

**STANDING COMMITTEE ON UNIFORM LEGISLATION
AND STATUTES REVIEW**

**CONSUMER PROTECTION LEGISLATION AMENDMENT
AND REPEAL BILL 2005**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
THURSDAY, 8 JUNE 2006**

Members

**Hon Simon O'Brien (Chairman)
Hon Matthew Benson-Lidholm
Hon Sheila Mills
Hon Donna Faragher**

Hearing commenced at 4.38 pm

FILOV, MR TOM

**Manager, Policy,
Department of Consumer and Employment Protection,
219 St Georges Terrace,
Perth 6000, examined:**

CONWELL, MR ALISTAIR

**Acting Senior Policy Officer, Consumer Protection,
Department of Consumer and Employment Protection,
219 St Georges Terrace,
Perth 6000, examined:**

The CHAIRMAN: On behalf of the committee, I welcome you here today. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document that you refer to during the course of the hearing for the record. Please be aware of the microphones. They are well placed and there is not much chance of covering them up with papers or anything. Your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should ask that the evidence be taken in closed session. If the committee grants that request, any public and media in attendance will be excluded from the hearing. Also please note that until the transcript of today's hearing is finalised, it should not be made public. Premature publication or disclosure of public evidence may constitute a contempt of public and may mean that the material published or disclosed is not subject to parliamentary privilege. If you have any questions about that you can contact our committee staff or me for further clarification.

We appreciate your assistance today. Would you like to make an opening statement?

Mr Filov: You referred to the names of documents that we may refer to. Does that include any notes I might have for my own personal use?

The CHAIRMAN: No; for example, if you were referring to a report that is the reason for some amendments in the bill, we would like the title and date of that report for the record so that it can be referred to.

Mr Filov: I have a document that provides an overview of the changes in the bill. I am happy to make that available to the committee if that is of some use.

The CHAIRMAN: Certainly. We have received a copy of a three-page document titled, "Consumer Protection Legislative Amendment and Repeal Bill Overview of Changes". No doubt we will refer to it during the hearing.

Mr Filov: By way of general comment, the Consumer Protection Legislation Amendment and Repeal Bill is a miscellaneous bill that deals with amendments to a number of acts within the consumer protection portfolio that are generally seen as minor or housekeeping type amendments to

correct some anomalies, act on some legal advice that has been received regarding certain issues and correct a couple of drafting errors.

The CHAIRMAN: We will probably go through the bill and look at the dozen or so acts in turn. I notice in part 2 there is a proposal to amend the Builders' Registration Act 1939. Clause 4 proposes that the amendment of that act is to correct a drafting oversight, so that the building licence levy will apply throughout the state and not just in specified areas, as intended by the Building Legislation Amendment Act 2000. Firstly, are you aware of any instances over the past six years when people have paid the building licence levy to a local government when they were not required by law to do so?

Mr Filov: No. I am not aware of any. That is not to say that it has not happened; however, it is not within my knowledge.

The CHAIRMAN: Is it possible to establish whether that is the case and to provide that information by supplementary information at a later stage?

Mr Filov: I would have to make inquiries with the Builders Registration Board. I can make that inquiry.

The CHAIRMAN: We will provide a summary of the supplementary information that we require with the transcript. If there are instances in which people have paid the licence levy to the local government and not been required to do so, we would like an indication of that. If that is not the case, we would like to know how this particular error or oversight came to light.

Mr Filov: Okay.

The CHAIRMAN: The building licence levy currently applies only in specified areas. Do you know what those specified areas are?

Mr Filov: They are the same as the areas to which the Builders' Registration Act applies under the schedule of that act. According to advice I have received, when the bill was first introduced in 2004, 125 of the 144 local governments were within the board's jurisdiction. There are 19 local authorities which are not within the board's jurisdiction and 15 to which the jurisdiction applies to the town sites only.

The CHAIRMAN: Will this provision extend the levy across the whole of the state?

