its settlement services, including assistance with housing. That has resulted in the Edmund Rice Centre's specialist housing program being cut. It provided hands-on assistance for community members with a non–English speaking background when assisting with tenancies.

We are squeezing people from both sides. As the adviser said, the government is making a reasonable change for the property industry. We are taking away and limiting some of the rights of tenants. We are making it easier for property managers to put vulnerable tenancies at risk, but we are not able to give those tenants the advice they need to be able to maintain their tenancies. I remind members again that stable ongoing housing is really important for people's wellbeing, children's education, mental health and general health. Housing is not just about having a roof over our head; it is so much more. I remind members again that for the people who rent out their investment properties, it is not their home, it is their business. If tenants are vulnerable, they need assistance to be able to stay in tenancies, and not have a situation in which they cannot gain that assistance because the funding for that assistance has been cut.

One of the reasons the Edmund Rice Centre had such a great service in its specialised housing support program is that housing application forms are often too complicated and require references, tenancy histories and ID that many newly arrived Australians may not have. The Edmund Rice Centre has had funding cuts so it no longer provides help to individuals, but it is saying that people continue to turn up asking for assistance with forms to be completed because of the language difficulties that they face. It assisted 613 people in the last financial year. There is a need out there. The last thing we want is people not being able to access advocacy that assists them with their tenancies.

Renters are often faced with situations in which owners tell them that they have damaged property, telling them that the paint is peeling on the walls and they have knocked some plaster off. I want to talk about that.

The ACTING SPEAKER (Mr I.M. Britza): Excuse me.

Ms J.M. FREEMAN: The minister should be interested in this. He was the parliamentary secretary. The Acting Speaker is telling him to sit down and listen to me.

Many renters are going to a Facebook site called Shonky Builders or Tenants/Renters in Crisis to comment on how they are being blamed for damage to their walls that should not be classed as damaged, given everyday wear and tear. The government has known about it. It is about white set plaster. We all know that WA homes are predominantly built with white set plaster. I just ask the parliamentary secretary to stay with me because this issue is important for renters. We all know that we have white set plaster in WA homes. New South Wales, Victoria and other places use plasterboard, but in Western Australia we have decided to use white set plaster, which is the old British way. If that plaster is too soft or moist and lacks durability, the walls may damage easily and paint will fail to stick to the walls. The "White Set Plaster Report" was recently produced. This is a major issue. For at least the last 14 years, if not longer, the industry has used substandard plaster in new homes. It started to be identified in March 2002 when the Building Disputes Tribunal made a finding for compensation against Peter Stannard Homes for defective plaster being soft in 50 per cent of the rooms that had been built. The "White Set Plaster Report" that was released in July 2016 states that the problem in new homes is that white set plaster walls are soft, crumbly and easy to crack instead of being hard and durable. When we put a piece of sticky tape on the wall and the paint comes off, that is not supposed to happen. That is the plaster, not the paint. I did not know that before I read this report, which states —

> This affects at least 2000 new homes every year. The six-year period allowed for complaints about new work means Western Australian builders could be liable for defective white set plaster in a minimum of approximately 12,000 homes at any given time.

The minister has known about this for a long time and he has not told consumers. That is my complaint. We now have renters who did not know that they could say that it might not be the kids knocking the wall or their fault for putting some sticky tape on the wall. It might be that a shonky builder built the property that they are renting. The question that really needs to be resolved is: how do consumers assure themselves that the white set plaster in their home or in their rental property is sound? Further, if they have concerns about it, how do they satisfy themselves as to its quality without a costly application to the Building Commission or, if they are a renter, by saying, "Actually, I did not damage it; the problem is white set plaster." Imagine being a renter and trying to argue that one is entitled to keep the bond because it is a white set plaster issue. A property manager will just say, "You're nuts", but those renters are not nuts. They are seeing something that occurs in at least 2 000 new homes every year. That is just an estimate. I heard that one in 10 houses in Western Australia might have shonky plaster. If it is that bad, why are we not telling consumers? The minister has known about this, as I have been asking questions through Hon Kate Doust in the other house for some time.

By way of background, lime content and hydration of the white set plaster can result in a lack of durability of the plaster and diminish the final product when painted. At the core of the issue is how to ensure that consumers are aware of the need to have their white set plaster wall harden to a finish that is sturdy and to which paint adheres. On 19 May 2014, two and a half years ago, the Department of Commerce issued a press release in response to continuing consumer concern about paint peeling off damaged areas of plaster. Increasingly, the issue was found to be with the plaster rather than the paintwork. In responding to a question without notice that I asked earlier this year, which asked what the Building Commission had done, given its awareness of the issue, to determine whether defective white set plaster is a problem, the Minister for Commerce informed the house that a report of the working group would be released in mid-2016. It was released in July 2016 and has seen no action to inform consumers. Since May 2014, despite the extended concerns being fully evident to the Department of Commerce and the Building Commission, consumers have been left uninformed.

The report had not been released when we were considering the budget estimates; it was released shortly afterwards. When I asked during estimates what the Building Commission was doing to inform consumers, I was

told that it was working with builders only and not informing consumers. The "White Set Plaster Report" is really quite comprehensive. It goes through the issues and comes up with recommendations, stating —

> **The Building Commission introduce a more rigorous complaints process so that the wrong parties will no longer be subject to incorrect and costly claims relating to defects in white set plaster walls.**

Consumers who buy new houses have to go through this horrible process with the Building Commission and then the State Administrative Tribunal. The painter is the last trade to do work. They say, "The fact that the paint has not adhered has nothing to do with me, it's the plasterer." Or the fact that paint is coming off, it is the plasterer's fault. All the while the Building Commission and the Minister for Commerce know about this, yet nothing tells consumers that if they use this product in the building area they have to ensure that it is up to standard. Consumers know what standards to expect from a bricklayer because they are registered and they know what standard they will get from a painter because they are registered, but a plasterer is not registered.

I will use the example of cottage industry builders. Everything is being done to a time line and for the least cost so that cottage builders can get a profit margin for houses. Housing is a major investment. Investing in a rental property for the purposes of self-managed superannuation is done for good reason. People think they are adding to the economy and they are obviously getting a benefit. There is a view that it provides an important service to the community. Owners say, "I have this perfectly good, new house, how is it you're damaging the plaster?" Imagine being the tenant on the end of that, thinking, "I don't think I am." But consumers do not know. The owner is not going to say it is probably the builder's fault; they will say it is the tenant's fault: "I'm not there to watch you all the time. You're obviously doing something." The tenant is at the end of the line of a really bad process of being a consumer of something that is substandard. The Minister for Commerce and the Building Commission have refused to do anything to ensure that consumers are aware.

Given the impact on consumers, both in cost and convenience, I believe it is imperative that there is clear guidance about the standard of white set plaster required in the housing industry and good information for members of the community in knowing how they will assess that. That is really important. I am sure there are others. If members go onto the Facebook site Shonky Builders WA, they can see that last week there was a story about a house in Mandurah that flooded when it rained. It is difficult for a tenant to be at the end of something that has been known to be an issue since 2002. A tenant can say that it is fair wear and tear. If a tenant pushes a chair gently against a wall and plaster falls off, it is not their fault. They may wonder how that happened. There will be an argument over the bond. The tenant will never know that a defective product was sitting on the walls of the rental property. Through no fault of the tenant, the property owners or the property managers, the tenant, who is at the end of the line—having paid the bond—will pay to fix something up. It will be patched up and repainted and the next tenant will have a similar problem all because a blind eye is being turned to the fact that we have a major consumer issue in our community. It is a building issue. Houses are a major investment in our lives. We want the construction and building of houses to be of a standard that is basically set on the side of the plaster bag—how to mix it, how to leave it, how to dry it out and how to make that happen, including what lime to use. I think the minister has been unconscionable in not making consumers aware.

I will raise two things in conclusion. The Equal Opportunity Commission has been at the forefront of ensuring that tenants are protected from discrimination. "Protected" is the wrong word. The discrimination of tenants has been investigated. For example, a major investigation that was done into private rentals and the discrimination of culturally and linguistically diverse communities found that many property managers preferred English-speaking, non-diverse tenants, especially during the period when housing was difficult to find. I do not have the findings and recommendations with me but there were certainly those findings. It was a really good education process for many property managers and real estate agents around town in terms of diversity and the importance of CALD families. Discriminatory assumptions were made about what they would be like as tenants. The Equal Opportunity Commission also did a major report for the Department of Housing about its treatment of Aboriginal tenants. It very definitely found at that time that the Department of Housing was discriminating against Aboriginal tenants. To its credit, the Department of Housing addressed that and made changes around its discriminatory practices. It is a really great concern to me that despite the agency expenditure review process last year, which meant a 30 per cent loss in staff, and despite the Equal Opportunity Commission being cut to the bone, the state government has told the Equal Opportunity Commission that it wants to cut another $125 000 from its budget, which is already under pressure to deliver its core business. It is a tiny agency but it has a powerful punch in our community to meet the needs of vulnerable people, particularly things like tenancy rights. Only 20 staff remain. Staffing is the largest cost. The Equal Opportunity Commission delivers human capital. With 20 staff left, asking for another $125 000 is unconscionable. It is cruel to say to public servants, "Here is your remit and here is what we want you to achieve", but not give them the resources to do that. It is unfair that the community cannot access services. It is not enough to hang a shingle that says, "Come here, we

can look at issues around discrimination and equal opportunity." The sign can be hung, but unless the services can be delivered, the sign is pointless. If a very important agency like this keeps being cut, it will be to the detriment of people who access residential tenancies legislation.

I will finish with the Australian Institute of Family Studies' briefing paper that was done for the federal government. It is a bit dated—it is dated June 2008. It states very clearly that housing is one of the most basic needs for families. Quite an extensive review of many studies was done around that. It pointed out indirect and direct ways that housing can affect health, such as the physical aspects of housing. If it is damp and cold and those sorts of things, it will affect health. However, the indirect areas are such things as security of tenure, or when affordability of housing forces people into areas where they do not have access to services. That has an impact on health. The capacity to live in areas where there is social and community infrastructure is important. However, one of the most important factors in housing, shown not just in this report that I have read, is the quality of housing tenure. The ability to have certainty about the future in housing is absolutely a foundation for people's wellness and health. There is no doubt, no matter how we gauge the effect of the level of housing tenancy and the capacity for long-term housing on people's health, that there is a clear connection. The report states that more research is needed, but it goes on to state —

> However, it seems important for family and relationship service providers to recognise housing issues as being possible underlying problems that place considerable stress on families, including their health and wellbeing.

In conclusion, there are a few missed opportunities in this bill. I do not think it is a red tape reduction bill. We have shown that as the furphy that it is. The parliamentary secretary should have been doing boarders and lodgers, and he would have made himself a legend in the community. This is just tinkering around the edges that will place vulnerable people more at risk.

MR C.J. TALLENTIRE (Gosnells) [5.22 pm]: I rise to speak to the Residential Tenancies Amendment Bill 2015. I begin by noting the state of the real estate market in Western Australia. It is a renters' market. A property investor who wants to let a property should do everything possible to make that property as attractive to prospective tenants as possible. The owner needs to make sure that the property is in good condition and that the rental is attractive and in keeping with the market. However, I am not sure that we are seeing that happening. I understand that properties are being left vacant for extended periods. Part of the problem may well be that a number of landlords are simply not keeping up with market expectations. This legislation is all about giving landlords something extra. I do not see what is in it for tenants, and I think that is extraordinary, given the circumstances of the market. We should be assisting tenants to find more attractive property rental options and to ensure that they are respected as valued customers.