Mr Filov: Yes. With regards to your question about what may have led to this, the amendment made to the Builders' Registration Act as part of the changes in 2000 states that, notwithstanding subsections (1) and (2), sections 12A and 12B apply throughout the state to building work done to home building work as defined in the Home Building Contracts Act 1991. I think that is an indicator of the intention that it was to apply to that, but it was not picked up because of the way section 3(1) was drafted. There needed to be an additional clause, which is the one to be included, to clarify that section 4B applies throughout the state.

The CHAIRMAN: Thank you for drawing our attention to that. I refer to the Consumer Affairs Act 1971, which is part 3 of the bill. Advice has been provided that the amendments will extend the term of membership of members of the Consumer Products Safety Committee from one to three years to reduce the administration involved in keeping the membership up to date. Are there any revenue implications in that?

Mr Filov: Not as far as I am aware. In fact, rather than this annual requirement of appointments, efficiencies will probably be gained as a result of doing it way. They will be done triennially, which is consistent with the other boards and committees within our portfolio.

The CHAIRMAN: How many members are on the Consumer Products Safety Committee?

Mr Filov: That is a good question; I will have to provide that by way of supplementary information.

The CHAIRMAN: I assume at the moment that every member must be renewed or replaced every year.

Mr Filov: Every 12 months.

[4.50 pm]

The CHAIRMAN: We are told that the other amendment to this act is to allow the Commissioner for Fair Trading to adopt any product safety law that has been promulgated under product safety legislation of any state or territory or the commonwealth. Can you explain how that works? Is this a delegation of power by the Parliament?

Mr Filov: It is within the Consumer Affairs Act, which provides for WA to adopt standards or orders issued by other consumer affairs authorities, their ministers, Governors or Governors-General. Generally that is done by the commissioner under the Consumer Affairs Act. The minister can also make an order. Legal technicalities have been associated with the interpretation in particular of standards or orders made by ministers, Governors or Governors-General. Advice received some time ago from the Crown Solicitor's Office expressed the opinion that there may be legal difficulties about the validity of the orders that were adopted if the commissioner or the minister attempted to adopt corresponding orders that may have been made by the Governor or Governors-General in the jurisdictions. Under the current provisions, Governors may not be considered at law to be consumer affairs authorities in that context. This amendment seeks to sure up the current wording to allow WA to adopt product safety orders or similar instruments prohibited under other laws made in the commonwealth, states or territories. It removes that reference to ministers, Governors and Governors-General.

The CHAIRMAN: In any case, by virtue of section 23R(2), the commissioner will have the power to make an order to prohibit the supply of goods. I am paraphrasing here.

Mr Filov: That is consistent with the current requirement.

The CHAIRMAN: Yes, and without reference to the safety committee. This allows the prohibition to be exercised expeditiously.

Mr Filov: That is correct, and that is the case under the current provision.

The CHAIRMAN: That seems fairly clear.

Mr Filov: Examples are flashing dummies and those sorts of things that are bought at the Royal Show. It will enable expeditious banning of things of that nature; for example, the electronic dummies that kids put in their mouths and walked around the showgrounds with a couple of years ago.

The CHAIRMAN: I will make a point of going to the Royal Show next year!

I refer to part 4 and the amendments to the Credit (Administration) Act 1984. I note that clause 11 proposes the establishment of the consumer credit fund, so that civil penalty amounts awarded against credit providers who have breached the Consumer Credit Code can be distributed to advance consumer credit issues, such as funding financial counselling services and legal advice. Where do funds collected from civil penalty awards currently go?

Mr Filov: They are currently awarded to a trust account established under the Financial Administration and Audit Act.

The CHAIRMAN: Is there already a separate account in that fund?

Mr Filov: There is that. However, we are responding to a qualified audit from the Auditor General's office. Under the Consumer Credit Code, the payment of a civil penalty that results from a breach of the code, or an action that might have been taken to prosecute a credit provider or a voluntary admittance of a problem by a credit provider, must be paid into a fund established and operated under another law, or if no such fund is established, to a consumer government agency.

The qualified audit suggested that, although the department has been operating a trust account arrangement under the Financial Administration and Audit Act, that probably could not be considered to be a fund as required under the Consumer Credit Code. Hence, the proposed amendment to establish the consumer credit fund to meet that requirement of the code and remove that uncertainty.

Hon DONNA FARAGHER: Which agency has responsibility for that trust fund? Does it come under Treasury or the Department of Consumer and Employment Protection?

Mr Filov: That is a good question. I will have to check that. I will not guess, but I suspect it is one of our accounts that is subject to the Financial Administration and Audit Act.

The CHAIRMAN: You can clarify that through supplementary information. Is an extract of the relevant portion of the qualified opinion by the Auditor General available?

Mr Filov: I will have to inquire about that. I am operating from the notes provided at the time. According to the information I have, it dates back to 1999-2000.

The CHAIRMAN: We will seek that qualified opinion. Will you assist in identifying that?

Mr Filov: Yes.

The CHAIRMAN: Part 5 of the bill amends the Fair Trading Act 1987. I note clause 13, and this also relates to clause 37.

Mr Filov: It is the repeal of the Trading Stamp Act. That is correct.

The CHAIRMAN: These clauses propose the legalisation and regulation of third party trading schemes. If that is correct, will you please give examples of the types of schemes you are seeking to legalise and regulate through these proposed amendments?

Mr Filov: It refers to third party trading schemes in the initial part of the legislation, which was first enacted in 1948 and amended in 1981. It was known to prohibit the offering of third party trading stamps. In those times, people would collect a certain amount of those stamps and redeem them for services, a gift or prize or something like that. The legislation has continued to be in place, but there have been changes in marketing and so on in the marketplace. The most common example is something like the shopper docket scheme, whereby on the back of the receipt from the purchase of groceries a range of discounted products or services is offered, such as getting two coffees for the price of one. Under the present legislation, I should use the vouchers at a business premises that is owned by the supermarket from which I received the receipt containing the vouchers in the first place.

[5.00 pm]

If I take it to a third party that has no business relationship with the supermarket, or the shopper docket is not redeemable at a company that is within the ownership structure of the supermarket, technically that shopper docket would be considered to be in breach of the third-party trading legislation. In other words, if the trading stamp, or the shopper docket in this instance, is redeemable from another organisation within the supermarket's ownership, that is not a problem, but when it goes to a third party - outside the organisation - it is a problem.

The CHAIRMAN: This proposed amendment seeks to regularise that situation, which might make it technically illegal under the Trading Stamp Act 1981?

Mr Filov: Technically, yes; a number of benign schemes are operating in the marketplace. Fuel vouchers are a good example insofar as fuel vouchers for the stations owned by the major retailers do not pose a problem. If I buy my groceries from Coles and go to a Coles petrol station, there is no problem because I am redeeming them from a petrol station owned by Coles. A few other schemes are in place now under which some of the minor supermarkets have aligned themselves with other petrol stations. Super Savers vouchers that can be redeemed at different stations have been in the

marketplace recently. That scheme could be considered, technically, to be in breach of the current regulations. I suppose it is seen as necessary in a marketplace that has become more sophisticated. This legislation preceded the Fair Trading Act, which provides for penalties for misleading and deceptive conduct and those types of things, which could cater for situations in which schemes in the marketplace are detrimental to consumers. These amendments will provide for schemes to be declared prohibited in the event that they are considered unreasonable or detrimental to the interests of consumers.

The CHAIRMAN: Proposed division 4 to be inserted in the act will, therefore, appear to be a complete machinery for the subject matter. That will come down to being a matter of a policy decision by the various members in the house. For clarification, under the proposed changes, a third-party trading scheme would not include the shopper docket system, whereby one buys groceries at a certain supermarket chain and receives a voucher for a particular related service station to receive 4c a litre off the price of petrol. That would not be a third-party trading scheme under this proposal. Is that correct?