A property investor with a good tenant will do everything to keep that tenant. They will look after the tenant, and make sure that the rental is pitched at the price that the tenant feels they can afford and that the quality and maintenance of the property is up to a good standard. That works for many people who are savvy property renters, but many people renting properties are not necessarily even aware of the current state of the property market. Many people are in rental accommodation because they cannot afford to own properties themselves. They have convinced themselves that that option is completely beyond them and that they will be tenants for the rest of their days. They are the people who struggle. In my electorate, I think about 20 per cent of the housing stock is occupied by tenants. As many as half those tenants are very aware of the state of the market, and they know how to get a response to what they see as reasonable requests of a landlord. However, in a sizeable percentage of the tenancy market in Gosnells, people do not understand their rights and probably do not understand that they have a legitimate case to ask for the hot water system to be repaired quickly, or a justifiable case for complaining about things such as mould or leaks, or about drafts in winter, or other problems that result from poor quality construction or ageing buildings. Many renters are not aware of their rights, and do not know how to insist that they be given better quality accommodation, or that improvements be made to their accommodation. I do not see anything in this legislation that will resolve that situation. I am surprised that, when the government was wondering about how it might improve the Residential Tendencies Act, it did not realise that this was an opportunity to improve the quality of the rental housing stock. It is unfortunate that that course has not been taken.

This legislation covers four main areas. It has been made easier for the property owner to get in and do an inspection of the property. The second key part is, if a tenant has moved on and has left some goods that are a nuisance, and the landlord is required to store those goods, the landlord can advertise the abandoned goods in an easier way than is currently the case. That is the intention of this legislation. The amendment will allow for the abandoned goods to be listed on a website. The third area is around dispute resolution. If there is a dispute, and the tenant has moved on—perhaps it is a dispute about the bond—that can be advertised on a website rather than having to go through a process of putting advertisements in the newspaper, the argument being that that is

cheaper. Again, we are making life much easier for landlords, but I do not think we are necessarily dealing with improving the quality of service in the rental property market. That is where I think we should have been focused. The fourth major amendment is about forms that might be used to govern an agreement. If I have this right, parliamentary secretary, we are changing the procedure so that forms will no longer be prescribed, as they currently are. In the future the forms will simply be those that have been agreed to by the commissioner.

Mr A. Krsticevic: Only one form—form 5, which is a notice of intention of dispute application for deposit of bond money—is actually a prescribed form. All the rest are approved forms. That is an anomaly providing that every single other form used in the Magistrates Court is an approved form, but this one, for whatever reason, links with form 6, and it is a prescribed form. There is no reason this form in itself has to be a prescribed form. That one form is changing—nothing else. All the other forms are already approved forms.

Mr C.J. TALLENTIRE: So we are switching to a system of 100 per cent approved forms?

Mr A. Krsticevic: Of which 99.9 per cent already are.

Mr C.J. TALLENTIRE: My concern is that the adjustments to the forms may not necessarily be in the best interests of tenants. I want to be reassured that the checks are there so that we can be sure. After all, when it comes to rental property, there can be a serious power imbalance; whenever we have talked about the Residential Tenancies Act, that power imbalance issue has been raised. For all I said earlier about it being a renters' market, the reality is that a big percentage of people in rental accommodation do not know how to use that renters' market to their advantage. Also, the market may move on—the wheel will turn. I think only about three years ago—four at the most—if a rental property became available, people would actually be queuing outside that property and outbidding one another to try to get the property. It was a highly competitive and frightening situation for many young people who were starting out and wanted a first home. They would have been dismayed at the pressure on them and the prices being paid. That has turned around dramatically, which is perhaps not to the liking of property investors because it makes it much harder for them. They are displeased when properties remain vacant for extended periods because they do not get any return on their investment, even with negative gearing. The implications of negative gearing on housing stock always make for an interesting discussion. Even with those measures—those negative gearing options for landlords—it is often the case that a landlord needs some amount of revenue coming in because they might be trying to negatively gear the whole of their rental and they cannot do that without tenants. That is a problem that could be faced.

But I am particularly concerned about the issue of power imbalance and the prospect of a tenant being told, in a more than assertive manner, "You're going to get an inspection on your property on Thursday next week, and that's it." The system allows some degree of flexibility and allows for a tenant to say, "Look, I'm not particularly happy with Thursday next week", but the exact wording of the Residential Tenancies Amendment Bill 2015 is interesting. It states —

> if it would unduly inconvenience the tenant for the lessor to enter the premises as specified in a notice given under subsection (2),

"Unduly inconvenience" has a vagary about it that worries me. To what extent does the tenant have to prove they will be unduly inconvenienced? If the tenant is required to take a morning or afternoon off work, is that undue inconvenience? I hope so. But there may be other things as well. What happens if a weekend inspection is proposed and the tenant has a desire to have family over for a lunch? Would that be deemed an undue inconvenience? I am worried that we will be removing the rights of tenants to be taken as serious partners in the determination of when someone can visit the premises for the purposes of an inspection. I of course understand—I think tenants understand this—that landlords need the capacity to inspect properties. I declare that I have an investment property that I rent out. I am very happy with the excellent tenant who has been there all the time I have had the property. The agent who does the property inspections seems to do that like clockwork every three months, and I think it all works really well. So there is goodwill there, and that, of course, is the key to many of these kinds of transactions. When they go well, it is all based on goodwill; that is a positive thing. But when there is some degree of uncertainty or desire of a landlord to perhaps make a tenant feel uneasy so that they will be inclined to break the tenancy agreement and move out earlier, it worries me that there are those sorts of potentials.

I heard the member for Mirrabooka, in her excellent speech, talk about the issue of certainty and the tenure—the length of time somebody knows they can be guaranteed the right to rent a certain premise. That is something in which there is a great inconsistency given the nature of some tenancy agreements. For example, a pastoral lease agreement can extend for 50 years. What is more, the notice to those pastoral leaseholders—the tenants—for a mid-2015 renewal went out in 1997, which is an amazing lead-in time of 18 years. That provided an amazing degree of certainty for people on a pastoral lease. By the way, their rental is often substantially less than what one would be paying on an annual basis for a small three-bedroom, one-bathroom house in Thornlie or Gosnells. The rental for that would be more than for a pastoral lease. It is very interesting that we give pastoral

leaseholders such incredible certainty about their tenancy rights and tenure, and often give them agreements that allow them to have certainty for up to 50 years. It is amazing. There is a serious inconsistency there.

I will say a little more about where I think the legislation could have gone. It really could have pushed hard the notion of improving the quality of the rental housing stock. One way that is being tried around the world is a concept known as "mandatory disclosure". It means that when a property goes on the market for sale or rent, the energy efficiency of that home is rated and presented in all advertising material. So, if we go onto the website of a property that is to let or for sale in the United Kingdom, the home's energy efficiency values are disclosed. That gives somebody the opportunity to consider the costs of renting that place in terms of, principally, the heating; in other parts of the world where the mandatory disclosure system exists, and if it was ever to come in in Australia, it is about the cooling cost as well. I know that the Australian Capital Territory has mandatory disclosure on the sale of properties; I am unclear as to whether it applies to rental properties. That is an interesting question, and perhaps the parliamentary secretary will have advisers who can tell him about that. Mandatory disclosure would, I think, be a major driver for an improvement in the quality of the housing stock. It will not force anyone to do anything. It will not force a landlord to make a home no longer draughty or put shading over certain areas; it does not force the landlord to do any of that. It simply gives them the option of doing that if they want to make the property more attractive to potential tenants, and I think that is a very good way to proceed. If we had mandatory disclosure with the current rental market, we could be sure that people would be thinking, "We have not been able to let this property for a month or so now; why do we not make some improvements to it so that it becomes more attractive and catches the eye of a potential tenant?"

[Member's time extended.]

Mr C.J. TALLENTIRE: The Residential Tenancies Amendment Bill 2015 is before us now, although we amended the Residential Tenancies Act only a few years ago. I have looked at other forms of tenancy agreements made with people in my electorate, and I have a number of constituents whose tenancies are very similar in many ways to those governed by the Residential Tenancies Act. In fact, they come under the governance of the Residential Parks (Long-stay Tenants) Act. It has been immensely challenging for these people because they have been charged entry and exit fees for their properties. I do not think that would occur under the Residential Tenancies Act. Under that act, people pay a bond and they receive the bond back, but under the long-stay tenants act, the property owner can charge entry and exit fees. I raised this issue in 2009 with the then Minister for Commerce, Troy Buswell. I pointed out to him that these fees were in the order of $10 000, and they were going up to $20 000 and $30 000, and there was nothing about it in the contract agreements that people signed. He was appalled, and rightly so, and he got the Department of Commerce to investigate. I know that people in the Department of Commerce have done a good job of investigating. However, the company that owned the property in question in my electorate, Riverside Gardens Estate, saw that the game was up, I think, and it sold the property. The company, which was known as Fourmi Pty Ltd, was owned by a couple of people, one of whom was AFL footy legend Billy Walker, and he sold it. He saw that the game was up on charging these entry and exit fees and so he sold it. Now this property in my electorate is owned by a company called Hampshire Villages. What about the people who paid those entry and exit fees but have now moved on? The company has moved on. How will those people ever get their money back? That has all come about because we have been too slow to act.

[Quorum formed.]

Mr C.J. TALLENTIRE: The issue of tenancy arrangements in Western Australia is very broad.

The ACTING SPEAKER (Mr I.M. Britza): Members, keep your conversations down, please.

Mr C.J. TALLENTIRE: A number of pieces of legislation determine how various forms of tenancy agreements can be conducted. Overall, the Residential Tenancies Act does a pretty reasonable job, but I have concerns about the power imbalance that occurs in certain situations. There are other pieces of legislation that we have not amended. We have had various reviews, submission phases and regulatory impact statements and we have had all kinds of checks, but we have not managed to get the legislation into this place. That is exactly the case with the problems with the Residential Parks (Long-stay Tenants) Act, so I do not understand why the government has not bothered to tackle that act. That has come at a huge cost to the people in my electorate who were charged these very hefty exit fees of $20 000. I know that when I raised this issue with the previous parliamentary secretary some time ago, he was good enough to provide an answer to my question on notice. It states —

> At present, the *Residential Parks (Long-stay Tenants) Act 2006* provides that a park operator must not charge a tenant or prospective tenant any fee for entering into a lease except for rent and a security bond.

That is entirely consistent with the Residential Tenancies Act —

> There is no current intention on the part of the Government to remove this prohibition on the charging of entry fees for residential parks.

The next bit of the answer is quite contradictory —

> The Act does not currently prohibit the charging of fees when a tenant leaves a park. Options for the regulation of exit fees and disclosure requirements are considered in the Consultation Regulatory Impact Statement. In principle, the Government believes residents should be aware of all fees and charges that apply to them.

I totally agree with that last statement, but these people were not aware of the very hefty charges that they were hit with. I am talking about seniors and people who are in their later years. They may have moved on or passed away and, as a result, the chances of someone or an estate or an elderly person claiming these moneys seems to have evaporated. It has not been helped by the fact that the government has let the previous owner of Riverside Gardens, Fourmi, just disappear. It has taken the money and run. Now there is a new owner who is talking about—this is a real concern of mine—getting people to sign tenancy agreements for 30 years or an extended period, but I am waiting on more detail about that. It is a real concern if people are being asked to sign very long agreements. In some cases, that suits a tenant. As I said before, there is the example of pastoral leaseholders, who were delighted to have a pastoral lease with a duration of 50 years, but they are entitled to sell that lease at any stage. However, when seniors and elderly people go into a retirement village that is governed by the long-stay tenancies act, they need to know how many years they will be obliged to remain there, what will happen if they break the contract and the sorts of penalties that they would be liable for if they were to break their contract.