Mr Filov: If the person is going to redeem the voucher from another place that is owned by the initial provider, say the supermarket, that is not a problem even as the act stands at the moment. It is prohibited only when, on purchase of goods, the shopper docket is redeemable at a separate business that is not part of the business owned by the place from which the goods were initially purchased.

Hon DONNA FARAGHER: Does this amendment cover a situation in which someone buys groceries from Coles and the voucher on the back of the receipt provides for a discount of \$2 off a dry-cleaning bill from a shop elsewhere?

Mr Filov: Yes, if the drycleaner is not a business owned by that group. If the dry-cleaning business is owned by Joe Bloggs, that is the third party that is considered technically contrary to the current act.

The CHAIRMAN: We will not go into matters of policy but it might be helpful to indicate now that I imagine the house will want to know the reasoning behind this, which escapes me for the moment. Why is there a prohibition on the unrelated third-party transaction and why is a related third-party transaction of the type we are talking about exempt?

Mr Filov: Maybe my explanation has not been helpful.

The CHAIRMAN: Your explanation is clear. If we stick to the petrol docket scenario, those reading this transcript and I can have a common understanding. If a supermarket has a promotion to persuade people to buy its goods on the basis of receiving cut-price petrol, I do not see the difference, from the consumers' point of view, whether they bought a can of petrol at the supermarket checkout or went to service station A, a subsidiary of the supermarket or to service station B, which was totally unrelated to the supermarket chain.

Mr Filov: Under the act, currently, service station B, technically, would pose the problem because it would be considered in breach of the current act.

The CHAIRMAN: The question remains of why, if we go back to 1948, it was ever seen as a problem.

Mr Filov: I understand that in 1948, and even 1981, it was enacted to protect businesses in Western Australia from big business in the eastern states, whereby, through marketing of trading stamps, eastern states businesses would provide trading stamps that people could redeem from a trading stamp operator - a third party. It was considered that that was inappropriate and would cause local businesses to suffer at the hands of the eastern states people because people would be influenced to make purchases from eastern states' businesses, redeem their vouchers and obtain a prize or gift later. That presented problems if the operators were separate from those retailers. The trading stamp operators had separate businesses, and it may have been that, in some instances, the

trading stamp operators were not around at a later stage for people to redeem their vouchers or trading stamps. I understand that is the genesis for the initial act.

The CHAIRMAN: Are you saying that a consumer might have been attracted to buying goods by the offer of stamps and found later that they were incapable of redeeming the stamps?

Mr Filov: In those times that was one aspect, plus the object of providing protection to local businesses so that they were not subject to that sort of exposure from the big eastern states companies. The *Hansard* debates on the 1981 amendments to the act refers to that type of information.

The CHAIRMAN: This amendment provides a mechanism for the minister to approve a third-party trading scheme in accordance with proposed section 32B if the scheme is genuine, reasonable and not contrary to the interests of consumers, among other criteria.

[5.10 pm]

Mr Filov: The prohibition provision in the subsequent clause will also apply. I suppose the marketplace has become more sophisticated. People are now exposed to petrol vouchers on shopper dockets. Not only supermarkets but also other places have redeemable vouchers on the back of receipts for coffee, sandwiches or whatever the case may be. Most of those schemes are benign and not detrimental to the interests of consumers. However, many of them technically breach the act as it is currently drafted. This legislation will remove that doubt but keep in place the ability to approve and prohibit schemes that become detrimental should that evidence come to light.

Hon DONNA FARAGHER: I assume that those that are currently operating technically outside the current scheme have not been exposed to any enforcement of the legislation.

Mr Filov: No. I am not a legal person, but I suppose the test that would normally warrant enforcement action would be applied when any detriment was caused or when there was community pressure to do that. Should an instant arise in which breaches of the current Fair Trading Act occur, those matters would be pursued.