Tenancy arrangements in Western Australia desperately need review, and that that fall under not only the Residential Tenancies Act, but also the Retirement Villages Act and the Residential Parks (Long-stay Tenants) Act and in various other areas. It is important that people who rent property be respected and that rentals not be seen as an inferior way of having a roof over one's head. It has to be seen as equivalent to owning a property. It is a choice that some people make. I know that people who are keen to invest substantially in the stock market love to say that people would be better off putting their personal savings into stocks and shares than into private property, if they were to look at the long-term growth rate of the value of the investment. That would imply that people should live in rental accommodation. That is a suggestion that has often been made by stockbrokers, but I think it needs to be questioned. It would of course depend on someone's capacity to make wise investments. When we consider the overall trend in the growth of the stock market, there is much truth in that, so why are we inclined to look at the rental market as an inferior option? It is quite unique to Australia. We do perhaps have a particular nostalgia for owning our own home. I am not sure that that necessarily stands us in good stead, because it means that much of our personal investment is in property. If we want the economy to be based on investments from all over, decreasing the level of investment in the property market could be a good thing. The legislation before us will make life easier for landlords. I do not think it particularly improves things for tenants, and I am disappointed by that. A good case exists for tenants to be given more certainty about when a landlord is likely to visit their property, to know a little more about goods that they were not able to collect on the relinquishment of a property, and to know exactly when they might enter into a dispute resolution–type arrangement. If that is done on a website, I want to be sure that other attempts have been made to contact them because if a dispute arises, it will probably be about a security bond. If a bond of a few thousand dollars is at stake, people want to know when they will get their bond money back, which is only reasonable.

I want to be sure that any move away from the use of prescribed forms is done in a way that does not damage the present integrity of the form. The parliamentary secretary assures me this is the final form that has been produced in the prescribed manner and that in future the commissioner will look at the tenant's rights, but I need to be reassured of that. I know that landlords will find the Residential Tenancies Amendment Bill 2015 particularly useful, as it is something for them, but there are many other people in various tenancy arrangements who should have legislation that governs their circumstances—their lodgings and their business arrangements—addressed by this place as well. I am curious to know why the government saw fit to prioritise this bill over, for example, a series of amendments to the Residential Parks (Long-stay Tenants) Act. Why was that act not tackled? That would make a big difference to people in my electorate. They have been desperately waiting. People like Del Offord, Roger Weston, Frank and Jackie Gregory, and Dorothy and Roy Tomsett were here years ago, in 2009, for a grievance, but nothing has been done. Promises were made by previous Ministers for Commerce but nothing has been done. We should be addressing other priorities to improve tenancy arrangements in Western Australia. This is a missed opportunity in so many ways; it is tinkering around the edges. The bill contains nothing particularly substantial or offensive. It is a shame that the government is not addressing the real issues that would have made a big difference to people's lives.

MR D.A. TEMPLEMAN (Mandurah) [5.53 pm]: I commence my remarks on the Residential Tenancies Amendment Bill 2015 by congratulating the member for Vasse on her elevation to the position of government

Whip, and the former government Whip, the member for Carine, for his demotion to parliamentary secretary. I acknowledge that and I am sure that the warm and friendly relationship that we Whips have will continue with the new Whip, the member for Vasse.

I was listening very carefully to the contribution of the member for Mirrabooka. The member has a very good understanding and knowledge of tenancy issues. It is always good to listen to people who understand the issues that relate to areas that some of us do not always think about or are well aware of. I want to highlight the second reading speech given by the then parliamentary secretary, who is now the Minister for Local Government, and I congratulate him on his elevation to the local government portfolio. In the second reading speech back in those dark days of 18 November 2015, in espousing this government's relentless actions and approach to reducing red tape, the member for Wanneroo said —

> The bill is another example of the government's commitment to reducing red tape and making life easier for the community and business, as well as reducing costs and saving time within government. Apart from the initiatives contained in this bill, the Department of Commerce has been a leader in implementing such efficiencies.

The parliamentary secretary did not mention that the government would probably not progress this bill for at least a year. He should have added that to the second reading speech, because the simple fact is that this bill was read in on 18 November 2015, nearly one year ago, and now in the dying days of this Parliament—we only have four weeks of sitting left, so not even 12 sitting days now—this very important bill that is aimed at reducing red tape gets clarity. It was seen as being important, but we have waited a year for it to be brought back on for debate. That is as an example of the mismanagement of the government's legislative program in this place over its last term. When we look at the government's program, we see that when the chamber last sat, we debated yet another Loan Bill, the fourth Loan Bill introduced by the Barnett–National Party marriage. That Loan Bill requested another record amount just to keep the lights on in government.

The member for Gosnells questioned why this bill was brought forward now. The government said it was important, but then waited a year before bringing it forward for debate. He referred to other bills that were waiting to be introduced, and his comment on the Residential Parks (Long-stay Tenants) Act was apt. There have been vexed issues in that act and over legislation for the governance of people who live in long-stay parks for many years. Many of us have those parks in our electorates, certainly areas like Mandurah, Gosnells, some regional seats and some outer metropolitan seats have particular issues facing long-stay park owners, yet that has not been given any priority. The reality is that we will not see legislation before the end of the year. It is not going to happen. Those people will be left again waiting and feeling aggrieved because their concerns have not been heard despite the issue being around for some time.

This bill, as has been highlighted by previous speakers, does a number of things, but if it was so crucial to reducing red tape, some parties would be asking: why the delay? For example, one of the things this bill does, which I think is sensible and logical, is to omit or terminate the aged process of advertising the service of notices in the daily newspaper and to allow that to be done by electronic means. I take the point that the member for Gosnells very clearly and quite correctly raised that we need assurances that that new way of doing things is going to deliver fairness to people who need to be aware of that information because many of them are vulnerable people. I am sensing that members want to get out there and eat that fish.

Sitting suspended from 6.00 to 7.00 pm

Mr D.A. TEMPLEMAN: I would like to continue my remarks, which were interrupted by the dinner break and the celebrations associated with the Perth Royal Show. Just on the Royal Show, which has absolutely nothing to do with residential tenancies, I did chat to some of the dignitaries during the break and I wanted to congratulate the Royal Agricultural Society of Western Australia. I took my children along on the Thursday when it was a fine day, and it was very, very good.

I need to just go to a couple of elements of the bill. We will no doubt pursue, interrogate, castigate and manipulate the new parliamentary secretary in consideration in detail. The theme that the member for Gosnells highlighted was the issue of the new method to advertise or notify former tenants about abandoned goods and property. According to the parliamentary secretary, the amendment in this bill allows a far more effective means of notifying former tenants, and includes sending a notice electronically or posting it on a website. The parliamentary secretary could perhaps respond to this in his reply. This particular change is a substantial change. I can understand the reason for the change, given that it seems that people are not such avid readers of newspapers and certainly are not forensic readers of newspapers when reading the public notices section. I would be interested in knowing what sort of education or promotion of these changes is proposed to ensure that people are aware of this change from now on or from the gazettal of this bill. I would like some information about the website. The bill refers to a posting on a website. What does that mean? Is there going to be a central portal website that will be the key website? I just want some detail on that. I am happy for the parliamentary secretary

to respond to that in his second reading response or when we get to consideration in detail. There is no doubt that we are now in a world in which we actually suffer from information overload. A plethora of information is posted or put up on websites that is meant to provide easy linkages and easy information, but because of the plethora of information that is out there now, whether in cyberspace or printed matter, it becomes overwhelming. The concern raised by the member for Gosnells with regard to an assurance that there will be adequate and appropriate education about these proposed changes is important. I understand that obviously property managers, lessors and those sorts of people will have access to the information. I would like to know exactly how that is intended to be rolled out. What sits behind the rollout of a program to ensure that, as much as is humanly possible, people are aware of the nature of these changes?

The other thing that I think is very interesting and relates to residential tenancies and the issues associated with them is the massive transience of people in terms of where they live. The movement of people is certainly a challenge for anyone who wants to keep tabs on how a person can be contacted or engaged with. I would be interested in any statistics the parliamentary secretary might have that show the transience of people. Interestingly enough, some statistics came out not long ago not about residential tenancies but about owner–occupier transience. People change their address on average every five to seven years—I am not sure whether this is a national or a state statistic, but I think that is the statistic I have seen. In terms of residential tenancies and the whole rental market, three years ago the rental situation in Mandurah was at crisis point because people were finding it very difficult not just to get an affordable rental, but to get any rental at all. Real estate agents told me of frequent examples of what were even quite basic rental properties not only attracting above the rates that one would expect for the quality of that property because demand was so high, but also, in the words of some real estate agents, a rental would come on the market for lease and they would have dozens of people seeking to secure it. Of course, there was a pecking order. If a single mum with four kids turned up and next to her was a retired couple, she went to the bottom of the list.

Mr R.F. Johnson: Or a dad with four kids.

Mr D.A. TEMPLEMAN: Or a dad with four kids; that is right.

Mr R.F. Johnson: There are plenty of single-parent dads out there.

Mr D.A. TEMPLEMAN: That is very true. A single parent who turned up with four kids was just left at the end of the line. Thankfully, that problem has been alleviated in Mandurah—there are more rentals available than there are renters. However, that cyclical peak and trough is a concern.

The other thing that I think is related to this and was highlighted by the member for Mirrabooka and the member for Gosnells is the notion that with residential tenancies there has always been a toing and froing in trying to acknowledge and justify the rights of the person who allows their investment to be let and the rights and privileges of somebody who is the lessee. One of the challenges of the whole issue of residential tenancies and the act itself is finding that balance so a person who has an investment—it is true; it is essentially a business—has rights and privileges but they are not unfair to the person the property is being rented to. It is interesting that this bill seeks to address the issues associated with contacting people and how that process will be followed. At some stage, I would like the parliamentary secretary's comment about comparisons of this proposal with other states in Australia. I would like to know what the notification processes are in other states. We are moving to a non-print, more electronic notification process with referral to websites. If that has already been in practice for a period in other states, it would be interesting to have some sort of comment about what the impact of that change has been. The tradition has been that notices are put in the paper in the public notices and people have basically done what they are supposed to do and that is all they could do. Now we are changing. If the parliamentary secretary has any comparative comments about other states or territories that have moved to this regime, I would be interested in his response.

Mr A. Krsticevic: We'll go through that in consideration in detail.

Mr D.A. TEMPLEMAN: The parliamentary secretary will be able to do that? Okay; that is good.

My final comment is on a comment on the last page of the second reading speech, which outlines the BondsOnline system, which was implemented in August 2015. It is now over a year since that implementation. When this bill was second read into this place, the BondsOnline system had been implemented for only a few months. It is now a year since that, so I would be interested to hear in the parliamentary secretary's comments—maybe his advisers will give him some information—about how effective the BondsOnline system has been over the full year of its operation. That is mentioned in the second reading speech on the back page. Those are my comments. I think it has been an outstanding contribution to the bill. I am interested to now hear from the parliamentary secretary and then go into consideration in detail.

MR A. KRSTICEVIC (Carine — Parliamentary Secretary) [7.13 pm] — in reply: I thank members opposite for their contributions to the second reading debate on the Residential Tenancies Amendment Bill 2015 this evening. They have been quite informative and the issues raised were wideranging. I will try to answer the questions that I can. I will primarily focus on the bill itself and try to surround some of those issues along the way.

Residential tenancies are a critical part of our community and provide accommodation to lots of people. It is not just accommodation in a home, for others it is an investment—sometimes the biggest investment they will make in their lives. Over the years, there have always been competing priorities between landlords and tenants, and there has been the need to make sure that we get the balance right so everybody feels that they are getting looked after and are getting the best possible deal. It is a complicated area; we are dealing with people's lives and their family circumstances. It was reviewed back in 2011. A new act came into force on 1 July 2013. At that point, a lot of things were looked at. Other issues have been raised in this place today; some of them we know about and others we could do more work on. I am sure that the department and the minister will take them on board and look at them in the next round of review or, alternatively, make amendments along the way if there are any that need to be made a lot sooner. Of course, any changes that are made in this space by either the minister or the Department of Commerce are done in consultation with the industry and stakeholder groups, whether it be Tenancy WA, Shelter WA, the Property Owners Association of WA, the Real Estate Institute of WA or the Magistrates Court. There are a lot of people who are consulted and give input into any changes that are made. I know that they have been and will continue to be involved in the process. Even as these changes that are before us here today progress through Parliament, there will continue to be discussion and the government will make sure that whatever we come up with creates the best possible solution.

The first point I wanted to touch base on is notice of entry. At the moment, landlords and property managers issue notices to tenants in many different ways. These notices have many different pieces of information on them but they do not necessarily give tenants all their rights, obligations and responsibilities, or their courses of recourse when they are trying to get that right of entry. An approved notice guarantees that everybody has access to the same information and that they will be given their rights regarding how they need to allow entry or negotiate. It is important to remember that the tenant has the right to quiet enjoyment. That is already a given and it will always continue to be the case. If, for example, people are shift workers and they sleep during part of the day, or they have children who might sleep between 12 noon and 3.00 pm, they might be unduly inconvenienced. To some extent, people need to take a commonsense approach as well. It is about working with people; it is not about creating some hardship for the tenant. It is about giving the tenant notice that is in an approved format, gives them all their rights and obligations and states, "I would like to come on a particular day at a particular time." When that notice has been given, if it is inconvenient for tenants, they can contact the landlord or property manager and say, "Look, can you come next Thursday at three o'clock? That is better for me." I am sure that will always be accommodated. This is about people working together—tenants and landlords in long-term relationships—and it is about making sure that they both look after each other's best interests. That is what it is all about. When landlords have a good tenant, they are blessed. Lots of times in the days people were lining up for properties, if people had a good tenant, they would generally do extra things for that tenant. They would not necessarily increase the rent. They would give them all sorts of support. Sometimes these people would become friends as well.

Mr D.A. Templeman: Are you a landlord?

Mr A. KRSTICEVIC: Yes, I am.

Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Members!

Mr A. KRSTICEVIC: It is the only property I own and it is the landlord one, so there you go.

Ms J.M. Freeman: Do you own the house you live in?

Mr A. KRSTICEVIC: No; I only have a rental property. That is all I have.

That is a separate issue altogether. I realise how that works. I have had rental properties for my whole life, and I have to admit I have pulled my hair out on many occasions having those rental properties, as members can see, obviously! They have always been managed by real estate agents. I will not go into my experiences there because that is not what the bill is about. There are winners and losers all around. I have been on the losing end of that on a number of occasions, but that is a separate issue altogether.

I think that the notice clears up things and clarifies exactly what is happening. It stops landlords who do not know what they are doing from issuing people with letters that are terse or not worded properly and do not

express tenants' rights. I think a notice is a good thing. If it is in an approved form and is managed by the department, it will get nothing but a good result and it is not going to create any inconvenience.

Mr D.A. Templeman: Do you have any information or statistics on how many rental properties are managed by a real estate agent or other, as opposed to privately managed?

Mr A. KRSTICEVIC: No, we do not. That is a difficult choice to make sometimes.

I do not think that will create any problems with this legislation. Let us not forget that the purpose of this legislation is to lift the burden and make things easier. To what extent that happens on both sides of the ledger is yet to be seen, but I think the first amendment or change will make some difference.

Going to the abandonment of goods and electronic notices, the Electronic Transactions Act 2011 applies to all the statutes in Western Australia. I suppose this just firms up that connection with the Residential Tenancies Amendment Bill. We talk about moving into the new world and obviously we are moving to the electronic space. I cannot remember the last time I looked at a notice in a newspaper, apart from the death notices, and that is only when I know someone has passed away.

Mr D.A. Templeman: That is only in Western Australia.

Mr A. KRSTICEVIC: That is right, exactly.

Mr D.A. Templeman: They do not do it in papers in other states.

I asked a question about the comparisons to other states.

Mr A. KRSTICEVIC: We will be able to address it in consideration in detail.

Putting a notice in a newspaper is effectively only telling someone something on one day. Now we are opening that up. We are not only allowing all the current methods of communication to exist, but also adding a new method using technology and websites, whether that is through the Magistrates Court or the Department of Commerce. I think all those things still need to be refined, but at least if people know this portal or website exists, they can go there on any day at any time and —

Ms J.M. Freeman: So it does exist?

Mr A. KRSTICEVIC: Not yet, but it will.

When it does come online, people will know they can log in on any day at any time and get that information, whereas if they happen to miss the notice in the paper on Wednesday, they will never be able to see it again unless they search online. I think that is positive. It is good to give more scope and opportunity for people to be able to advertise. It does not mean that newspapers cannot be used—they can—and it does not mean that all the other processes in place cannot be used.

The other point raised was improvements to the prescribed form. That is really about the form 5, which I mentioned earlier. That links with form 6. Form 6 is for landlords wishing to take the bond and form 5 is for the tenant wishing to defend their position on the bond so that it goes to them. There are these two forms and one is prescribed and the other one is approved, and there is no real reason that they both cannot be approved. In saying that, some forms will continue to be prescribed. The property condition report, which is important, will be prescribed, as will the termination notice and the tenancy agreement. The key forms that make up this process will continue to be prescribed and I think that is important.

In regard to the question of being able to terminate the tenancy via text message, that cannot be done.

Ms J.M. Freeman interjected.

Mr A. KRSTICEVIC: No, that is right, and it has to be in a prescribed format as well. A prescribed form has to be used and a prescribed form cannot be sent by text message.

Ms J.M. Freeman interjected.

Mr A. KRSTICEVIC: We have to remember that, at the end of the day, everything that is done can end up in the Magistrates Court, so people have to be able to prove that they have met the obligations of the legislation; that is, they have communicated with someone and engaged with them. I mean, a termination notice would still be sent in the mail. There is no reason that it could not be mailed to where the tenant lives. It is another way of sending information. It might be put in the mail and it might be emailed as well. The landlord can then say they have made every attempt to get that information to the tenants. That is important.

There was the question of people struggling financially being able to have access to the internet. The issue is whether they would be buying the newspaper to read the notices. They can obviously go to the local library and access the internet and read the newspapers there, so it is good that that service is provided.

Ms J.M. Freeman: Family members are more likely to buy the newspapers, flick through and see a notice that says someone's goods are going to get thrown away and alert the person in question than if an email is sent.

Mr A. KRSTICEVIC: Yes.

Ms J.M. Freeman: This thing about emails and *The West Australian* is that it is not necessarily just you who sees it.

Mr A. KRSTICEVIC: It could be someone else.

Ms J.M. Freeman: It could be someone else. The Northern Suburbs Community Legal Centre would probably flick through newspapers and may see a property notice, see that it is a client of theirs and have contact details for that person.

The ACTING SPEAKER (Mr N.W. Morton): Member, are you taking these interjections?

Mr A. KRSTICEVIC: Yes, that is fine.

The ACTING SPEAKER: I get the feeling that you are about to go into consideration in detail.

Mr A. KRSTICEVIC: We are, and we will cover that.

The ACTING SPEAKER: If you are happy to take interjections from the member for Mirrabooka, I am happy.

Mr A. KRSTICEVIC: That is fine.

I will wrap it up, because we will go into consideration in detail and look at these matters in more detail then. Like I said, this legislation is part of making things a little bit easier. It is not a wholesale review of the act. I know there are lots of other issues and maybe some of those can be fleshed out in consideration in detail and taken on board for future reviews and changes. I thank everybody again for their contributions.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Ms J.M. FREEMAN: I want to know about royal assent. Clause 2(a) refers to sections 1 and 2, which I assume are the short title and commencement. Subclause (b) states —

> the rest of the Act — on a day fixed by proclamation, and different …

One assumes that the rest of the bill, in particular the bit that pertains to websites, will not be proclaimed until the website is established.

Mr A. KRSTICEVIC: That will be subject to when the regulations are drafted. It will be proclaimed after that date.

Ms J.M. FREEMAN: That was not my question; I get that we will be waiting for the regulations. I go to the clause that refers to the disposal of goods in someone's house. Instead of a notice being put in *The West Australian* stating that the goods will be disposed of, something else will be done. The clause in question states —

> … manner prescribed for the purposes of this paragraph, including (without limitation) by means of a website.

The parliamentary secretary specifically spoke about a website referred to in the legislation; he has not just talked about it in a manner prescribed for the purposes of the paragraph. My question is about the fact that there are not regulations that refer to a website, but this proposed section will not be proclaimed until such time as there is a website advertising whether the goods will be disposed of. There is mention of that aspect of the website further on in the bill that contains the small amendments before us. That is really my question. It is not so much about the regulations, but the website.

Mr A. KRSTICEVIC: The website will not come online immediately; it needs to be developed. Once the website is developed, that will be put into the regulations. In the meantime, newspaper advertising will continue. Once the website is developed, regulations will be developed.

Ms J.M. Freeman: By interjection, will those particular sections be proclaimed as via this rest of the act on a day fixed by proclamation and different days may be fixed for different provisions? Will the proclamation be only after the website is developed?

Mr A. KRSTICEVIC: Yes.

Mr D.A. TEMPLEMAN: In terms of commencement, during my outstanding second reading contribution I highlighted the notification of the change of communication method. What is intended? Will it simply be by gazettal in the *Government Gazette* and the legislation will be changed, or will there be an education process? I assume the website will be launched at some appropriate time, but will an information booklet or anything like that be sent out to real estate agents, property managers or whomever to explain that there has been a change to the Residential Tenancies Act and explain what it will mean for them? Can the parliamentary secretary outline that? I know this clause talks about commencement, but what is the education program proposed by the Department of Commerce around the proposed changes?

Mr A. KRSTICEVIC: There will be a process and a system of notification. Obviously, as part of that process all stakeholder groups will be involved. They will be informed as part of that. The Real Estate Institute of Western Australia, Tenancy WA and the various stakeholder groups will know it is happening. Emails will also go out to all databases of people involved in the residential tenancy space. There will be media releases as well to tell people about the changes. A program will be worked out in conjunction with the website development and as the regulations come online people will be made aware in the broadest possible way by advertising in local papers et cetera.

Mr D.A. TEMPLEMAN: For the commencement, the bill as per clause 2 is operational on the day on which the act receives royal assent, and if this bill passes this place, goes to the other place, is proclaimed in November, which I assume, given the number of sitting days we have left, is what the parliamentary secretary would be thinking, what is the time line? Is it a few months? Will it be a six-month lead-in period? Is there any thinking around that aspect from proclamation day, because from proclamation day, by law, all the new changes, penalties and everything else will be in place and will be actionable? I want to know the time line. For example, some departments, including the Department of Commerce, have printed matter that talks about the rights of residential tenants in hard copy–type pamphlets, cards and things like that. They are available now. Of course, there will be a website that will have information that will supersede a lot of that existing stuff. I am just interested; I am not trying to be hard on this. From what the parliamentary secretary is telling me, there is no phase-in period and that once this bill is proclaimed, it is law and it is imposed. When we look at the penalties in clause 5 they include substantial fines of $5 000 for non-compliance. I assume there is a plan for the rollout to allow for as much saturation of information as possible and then pursuit of this. As the parliamentary secretary has mentioned, the government wants to save money and untie the issues that come up in the Magistrates Court, as mentioned in the second reading speech. That is what I am on about—that is, the education process to explain that the law has changed. As the parliamentary secretary knows very well as a local member, there are piles of residential tenancy issues so I am interested in the proposed rollout of the program, given that there are some substantial penalties for non-compliance.

Ms J.M. FREEMAN: I am very interested in what the member for Mandurah has been asking and I would ask that he continue to ask that same question.

Mr D.A. TEMPLEMAN: It will allow time for the adviser to provide advice for the parliamentary secretary to respond. Can I give an example? We are going to debate clause 4 next, which talks about the lessor giving notice. A vexatious lessor may grab this from day one. It is proclamation day, the bill is passed, proclaimed, and they may grab the new act and may say, "Right, here's my chance," and they may run with it. I want to make sure that there is a fair and effective process. Clause 4 states —

> **notice** means notice in a form approved by the Commissioner.

There will have to be a notice.