The CHAIRMAN: Part 6 of the bill amends the Land Valuers Licensing Act 1978. We note the explanation provided that these proposals are to include penalties for breaches of the Land Valuers Licensing Act 1978 in accordance with the recommendations of the Temby royal commission and to complement the increases in penalties for similar offences under the Finance Brokers Control Amendment Bill 2003. Does anything need to be added to that explanation?

Mr Filov: My apologies, that bill is now an act and those amendments have been made under the Finance Brokers Control Act.

The CHAIRMAN: It is an act, as opposed to the Finance Brokers Control Amendment Bill.

Mr Filov: Those changes are now in place and the penalty increases that apply to the bill have now been implemented.

The CHAIRMAN: The essence remains the same.

Mr Filov: Yes.

The CHAIRMAN: Part 7 amends the Motor Vehicle Dealers Act 1973 and will replace the word “agent” with the word “dealer” in well known section 32K(4). I am sure this provision is familiar to us all. Will you please explain the change?

Mr Filov: This is a straight-out typographical error. I might have been responsible for this as instructing officer at the time. We inserted some provisions in the 2002 amendments to the Motor Vehicle Dealers Act to implement the requirement for dealers to keep trust accounts when they sell vehicles on a consignment basis. Many of those amendments were lifted from the Real Estate and Business Agents Act 1978. In the course of drafting I did not pick up that the word “agent” was left in rather than “dealer”. This amendment will correct that.

The CHAIRMAN: That seems straight forward.

Part 8 amends the amended Real Estate and Business Agents Act 1978. I note that clause 27 of this bill proposes to exempt holiday accommodation managers from the licensing provisions of the Real Estate and Business Agents Act 1978. What is the purpose of that proposed exemption?

Mr Conwell: That is related to a formal review of the department's undertaking that began in 2003. As part of that review, we undertook consultation, which included the release of an issues paper in 2004. On analysis of the submissions we received from stakeholders, it was clear that there was no justification for requiring holiday accommodation managers to be licensed under the act. There seems to be evidence that, given the recent emergence of the industry, the act was probably not intended to regulate this new industry. One of the outcomes of that formal review was a recommendation to exempt holiday accommodation managers from the need to be licensed under that act.

The CHAIRMAN: Can you give us an example of the sort of operation that might be facilitated by a holiday accommodation manager that is proposed to be exempted; that is, the nature of what holiday accommodation managers do?

Mr Conwell: They act as an agent for property owners of holiday accommodation and they arrange for consumers to use that accommodation and apply, effectively, to short-term lease arrangements. That is why, technically, it is considered a real estate transaction, and hence it is captured under the act. An accommodation manager enters into a written agreement with a property owner and leases the property for short terms to consumers. The manager hands over keys, arranges cleaning and sometimes takes a bond.

The CHAIRMAN: One can readily understand a real estate agent performing those duties. However, given what you have described, a neighbour at a holiday home might act to assist his neighbour. Is that at whom the amendment to the act is aimed?

Mr Conwell: Absolutely. Although as you suggested some real estate agents are doing it, albeit very few, a number of private individuals do it, as do a lot of tourist bureaus and visitor centres. That was another reason for the amendment. This industry is also closely aligned with the tourist industry and we considered that the best outcome was to exempt it. We are implementing a voluntary accreditation program, which we have set up with a number of key stakeholders, including Tourism Western Australia, the government agency; the Tourism Council Western Australia, the peak tourist industry body; the Visitor Centre Association of WA; and the Western Australian Local Government Association, which manages and operates a number of visitor centres. We now have the minister's endorsement of that accreditation program.

The CHAIRMAN: Is the idea of that accreditation to provide some form of qualification to enable an owner to approach a prospective agent with confidence?

Mr Conwell: Absolutely. It is to ensure that some minimum standards are maintained and established in the industry. Given the size of the industry and the low consumer risk we have identified, we think this self-regulatory, voluntary model is the rational first step.

The CHAIRMAN: Could a holiday accommodation manager who is not licensed as a real estate agent have quite a large number of properties under his supervision?

Mr Conwell: Potentially, yes.