Ms J.M. Freeman: But you can only do it four times in any 12-month period.

Mr D.A. TEMPLEMAN: That is within any 12-month period, but the first one might be not long after the proclamation of the legislation. Someone could say that they are exercising their first right of four. I want some clarification on that.

Mr A. KRSTICEVIC: A whole range of issues will need to be resolved and worked through before proclamation. Proclamation will not take place until all stakeholders are satisfied that all information has been updated and is available and people are informed. It is about doing all the work upfront. When it is proclaimed, all the forms that need to be changed will have been changed, all stakeholders will have been informed, whether

it has been done through the iRentWA app, the website, media—print and radio—bulletins to property managers, Twitter, Facebook and, obviously, talks to community workers and people in the sector. All that work will be done upfront. Once that has been effectively signed off and the website is developed and everybody is happy that we have the right package ready to go ahead, I suppose the button will be pushed and it will come into proclamation at that point. Hopefully, by then as many people in that sector as is humanly possible will know what is happening. Also, when it comes to the penalties, it is about taking it softly, softly, upfront; it is about working with people and warning them et cetera. That will be part of it as well. It is not just about implementing penalties in the first instance.

Mr D.A. TEMPLEMAN: The parliamentary secretary is saying that some work still has to be done before the Residential Tenancies Amendment Bill is proclaimed. Let us say that Parliament passes it, but the parliamentary secretary wants to delay it being proclaimed.

Mr A. Krsticevic: We want to do all the work to make sure that it is implemented effectively.

Mr D.A. TEMPLEMAN: The reality is that that work will not be done. That is why I come back to this time line. When is the perceived time that this bill will be law and, therefore, operational? Clause 2 of the bill states that it will be when it is proclaimed and receives royal assent, which involves a process, including the Executive Council signing off on it and a message coming back, and publication in the *Government Gazette*. The parliamentary secretary is telling me that we will pass it in this place, but we will delay it until, in the parliamentary secretary's words, everything is ironed out and fixed up and the website is constructed. From what the parliamentary secretary has told us, it seems to me that the government will go back and consult with all the stakeholders in that process before he wants it proclaimed and to become law. Is that true?

Mr A. KRSTICEVIC: That is correct; we cannot build a website at the moment because we do not have the legal capacity to do that until this bill is passed. Passing this bill will allow us to do that part of the process. The estimation is that that could all happen within about six months.

Ms J.M. Freeman: The government could have done all the engineering and software work beforehand so that it is ready to go. I understand that the parliamentary secretary is saying that he does not have the legal capacity to build the website.

Mr A. KRSTICEVIC: It is about consulting with all the stakeholders and bringing them along as part of the process.

Ms J.M. Freeman: This was introduced in November 2015. The government could have been doing that between now and last November, if it is a red tape reduction matter.

Mr A. KRSTICEVIC: Supposedly, we cannot do it until Parliament states we can do the work to develop a website for this area.

Mr D.A. Templeman interjected.

Mr A. KRSTICEVIC: The Magistrates Court has been working on its website as part of this process, but, obviously, we need to develop the regulations. To do the regulations, we need to do the website. To do the website, we need to get the legislation through. It is all sort of linked. One step is linked to the next, albeit some work has been done to get to this point. Hopefully, that will all happen very quickly and, obviously, there is a comprehensive program to not only educate the community but also involve the stakeholders.

Mr D.A. TEMPLEMAN: I have been here for 16 years. Maybe the process of royal assent has totally bamboozled me. My learned friend the member for Cannington might make a comment on it.

Mr W.J. Johnston: I am not learned.

Mr D.A. TEMPLEMAN: Okay. Maybe he is just my friend.

Mr W.J. Johnston: I am not your friend!

Mr D.A. TEMPLEMAN: Okay. Maybe he is just the member for Cannington!

Maybe I had too many prawns at the Royal Show extravaganza; I do not know. But the parliamentary secretary explained to me that the bill has to pass Parliament to allow the department to construct the website and design the new forms with which everyone has to comply, as examples.

Mr W.J. Johnston: Hasn't that been done?

Mr D.A. TEMPLEMAN: No, because it is not allowed to, apparently.

Ms J.M. Freeman interjected.

Mr D.A. TEMPLEMAN: Yes. Then we will not see this get royal assent and be enacted. The parliamentary secretary is not going to send it down to the Governor. Is that not the reality? That is essentially what the parliamentary secretary would do to get royal assent.

Mr W.J. Johnston: You can get royal assent, but there is a delay in proclamation.

Mr D.A. TEMPLEMAN: For how long will the parliamentary secretary delay it? What is the delay aspect? That is why I keep coming back to the time line. What is in the parliamentary secretary's mind about the time line? When will all this come into place even if it passes by the end of this parliamentary term? The parliamentary secretary is telling me that we will not see this bill implemented as law at least for six months after it is passed by Parliament. The parliamentary secretary mentioned six months, I think, in one of his responses. That seems to be what the parliamentary secretary is telling me.

Mr A. KRSTICEVIC: It would be presumptive of the department to do all this work before the bill has passed through Parliament. The member is saying to go and do all this work; this may or may not pass Parliament and become law, but do all this work anyway and build the website and get the forms ready and do all these processes. This is a very standard clause in most bills. The department cannot be presumptuous and do something without getting the agreement of Parliament to do all the work. We do not want to bolt before the legislation has gone through the Parliament. As I said, once it goes through, all that should be able to be done within six months. It is really just a matter of making sure that once permission has been given to build, we can run it past all the stakeholders and the Magistrates Court and work out how we want this to operate. The stakeholders are saying that they like what is there and they want to be involved in helping to build it and roll it out, and be part of that process. This is giving them the opportunity to be part of that.

Ms J.M. FREEMAN: We are talking about the website. I have looked at section 79(3) of the act, which refers to notifying a tenant. Basically, an owner writes to them and advertises in the newspaper circulating generally throughout the state. They are the two things owners do currently and they receive a penalty if they do not do that. Is the parliamentary secretary saying that that means an owner cannot also put it on a website? Without this bill receiving royal assent, the department will not be able to work on a website. Without proposed section 79(3) coming into play on a day fixed by proclamation, the department is prohibited—that is the word I am looking for—from setting up a website with the Magistrates Court in this time. I am not suggesting that an owner does not still have to do those two things, because they do, but is the parliamentary secretary saying that the legislation prohibits a website existing in addition to this?

Mr A. KRSTICEVIC: No, it would not. I suppose if a website were developed and the landlord were to advertise on the website, it would not comply with the act.

Ms J.M. Freeman: I get that, but it does not prohibit them from doing that.

Mr A. KRSTICEVIC: No, it does not, but because it does not comply with the act, there would be no point building it at that point.

Ms J.M. Freeman: But it may have assisted. It could have been a good community service to do, which the parliamentary secretary is about to do because he wants to get rid of red tape and this is all about red tape reduction. The parliamentary secretary could have done it so that he was all ready to cut the tape, so to speak.

Mr A. KRSTICEVIC: Yes, we could have done it, but people could have then got confused and said, "I have the internet; I have the newspaper. Have I met my legal obligations by advertising it online?" We could tackle it in lots of different ways. This is about tackling it in a structured manner, following the legislative process and, obviously, looking for that direction from Parliament to change the way we are doing it, and then, obviously, to do all the work.

Mr W.J. JOHNSTON: Does the parliamentary secretary have these things in draft form at this stage?

Mr A. KRSTICEVIC: Some background work has been done. A notice has been drafted and some work has been to build the website. None of that has yet been run past the stakeholders, and that is the next phase, but, some preliminary has been work done in this area.

Mr W.J. JOHNSTON: Minister —my apologies; I am sure that is in the parliamentary secretary's future! Can the parliamentary secretary share those drafts with us at this stage?

Mr A. KRSTICEVIC: We do not have it here at the moment and it is in paper design form. It is something that we can make people familiar with when there is something more, so we can show people what we have got at this point.

Mr W.J. Johnston: Will you send it to us or give us a briefing?

Mr A. KRSTICEVIC: The form we can see on the website we can give the member a look at, once it is developed.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 46 amended —

Ms J.M. FREEMAN: Just so we are really clear about clause 4, it amends section 46 of the Residential Tenancies Act 1987, "Lessor's right of entry", which enables a property manager or an owner of a property to disrupt the quiet enjoyment of a tenancy to check that everything in the tenancy is going well and to come onto the property without being in breach of any trespass laws or anything like that. This is the idea that even if there is a perfectly good tenant who has made payment for the tenancy, there is the capacity for the owner to inspect the tenancy. Section 46 talks about who the lessor is, what the premises are, reasonable times for conducting inspections and what is set out in a residential agreement about when an owner can come, in the case of an emergency or for other reasons, such as showing the premises to prospective tenants or trying to sell the property. Clause 4(1) proposes to insert in the list of definitions under section 46(1) —

> ***notice*** means notice in a form approved by the Commissioner;

We all agree that that is a notice that will benefit people. Why was it decided that the notice—which is a form about the right of entry into a property that someone else lives in and has the principle of quiet enjoyment—was not to be put in a regulation and put before the house?

Mr A. KRSTICEVIC: Obviously approved forms involve consultation with stakeholders, but it is also a more cost-effective way to develop that form and make changes to it. The member talked about the right of entry. Prior to 2013, there was no limit on the amount of times a landlord could enter the premises, whereas in 2013 it was mandated that they could have only four entries.

Ms J.M. Freeman: In 2011.

Mr A. KRSTICEVIC: It came into effect in 2013, but yes, 2011 was when the law came through. There is still the right of quiet enjoyment for the tenant. Even if there is proper notice given to a tenant, if the tenant stands at the door and says, "No, I'm sorry, it's not appropriate for you to come in now", they cannot come in. The tenant has the legal right to stop them. Potentially, if something cannot be negotiated, they will have to go to a Magistrates Court to get it sorted out. This notice does not actually take anything away from what tenants previously had; if anything, it gives them a greater awareness of what their rights are and gives them access to that information. Rather than landlords and property managers creating myriad documents—some perhaps containing information that is not appropriate or that may come across as threatening or whatever it may happen to be—this way there is a form that is approved by the department and the stakeholders, so I —

Ms J.M. Freeman: By interjection, I don't have any problem with the notice whatsoever; that's a great idea and it's really good that it's a notice that will follow a format that is set out. My question is not whether to have it or not. Tenancy WA said that they would prefer that that notice be a prescribed form—that is, that it sits before the house as a prescribed form. My question is: given that these things do tend to get really technical if they head towards the Magistrates Court, why isn't the notice a prescribed form? Why is it just by approval of the commissioner?

Mr A. KRSTICEVIC: I suppose that is about reducing the cost and making the process more streamlined. The most important documents that relate to tenancy, whether it is a property inspection report, a tenancy agreement or a termination notice, are prescribed and will continue to be, whereas for the more process-driven documents, it is about having the flexibility to change them without having to go through a complex process and to move more quickly. The Department of Commerce is obviously a very big advocate for consumer protection and looking after the rights of consumers, as are all the stakeholders. I do not think the form itself, once it is put together, will be an issue. If there are changes—I cannot imagine what they would be—they would probably be just minor changes once the form is approved. Most of the prescribed forms that come through, especially from the Magistrates Court, are put together by the Magistrates Court. The department and stakeholders may have some input, but in some instances the Magistrates Court does those other approved forms. I understand what the member is saying, but it is really about making the process a little bit easier.

Ms J.M. Freeman: By way of interjection, this form would be used in the Magistrates Court to say, "I gave the prescribed form, I gave them the amount of time, I turned up at the door and they said, 'This isn't convenient.' I did it again and they said, 'It isn't convenient.'", and they head up to the Magistrates Court and they say, "Oh, that form's wrong because the commissioner changed that form within a period of time." If it was a prescribed form you could be sure that the form you were using hadn't undergone any changes in that period of time. That would be even more frustrating for a lessor, wouldn't it?