Hon MATT BENSON-LIDHOLM: What issues are likely to arise from this self-regulatory model? Surely there would be some legal implications if an impropriety occurred. I do not necessarily question it, but I foresee issues stemming from that. Have those legal implications been entertained?

Mr Conwell: Yes, certainly. As I mentioned, we received a number of submissions as part of the review process. We have identified that the industry is very small. It deals in small amounts of

money. From our perspective, the level of consumer risk is very low. As part of the accreditation program, we have established a code of ethics as well as a dispute resolution process. If problems arise, mechanisms are in place to deal with them. If we find that the self-regulatory approach in the first instance does not meet the needs of consumers and businesses, we will consider establishing a more mandatory system of regulation.

Hon MATT BENSON-LIDHOLM: Over what time frame are you considering that?

Mr Conwell: We will undertake a 12-monthly review with all key stakeholders after commencement of accreditation to determine whether it is appropriate.

Hon MATT BENSON-LIDHOLM: Will that review be an ongoing process?

Mr Conwell: Absolutely. As with all regulatory frameworks, there are ongoing reviews.

[5.20 pm]

The CHAIRMAN: Part 9 amends a couple of sections of the Residential Tenancies Act 1987. Firstly, clause 29 seeks to allow appeals from the decisions of registrars under the act. Is it the case, firstly, that decisions of both magistrates and registrars under the act are final?

Mr Filov: Under section 26 of the Residential Tenancies Act, an order made by the court under the act is final and binding on all parties. However, this amendment will provide for an appeal in the event that a decision is made by the registrar.

The CHAIRMAN: Why is the amendment necessary?

Mr Filov: I understand that there is a gap in the Residential Tenancies Act. If a person is dissatisfied with the outcome of a matter dealt with under the Residential Tenancies Act by a registrar rather than a magistrate, this amendment will enable him to access the appeal mechanisms in the Magistrates Court to have the matter reviewed by a magistrate.

The CHAIRMAN: Is it not the case that one of the aims of the act is to provide quick and low-cost dispute resolution for landlords and tenants? Will this not tend to militate against that aim?

Mr Filov: I understand that the courts provide the facility for that quicker process by allowing matters to be dealt with by registrars, particularly in tenancy situations. That will continue to be the case. This will not affect that side of things. These matters could be appealed to magistrates even before the Magistrates Court commenced, although there was some doubt about the way it operated. However, this will clarify the legislation and will ensure that that is the case.

The CHAIRMAN: Have registrars' decisions been reviewed by magistrates?

Mr Filov: I am making an assumption, but I assume that has happened since the inception of the act in 1987 or 1988. I suppose that prior to the commencement of the Magistrates Court there would have been instances in which someone would have had the matter heard by a registrar, and if not satisfied with that, would have taken advantage of having the magistrate review the decision.

The CHAIRMAN: The committee will have to take an interest in section 29 of the Magistrates Court Act and we will consider that further in our own forum.

Part 10 amends the Retirement Villages Act. The aim of this provision is clear. Is there any specific reason that this is a desirable amendment?

Mr Filov: The amendment will remove the confusion that currently arises with retirement villages that are accredited under the commonwealth Aged Care Act 1997 providing aged care recipients - also approved under that act - with hostel services. It will ensure that residents of retirement villages, including aged care recipients under the commonwealth Aged Care Act, will be protected by either the Retirement Villages Act or the Aged Care Act, but not both at the same time. The confusion has arisen in cases in which someone who has been in a retirement village moves to the hostel part of that complex, and the village is approved as a provider under the Aged Care Act, and

must, therefore, comply with the requirements of the Aged Care Act. There will be application of both the Retirement Villages Act and the Aged Care Act for people in that part of the facility. The amendment will ensure that the Aged Care Act will apply and other residents of the retirement village who are not in hostel care will be covered by the Retirement Villages Act.