Mr A. KRSTICEVIC: At the moment what they are getting is just a random selection of letters that have been written by individuals, some of whom know what is going on and others who do not. We are going from a very laissez-faire system of "anything and everything goes" to an approved form. We have actually come a long way to get to an approved form as opposed to —

Ms J.M. Freeman: No, they're all on the website. You can just google a form that I can send for inspection. Someone's made a lot of money out of it.

Mr A. KRSTICEVIC: Obviously, there are many different ways we can do it. In this particular instance, that is the easiest way to achieve the objective of looking after the tenants, the landlords and the department, and being able to more freely change things as necessary through consultation with key stakeholders.

Ms J.M. FREEMAN: I thank the parliamentary secretary; it is easier sometimes to discuss things via interjection. There are two points; I do not want to harp on them for any length of time. The first is that there would be nothing more frustrating for a lessor who is trying to prosecute through the Magistrates Court their right of entry, than to turn up and have the court say, "This is not the approved commissioner form; you're using an old form". At least a prescribed form is part of the regulations; it is harder to change, but because it is harder to change, it tends to have more of a longitudinal presence so they are not caught up in the technicalities of, "Well, this is not the approved form."

The adviser and I know, and the parliamentary secretary knows a little because he has been a lessor himself, that a dispute with a tenant can become quite technical. That is my first comment. Tenancy WA said that it thinks it should be prescribed, but at the least if it is not prescribed, it wants it put on the record that the government will consult with the stakeholders, including Tenancy WA, and not just the Magistrates Court, because when the parliamentary secretary has been talking about websites and stuff like that, he has been talking primarily about the Magistrates Court. Can he put on record that the government will consult about this form with stakeholders, including Tenancy WA and Shelter WA, to ensure there are no unintended consequences?

Mr A. KRSTICEVIC: Yes, and we have already informed them that they will be consulted. Also, when somebody needs that form, they can download it from the department's website. The current form will be available on the website. When a person needs it, they download it and they have the approved form. If there are any changes, there would be a lead-in time for that and again people would be informed of it.

Ms J.M. Freeman: By way of interjection, is there a form on the website now?

Mr A. KRSTICEVIC: No. A suggested form, I think.

Ms J.M. Freeman: There is a suggested form on the website?

Mr A. KRSTICEVIC: A suggested letter.

Ms J.M. FREEMAN: There is a suggested form on the website, but we cannot have a suggested website for the other things!

I want to move on to proposed section 4(2) of the Residential Tenancies Amendment Bill 2015, which deletes "before the lessor gives notice under subsection (2) of a proposed entry to the premises," in section 46(4) of the Residential Tenancies Act 1987.I had to think about this bit. Section 46(4) in the Residential Tenancies Act 1987 reads —

> It is a term of every residential tenancy agreement that before the lessor gives notice under subsection (2) of a proposed entry to the premises, the lessor must make a reasonable attempt to negotiate a day and time for that entry that does not unduly inconvenience the tenant.

We are moving from a position of goodwill, negotiation and understanding in that the tenant has the right to peaceful enjoyment of their tenancy as long as they meet the tenancy agreement by paying regular, ongoing rent, and the upkeep of the property. By doing those things they have that right to quiet enjoyment of their tenancy. We go from the capacity to look at it from a tenant's point of view, which is the quiet enjoyment of a tenancy and the capacity to say, "Yes, you are able to come in and see if I am complying with my tenancy agreement, and that is why you have a right of entry to see that, in terms of the upkeep of the property. But you cannot do that in a manner that undermines the quiet enjoyment of my tenancy." We go from that to a proposed subsection that would read —

> It is a term of every residential tenancy agreement that if it would unduly inconvenience the tenant for the lessor to enter the premises as specified in a notice given under subsection (2), the lessor must make a reasonable attempt to negotiate a day and time for that entry that does not unduly inconvenience the tenant.

It goes from something that is really quite easy to understand, which is that it is up to the lessor to make a reasonable attempt to negotiate and if they cannot reasonably attempt to negotiate then they can set a time. But

then it goes to the point of a tenant having to say that it unduly inconveniences them. It goes from a situation in which a tenant has the right to negotiate a time, to having only a right to refuse a time. Is that an appropriate way to look at this? Has it gone from the tenant's right to negotiate a convenient time to now being only a right to refuse a time when they say that it is unduly inconvenient to the tenant?

Mr A. KRSTICEVIC: Under the current rules it still mentions "unduly inconvenient" and it indicates that the lessor has the right to inform the tenant when they would like to visit.

Ms J.M. Freeman: And negotiate.

Mr A. KRSTICEVIC: And negotiate; yes.

Ms J.M. Freeman: Now they have a right to say that they are coming. Then the tenant can say that they can come.

Mr A. KRSTICEVIC: I suppose if we look at it in the context of 99 per cent of tenancies out there, in which agents and landlords talk to their tenants and have good communication, in a lot of cases tenants do not mind the property managers coming when they are not home. They say, "You've got to do a property inspection? Yep. When do you want to come? Lunchtime? Look, that is fine; just come in and look." That happens as well.

Ms J.M. Freeman: That is the right of the tenant to make that decision.

Mr A. KRSTICEVIC: That is true; that is right.

Ms J.M. Freeman: You are taking that right of a tenant away.

Mr A. KRSTICEVIC: We are not taking the right away from them. We are saying that the property manager or landlord will suggest a time. The tenant can then either agree or disagree. Under the current system, they still need to talk to each other and work out a time. They might talk to each other and agree on a date and a time and that might change, for whatever reason. It is not taking that right away from them; they still have that right to say, "Look, that time is not good for me." The negotiation happens after the notice has been issued rather than before.

Ms J.M. Freeman: The question is really clear: has it gone from the right of the tenant to negotiate a time to a right of the tenant to refuse?

Mr A. KRSTICEVIC: The tenant in both cases has the right to negotiate that time.

Ms J.M. Freeman: No; they have only got a right to refuse now, haven't they?

Mr A. KRSTICEVIC: They can refuse and then propose an alternative time. The whole idea is, as I said, that in most cases it will be very smooth. There might be a small percentage of cases in which it is difficult for the landlord or the property manager to get access. We could put this in the way the member said it, that yes, they have the right to refuse and to suggest an alternative time and negotiate.

Ms J.M. FREEMAN: We established that it has now only become a right to refuse, whereas previously —

Mr A. Krsticevic: And negotiate.

Ms J.M. FREEMAN: No; it is a right to refuse. It has gone from stating, "the lessor must make a reasonable attempt"—that is gone. The "reasonable attempt to negotiate" has gone. I am just looking at it again. The proposed subsection reads —

> It is a term of every residential tenancy agreement that if it would unduly inconvenience the tenant for the lessor to enter the premises as specified in a notice given under subsection (2), the lessor must make a reasonable attempt to negotiate …

We have to look at the first bit. The second bit is only after the right to refuse. After the tenant has refused, it is because it is unduly inconvenient. That is what is most important. The proposed subsection reads —

> It is a term of every residential tenancy agreement that if it would unduly inconvenience the tenant for the lessor to enter the premises as specified …

If I say that I am coming in seven days' time, I have to give not less than seven days' notice before the proposed entry, and within 14 days before the proposed entry; I have to give it between seven and 14 days of the entry. The lessor can say, "In seven days I am going to come and see you in your property" and the tenant's only right at that point in time is to refuse. Once they have refused, then the lessor must make a reasonable attempt to negotiate a time for entry that does not unduly inconvenience the tenant. We have established that it is a right to refuse in the first instance. Does the parliamentary secretary want to answer that first?

Mr A. KRSTICEVIC: Under proposed section 4, the part that has been deleted is up to the word "premises". If amended, section 46(4) would read —

> It is a term of every residential tenancy agreement that if it would unduly inconvenience the tenant for the lessor to enter the premises as specified in a notice given under subsection (2), the lessor must make a reasonable attempt to negotiate a day …

Ms J.M. Freeman: The first bit is about the right to refuse. Previously, the lessee did not have to refuse. In the previous instance, the lessor had to negotiate a time with the lessee. Now all the lessee has is a right to refuse.

Mr A. KRSTICEVIC: I think that in the previous instance, the lessor had to make a couple of attempts.

Ms J.M. Freeman interjected.

Mr A. KRSTICEVIC: The lessor would make a couple of attempts to contact the lessee. If they could not contact the lessee, they would just send a notice and show up. Under the current system —

Ms J.M. Freeman: Where does it say that? Where does it say that in the act? It does not say that in the act.

The ACTING SPEAKER (Mr P. Abetz): For the benefit of Hansard, let us try and keep it without too many interjections.

Mr A. KRSTICEVIC: All the lessor has to do is make a reasonable attempt. The question is about making a reasonable attempt. If the lessor sends a couple of notices and makes a couple of attempts to contact and negotiate with the lessee—it might be with a phone call, a text message or a letter—and they do not hear from them, they can send a letter to say that they will come on this day at this time. The lessor can then just show up.

Ms J.M. Freeman: The lessee can then say that the lessor did not make a reasonable attempt. We are not talking about what they used to do. We are talking about how the legislation has been changed so that the lessor can now send a letter to say that in seven days, they will come to inspect the tenant's property. At that point, the lessee's only right is a right to refuse.

Mr A. KRSTICEVIC: Yes. The lessee can say, "No; that doesn't suit me. Can we do it on Thursday at three o'clock?"

Ms J.M. FREEMAN: We have very clearly established that all lessees now have is a right to refuse, whereas previously they could have goodwill negotiations. Now they just have a right to refuse. However, my understanding is that lessees can only refuse if it would "unduly inconvenience" them. What is the definition of being unduly inconvenienced so that lessees can exercise their right to refuse?

Mr A. KRSTICEVIC: Firstly, a tenant can always exercise their right to quiet enjoyment. They can do that at any point. After that, I suppose "unduly inconvenience" really comes down to individual circumstances. We cannot prescribe what that is. For example, for a shift worker, visiting at three o'clock in the afternoon might not be the right thing. If lessees have children, there might be an issue with babies sleeping. I think we are talking about having commonsense so that if a case went to the Magistrates Court and the lessor said that they were refused entry at three o'clock in the afternoon, the lessee can say that they work shifts and would be in bed then, but they could come at any other time. Or a tenant could say that they have a baby who is sleeping at that time, or they could say that they have very sick kids. Again, we need to work on the balance of the fact that if the case goes to the Magistrates Court, the lessor needs to be able to convince it that they were not unduly inconveniencing someone and that they were not just being difficult about trying to gain entry. Was there a genuine circumstance around it? It is not prescribed.

Ms J.M. Freeman: The lessor does not have to —

The ACTING SPEAKER: Member for Mirrabooka, let the parliamentary secretary finish and then rise to your feet.

Ms J.M. FREEMAN: I want to go back to what I was going to ask the parliamentary secretary about undue inconvenience and then I will sit down. If a case goes to the Magistrates Court, the lessor does not have to show that the lessee was not unduly inconvenienced; the tenant has to show that they would be unduly inconvenienced. The lessor can just say that they gave the date, and the onus will then be upon the tenant to show that it was an undue inconvenience. Previously however, the lessor had to show that the tenant was not inconvenienced and that they were still allowing the tenant their quiet enjoyment. It was the lessor's responsibility to show that they were going at an appropriate time. My understanding is that the provisions in clause 4 will shift the onus to the tenant to show that they would have been unduly inconvenienced if the case went before a magistrate.

Mr W.J. JOHNSTON: The provisions in clause 4 do not reduce red tape. It reverses who has the red tape. At the moment, the red tape belongs to the lessor. We are now saying that the lessee will be responsible for the red tape. That is not a reduction of the complexity or rules, or any other matter. It simply changes who is responsible for that red tape. At the moment, the red tape belongs to the person with the largest amount of resources, being the lessor. How do we know that the lessor has more resources? They own the property or they represent the person who owns the property. By definition, that means they have more resources because otherwise the lessee would not be leasing the property. Clearly, if the lessee had their own property, they would not be the lessees.

A member interjected.

Mr W.J. JOHNSTON: It is absolutely the case.

Several members interjected.

The ACTING SPEAKER: Members!

Mr W.J. JOHNSTON: With respect to the stupidity coming from the member on the other side, he simply has no idea what he is talking about. It is just another demonstration of the ignorance of people like him. Why does the member for Moore not go to his own seat and get up to make a comment? That is what I suggest.

The ACTING SPEAKER (Mr P. Abetz): If you are not in your own seat —

Mr W.J. JOHNSTON: I think it is ridiculous, Mr Acting Speaker, that I get interrupted by a member not in their own seat. I have to get involved in abuse from across the chamber from an ignorant person who is incapable of understanding the standing orders of their own chamber!

Several members interjected.

The ACTING SPEAKER: Members!

Mr W.J. JOHNSTON: I get no protection on this matter! I get no protection.

A member interjected.

Mr W.J. JOHNSTON: Sorry, what are you doing?

The ACTING SPEAKER: Member, I need to call you; you are not in your seat. You are not allowed to call out. Member for Moore, I call you for the whatever time it is—for the first time.

Mr W.J. JOHNSTON: Let us get this straight. We are dealing with residential tenancies. The member for Moore can do the numbers. He can go out and have a look at something, look at a document, google something, or find some information before he sits there and demonstrates his ignorance, which is so common in this chamber. Let us get to what we are debating rather than the nonsense that the member is coming up with. We are talking about residential tenancies. The overwhelming majority of residential tenancies are taken by people who do not own houses. What a shock—imagine that! What a shocking statistic to find in this community!

Let us understand that this legislation is not a red tape reduction strategy. It does not reduce red tape. All it does is change the obligations from one person in the contract to another. That is not a reduction in red tape. Now, instead of the lessor having to demonstrate need, the tenant has to demonstrate need. There is still an obligation to demonstrate need. The legislation does not change red tape, unless red tape is defined as applying only to the lessor. That cannot possibly be the case because if the government makes the definition in that way, it is saying that it does not care about consumers. If that is the parliamentary secretary's argument, and I do not think it is, he is arguing that consumers of residential tenancies are not part of the picture and they are not considered in the debate. That is a ridiculous position to take. I am not accusing the parliamentary secretary of that. However, I make the point that that is exactly what the member for Moore was implying. Let us get back to the legislation. This is not part of a red tape reduction strategy. No red tape is removed by this provision. All it does is change the onus of the red tape, which currently applies to lessors, to lessees. That is all it does. As the parliamentary secretary pointed out, the lessee now has the right to make their case about why a particular time is not convenient. Instead of the lessor having to make that argument, the lessee now has to make it. That may be a good decision, but understand that it does not reduce red tape. No red tape is reduced by that arrangement.

Ms J.M. FREEMAN: My question still stands. It is now only a right to refuse, and that right to refuse is on the basis of "unduly inconvenience". The parliamentary secretary has said that is the common parlance or commonsense application of those words. Have there been any Magistrates Court decisions, or a decision of a senior court about a Magistrates Court decision, that provides a definition of "unduly inconvenience"?

Mr A. KRSTICEVIC: There are no written decisions from Magistrates Courts; they do not put their decisions in writing.

Ms J.M. Freeman: Have there been any appeals from the Magistrates Court around "unduly inconvenience"?

Mr A. KRSTICEVIC: No, there have not, because a person cannot appeal on a point of law; they can appeal only on the procedure. We are still preserving the tenant's right to negotiate. It is just a matter of whether the tenant is negotiating before they get the notice or after they get the notice.

Ms J.M. Freeman: No. The tenant has to refuse first, and then they can negotiate.

Mr A. KRSTICEVIC: That is right. Under the current system, the lessor could send the tenant a letter saying that they will come on Thursday, and the tenant might say, "I can't make it on Thursday; can you change it to Friday?"

Ms J.M. Freeman: No. The tenant has to show that they are unduly inconvenienced.

Mr A. KRSTICEVIC: That is right; exactly.

Ms J.M. Freeman: It is not saying that the tenant can refuse, and then they enter into negotiation. They have to show that they are unduly inconvenienced.

Mr A. KRSTICEVIC: They have to show that anyway, under the old system and under the new system.

Ms J.M. Freeman: No. Under the current system, they can negotiate a time.

Mr A. KRSTICEVIC: Yes, but ultimately, if they cannot come up with a date, the matter will go to the Magistrates Court, and all the magistrate will do is say, "You have not been able to meet. Can we set a date and a time right now for when you guys can meet?"

Ms J.M. Freeman: I am sure the magistrate does not do that.

Mr W.J. Johnston: It is not a breach provision.

Mr A. KRSTICEVIC: It is not a breach provision. So they do do that.

Mr W.J. Johnston: If there are no written decisions, how do you know that has happened?

Mr A. KRSTICEVIC: That is the feedback that we get, and also that is a negotiation that takes place by the department.

Mr W.J. Johnston: Feedback from whom?

Mr A. KRSTICEVIC: From tenants and landlords.

Ms J.M. FREEMAN: It is a right to refuse. It is not a right to refuse on the basis that it is inconvenient. We need to remind ourselves that this goes beyond simple inconvenience. It has to be unduly inconvenient. We have been told there is no definition of "unduly inconvenience". However, the parliamentary secretary has put on the record that "unduly inconvenience" may include things such as the tenant has children who are at home at three o'clock, or the tenant is a shift worker. How will tenants be made aware of their right to refuse a notice that says the lessor is coming in seven days' time, at three o'clock in the afternoon?

Mr A. KRSTICEVIC: There will be a standardised notice, and it will be on the notice, whereas under the current system, as we know, that is not on the letters that tenants receive.

Clause put and passed.

Clause 5: Section 79 amended —

Ms J.M. FREEMAN: The member for Fremantle has asked me to ask this question. I talked about this during the second reading debate, and I did not hear the parliamentary secretary respond, although he may have, but sometimes there are things that take his attention. Proposed new section 79(3) provides that a lessor who stores goods must give the tenant a notice in the approved form. What provision will be made for the storage of goods and disposal of goods for women who have fled a property and have had to abandon their goods due to domestic violence?

Mr A. KRSTICEVIC: At the moment, the process that is used is the process that is in the act. However, the department is working on a new approach to try to improve the process in those circumstances, and a discussion paper will be coming out shortly on that issue.

Ms J.M. FREEMAN: I am probably drawing a bit of a long bow, but I am trying to remember whether in 2011 there were provisions to deal with damage to property because of domestic violence, and whether there was a lesser penalty for residential tenancies, or will that come out in the discussion paper as well?

Mr A. KRSTICEVIC: A whole raft of areas is being looked at—the Magistrates Court can assign liability to the perpetrator, locks can be changed, or the perpetrator's name can be taken off the lease.

Ms J.M. Freeman: But none of that has come in yet, has it?

Mr A. KRSTICEVIC: That is all part of what is being worked through.

Ms J.M. Freeman: It has not come in yet?

Mr A. KRSTICEVIC: No. It is in the discussion paper.

Ms J.M. FREEMAN: I thank the parliamentary secretary for that. When is it anticipated that that discussion paper and legislation will come before Parliament? Will legislation come before Parliament to take into account amendments to the Residential Tenancies Act for women, and men—families—who are affected by domestic violence and the impact of that on their tenancies?

Mr A. KRSTICEVIC: The discussion paper will be out within the next two weeks, and the government is committed to introducing the legislative changes as quickly as possible after that through the Residential Tenancies Act, and the Restraining Orders Act as well.

Ms J.M. FREEMAN: Great. Thank you. Proposed new section 79(3)(b)(i) states that the form "must be made publicly available in any manner prescribed". We know that the website has not been created yet. However, it is not limited to a website. Can the parliamentary secretary confirm that the manner prescribed will not include a text message, or a Facebook or Twitter post, telling the tenant that their goods are going to be disposed of? I hope the manner prescribed will not be in terms of general social media, because if people cannot get their feed or the analogue system is not working properly, they might not know about it.

Mr A. KRSTICEVIC: It will be in an approved form. It will have to be discussed with all the stakeholders. It cannot be done just by way of a text message. Obviously it will also need to be something that will stand up in court. It will be discussed with all the stakeholders to make sure that it fulfils all the obligations.

Ms J.M. FREEMAN: Proposed new section 79(3)(b)(ii) states that the notice must be —

> posted in a prominent position on the premises—

There are a lot of p's there —

> that were subject to the former agreement within 9 days after the day on which the goods were stored.

I assume that the notice will be posted on the premises that the tenant was occupying. I have a couple of questions about that. Firstly, will the sign be posted on the premises while the goods are still in the premises—because there is then a risk that the goods will be stolen—or will the notice be posted on the premises only after the goods have been removed from the house? Secondly, I am a bit concerned about posting a notice because of how it will make a streetscape look. We are talking about abandoned goods, but it could also make the house look abandoned. This provision has not been in the legislation previously; why is it suddenly being inserted? My question is: How will the government ensure that goods still inside the house will be safe if the landlord advertises to everyone a notice in a prominent position on the premises? In a more global sense of creating a place, with a tenancy and a rental property that fits in with the social landscape so that we do not create a derelict look, why is it that the government has decided to go down this path?

Mr A. KRSTICEVIC: Obviously, in the first instance the landlord will go to the tenant directly to try to get them to take their goods. If goods are left behind and landlords cannot get in touch with the tenant, most landlords will automatically start to pack up things and move them into storage so that they can clean the property to re-lease it. The notice need only stay on the door for a reasonable time, which is probably a couple of weeks or thereabouts. If for some reason the tenant does not pick up the information anywhere else, if they come back to the house, they will see a note explaining what is happening. There could be many reasons that the tenant is not there, reasons that the landlord may not know about. For example, the tenants might have gone on holiday or been admitted to hospital. It is another way of giving that information. Obviously, they will get in touch with the landlord but, like I said, I do not think people will break into houses to steal goods because more than likely in the majority of cases, the landlord will move those goods to storage and try to get in touch with the tenant to go through the process of disposing the goods or, preferably, the landlord will get in touch with the tenants to give them back their goods so that the landlord can get a new tenant if that is what is required.

Ms J.M. FREEMAN: When a notice is posted in a prominent position on the premises—I quite like saying that—will goods still be inside the house?

Mr A. KRSTICEVIC: There may or may not be goods inside the house. They will be in the process of moving those goods out. It depends on when they stick the notice on the door.

Ms J.M. Freeman: So there could be goods inside the house.

Mr A. KRSTICEVIC: They have nine days from when the tenant leaves to put up the notice. If they do it on the ninth day, there may or may not be goods in the house. They may or may not have moved them out in that period. It depends on the circumstances, but one assumes that most landlords or property managers will make every attempt to get in touch with the tenant, which may take time. If the tenants disappear and skip on the property—anything could happen—one assumes that the landlord will make a reasonable attempt to get in touch with them. The landlord would obviously still have the bond. It might take three or four weeks before they decide to take that course of action. At that point, the landlord would clean up the goods and put them into storage and get the property ready for re-leasing.

Ms J.M. FREEMAN: If a notice is posted and the goods are in the house and the house is broken into and the goods are stolen, who is liable for the loss of those goods, given that it is clear that the house is vacant because of the notice that was posted by the lessor asking the former tenants to take the goods left at the property? I would

have thought that that would place the lessor in the dangerous position of being liable because the goods are in their care. The landlord will become a gratuitous bailiff because the goods will be in their care. They will not want those goods in their care, but they have a responsibility for a time as established by common law and now in legislation. If the goods are in a landlord's care and they post a notice that undermines the care that they are taking of those goods, that puts at risk not only the tenants' goods but also, certainly, the lessor's liability. I am really interested to know where this provision came from, because it is not currently in the legislation. There will be social consequences in making a place look destitute. There is the saying that if you fix the broken mailbox in your street, you will fix a lot of other problems. I am concerned about the social consequences of this proposed new subsection. That aside, how do we ensure that the lessor is not made liable because he posted a notice that makes people aware that the house is untenanted and the goods are taken not by the tenant but by someone else?

Mr A. KRSTICEVIC: When the member talks about putting the notice in a prominent location, the prominent location does not necessarily mean the outside of the house.

Ms J.M. Freeman: I am not suspecting it will be on the for sale sign on a house.

Mr A. KRSTICEVIC: That is right. It could be inside the house. It could be on the wall that the tenants see when they walk through the front door. One assumes that if the tenants have not shown and have disappeared, they will probably still have a key to access the property, unless the locks have been changed. If they cannot access the property, they would obviously get in touch with the landlord or the agent and say, "Hey, I can't get into the property, what's going on?" If they can access the property, the notice can be placed on a wall inside the house that can be seen as soon as the tenants walk in. When they walk in, they will notice that their property is gone or has been moved around.

Ms J.M. Freeman: So the prominent position is inside the property.

Mr A. KRSTICEVIC: It can be wherever. The provision does not specify that it needs to be on the outside of the property. It will be placed in a position that the tenants will see it if they come back to the property. One would assume that if they open the front door and the notice is on the wall straight in front of them, that is probably a fair enough location. People do this in New South Wales, so it is done in another state.

Clause put and passed.

Clause 6: Section 85 amended —

Ms J.M. FREEMAN: Clause 6 refers to serving documents by email. The question about deeming comes up a bit later and I have quite a few questions about that. This clause is about serving and contacting by email and electronic means and this will be done in accordance with the regulations. In the second reading debate, the parliamentary secretary made it clear that "electronic means" does not mean text messaging, Twitter and Facebook; rather, it means a letter, such as an email.

Mr A. KRSTICEVIC: Yes, that is correct.

Ms J.M. FREEMAN: Because it will be given or served by electronic means, does that mean that it will have the legal meaning of being served, in the same way that something is served on someone so it has legal ramifications of being served and noted, and therefore it takes that legal framework for what is a served document, beyond given or beyond received?

Mr A. KRSTICEVIC: The Electronic Transactions Act 2011 obviously applies to all statutes, so it does in this case as well. This is really just building that link with the Electronic Transactions Act. It has ultimately the same effect as the service of a notice. It deals with the concept of something having been deemed to be served under the Electronic Transactions Act. Something is deemed to have been served if it complies with the Electronic Transactions Act.

Ms J.M. FREEMAN: Tenancy WA raised the question of why, if the provision is in the Electronic Transactions Act, it is necessary to have it in this bill. Tenancy WA is concerned that there is duplication. Again, that raises the question that if the government is aiming for red tape reduction, why is there a provision in this bill for which there was already a capacity? Tenancy WA's concern was that under the Electronic Transactions Act there is an agreement by the parties to do things by email, whereas this bill gives just one party the right to make the decision of how a notice will be served. Some tenants I have worked with have told me that the real estate agents have made the decision that the only way to pay rent is by electronic transfer; some places no longer accept cash. That can make it quite difficult for people on low incomes to make payments, because they tend to still work a bit in the cash economy. That surprises us all, but it is still alive and well in many low income areas. That aside—I will get back to the question—I understand from Tenancy WA that the concern is that this provision will force people to accept a notice by electronic means, whereas the act we were just talking about makes it an agreement between the parties. Why does the bill not continue to allow this process to be by agreement—because it can be? Why does this need to be done, given, as the minister has said, there is the Electronic Transactions Act?

Mr A. KRSTICEVIC: A prescribed tenancy agreement has a clause for people to agree or not to agree. This is something that will be put in the regulations. The form will require that there is consent. The property condition report is another document that can be received electronically. That will be done through negotiation and agreement.

Ms J.M. FREEMAN: Clause 6(2)(c) inserts "effected; or" and clause 6(2)(d) prescribes the website. I am not being very clear at this point, but where in this particular amendment is a notice deemed to be served? If I send an email and the recipient does not open it, how can it be deemed to be served? Can it only be deemed to be served if receipt can be shown—so there is proof of receipt? How is it deemed to be served? The fact of the matter is that a letter is deemed to be served because the recipient has signed for it. How can an email be deemed to be served? This is quite important, because under this provision I assume that a termination notice to a tenant can be sent by email and that is a very serious situation. How can an email be deemed to be served to a person and how can they know a notice will be sent by email? Can the parliamentary secretary confirm that an eviction notice can be emailed; and, if so, how is it deemed that it has been received?

Mr A. KRSTICEVIC: Obviously, the regulations would link back to the Electronic Transactions Act. The recipient will also have to have consented to receive that information by electronic means. Someone putting a letter in a post box does not guarantee that letter has made it to its destination, but it is deemed to be served once it has been put in the post box.

Ms J.M. Freeman: Not for an eviction notice.

Mr A. KRSTICEVIC: Yes.

Ms J.M. Freeman: I thought with an eviction notice it had to be shown that the recipient had received it.

Mr A. KRSTICEVIC: No, I suppose under the postal legislation a person can put a letter in the post box and it is deemed to have been served.

Ms J.M. FREEMAN: If a notice is placed on the website, can it be deemed to have been served?

Mr A. KRSTICEVIC: That would be the court website, and that would only be if a person cannot be found. If a person cannot be found, the notice will be put on the court website. I suppose that has been deemed to have been served by the courts if there is no way of finding that person. It replaces the newspaper in the case in which a person cannot be found.

Clause put and passed.

Clause 7: Schedule 1 clause 8 amended —

Ms J.M. FREEMAN: I simply want the parliamentary secretary to put on record that in schedule 1 clause 8 the words "prescribed form" will be deleted and replaced with the words "form approved by the Minister,". I want to put on record that the Labor Party is not keen on seeing this happen. We would prefer that it continued to be a prescribed form. Can the parliamentary secretary put on the record that stakeholders—not just the Magistrates Court, but advocates for the tenants—will be involved with those forms approved by the minister?

Mr A. KRSTICEVIC: They will be. An administrative form for the Magistrates Court and all the other forms will be dealt with in the way proposed here—that is, as an approved form. But yes, stakeholders will be consulted and will have input, as no doubt the department will as well.

Mrs M.H. ROBERTS: When the parliamentary secretary says that all other forms will be done in the same way, will they all be approved by the minister or will they be prescribed forms under the legislation?

Mr A. KRSTICEVIC: All of the court forms are currently approved by the minister. The one in question is the only one that is prescribed and so we are just changing it to fall into line with all the others.

Clause put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR A. KRSTICEVIC (Carine — Parliamentary Secretary) [8.49 pm]: I move —

That the bill be now read a third time.

MS J.M. FREEMAN (Mirrabooka) [8.50 pm]: I rise to make a brief contribution to the third reading of the Residential Tenancies Amendment Bill 2015. I thank the parliamentary secretary. It must have been difficult for him, given that he did not have carriage of the bill, to suddenly start answering questions about the bill, yet he was able to listen to the adviser and contribute to the debate.

During consideration in detail we discussed amendments to the Residential Tenancies Act. Although they may seem to be small amendments, they are significant, primarily because, as I have already outlined, the right of entry of a lessor is balanced by the right of peaceful enjoyment for a tenant. I want to talk a bit about why what the member for Cannington said is correct. This bill will almost shift the onus away from someone who is in a powerful position. Even though many lessors are mum and dad property owners who let their properties, they effectively have the keys to tenants' stability because they have the keys to the long-term tenancy of, and the stability of being in, a property. I have been in this place when we have talked about this matter before and when people have said, "It's too hard for lessors or owners to evict tenants." Let us be clear that in Western Australia and Australia it is not hard. People who own rental properties in different countries in the world do not have that capacity. People own property not because it is their home. People live in their home. If people choose to have a rental property for an investment, that is a business and it provides a social service. It should not be about them then deciding that they do not like certain things about the house. A lessor enters into a contract. Under that contract, another person will pay proper rent as compensation for the right to tenant that property, and they will keep it at a standard that does not undermine the lessor's investment. The concept that it is somehow a person's home and that they have a right to have people come in and out of that property is a problem we face in Western Australia and why we have housing affordability crises.

I know that I am speaking to the third reading of the bill and that I should stay on the issues that came up during consideration in detail, but I raise this because members discussed clause 4 and the amendments to section 46 of the act, "Lessor's right of entry". I am trying to make it really clear—I am struggling to do it as articulately as I would like—that there is a concept in the community that our residential tenancy legislation somehow makes it hard for owners, lessors or real estate agents to evict tenants. It does not. A tenant has a right to peaceful enjoyment. As long as they are fulfilling the contract to pay rent and they are not destroying or undermining that asset—frankly, the asset is the land, but that is another story in itself—they have the right to continuous peaceful enjoyment. In other countries the right to continuous peaceful enjoyment can be for years, and lessors do not have the right to end a tenancy when a person has been paying rent and has done no major structural damage to the house. However, in Australia we give owners the right to evict tenants. I am a bit over being told by people that it is hard; it is not hard. In 2011, we acknowledged that and gave tenants the right to peaceful enjoyment and made that the primacy of the 2011 changes to the act. Now, we are undermining that premise. We are undermining that right of peaceful enjoyment of a tenancy.

As legislators, we have to remember that it is not about individual aspects; it is a policy issue. It is not about the fact that we might understand that ourselves because we have a rental property. It is a policy issue, and the policy issue is greater than just the property. The policy issue is the issue that we want people to have long-term tenancies because the health of our community goes along with that. It is about the education of children and the health and wellbeing of people. It is about their physical health, plus their mental health. It is about their capacity to maintain social interactions and connections in their community. It is about their capacity to hold ongoing and gainful employment because they have the stability of housing. I think it is a human right. I have always believed that and I stand by it. When we change that and amend section 46, "Lessor's right of entry", we undermine those things.

I urge the parliamentary secretary in his new role to keep pressure on the Department of Commerce to deliver on the women and domestic violence discussion paper. He has a short time to make his mark on the portfolio, but he would be applauded if he were able to take such an important step forward in that space. He may not see the legislation now, but if he can get it to a point at which in a quiet time in the return of the Parliament in the next parliamentary session he has a bit of legislation that his side, and hopefully our side when we are in government, will have ready to get going, it can have bipartisan agreement. That could be something on which the parliamentary secretary could stand up on in this house. I am hoping that he is not in this house in the next parliamentary session. I am sorry. He seems like a nice guy, but I still hope that. However, that could be something that he could proudly say, "I had a short period of time to be in this leadership role and I delivered something that was worthwhile to the community of Western Australia." I really encourage the parliamentary secretary to pursue that.

I am not convinced about the reasons put forward for why the website was not ready to go. This bill will get through tonight and then go to the upper house, but it will still be some time before we see those changes. We know that there is concern that newspaper advertisements are seen more broadly and widely, not just necessarily by tenants, but that is the reality of the disruptive technological age that we live in and people will move beyond that.

I suppose I am a little bit cheered that the parliamentary secretary said that the notices will be—I have to keep saying this—posted on a prominent position on the premises. I love that I can say that really quickly! I am a bit cheered that a notice will not sit on the front door. I live in a highly rented area and I deal with vulnerable people all the time. I see their vulnerabilities and difficulties. More so than anyone else, I know that a long-term tenancy can change whole families and how families do things for their education, work and community connections. That is why I feel very

deeply and strongly about it. But I also understand what it is like to have sections of a neighbourhood look as though they are not as well respected as other sections of a neighbourhood. A big dirty post-it note saying "Come and get your goods" is not a good look. Therefore, I am cheered by the fact that on the website we will encourage people to put the note inside the house, if that can be arranged. That would be very good—thank you very much. On that note, I thank the parliamentary secretary for his indulgence of my many questions.

Question put and passed.

Bill read a third time and transmitted to the Council.