The CHAIRMAN: This issue has been raised with me as a private member. If any of my constituents read this transcript, I will let them know that I am now asking this as chairman of this committee. What consultation has there been with the relevant industry sectors that has given rise to this amendment?

Mr Filov: I understand that during a review of the act in 2002 there was consultation on this matter and no concerns were expressed. However, it was recognised in the 1995 and 2002 statutory reviews of the Retirement Villages Act that the aged care component of a retirement village should not be compelled to comply with both laws. I suppose it is worth noting that the principle that applies when there is dual application of commonwealth and state laws and there is an inconsistency is that the state law is overridden by the commonwealth law. That situation would occur when conflict arises with similar provisions of the Aged Care Act and the Retirement Villages Act. The Aged Care Act provisions will apply and that will eliminate confusion as well.

The CHAIRMAN: This regularises that constitutional aspect anyway, does it not?

Mr Filov: Effectively, yes. It means that the Retirement Villages Act is taken out of the equation, although residents are the ones in need of care and probably are not capable in some instances of dealing with that aspect. For the operators it means that the Aged Care Act under which they receive funding and under which the resident is approved would apply only in those instances in that part of the facility approved under the Aged Care Act. Those three things would need to be in place for the provisions of the Aged Care Act to apply in that instance. In other words, the recipient is approved for funding, and a residential care package and the facility itself is approved for funding under the Aged Care Act. When someone moves into that part of the facility, the Aged Care Act will apply to that person.

The CHAIRMAN: I infer from the second reading speech and elsewhere that this has not been a controversial measure.

Mr Filov: No, not as far as I am aware.

The CHAIRMAN: Part 11 amends the Settlement Agents Act 1981. Does any member have any query about this provision.

Hon MATT BENSON-LIDHOLM: It seems pretty straightforward to me; I cannot see any issue with that at all.

[5.30 pm]

The CHAIRMAN: That being self-explanatory, we will proceed. We note that part 12 repeals the Trading Stamp Act, and we discussed that earlier. Part 13 amends the Travel Agents Act 1985. We also note that in clause 38 of the bill, the proposal is to amend this act to ensure that non-prescribed statutory corporations are subject to the licensing requirements of the act. What specific national competition policy concerns prompted this proposed amendment?

Mr Filov: I understand that it simply flows from the national competition policy review of the Travel Agents Act. One of the recommendations, among others, was repeal of the exemption for crown-owned business entities under the Travel Agents Act. The main effect will be that crown-owned business entities will have to obtain a travel agent's licence if they write a level of business above the exemption threshold, which is currently \$50 000. The practical effect will be that organisations such as Tourism WA will have to obtain a travel agent's licence and participate in the travel compensation fund.

Hon MATT BENSON-LIDHOLM: As a member for the South West Region, I have a fair amount to do with the Albany Visitor Centre. Would it operate under the auspices of the Crown in Western Australia or are you talking about a separate entity in terms of its capacity to operate?

Mr Filov: I understand that visitor centres are separate entities in their own right in many instances. Some may be attached to local governments, but some are operated just as separate businesses. Local authorities operating visitor centres will be required to also obtain a travel agent's licence.

Hon MATT BENSON-LIDHOLM: Will they be required to have that particular licence?

Mr Filov: Correct. Once again, that will be the case if they write that level of business that will bring them over the threshold exemption, which is currently \$50 000.

Hon MATT BENSON-LIDHOLM: That would certainly be the case in a city like Albany.

Mr Filov: Two local authorities that operate visitor centres and are licensed under the Travel Agents Act are the City of Mandurah and Fitzroy Crossing. There are 20 visitor centres run by community-based or incorporated authorities and these are not affected by the bill as they are already licensed. There are examples of them taking that action themselves because of the activity.

Hon MATT BENSON-LIDHOLM: Thank you.

The CHAIRMAN: I notice that the bill we have is number 84-2, which indicates that the other place might have received an earlier version and that it has been amended. Are there any proposals to introduce further amendments to this bill now that it is before the Legislative Council?

Mr Filov: Not as far as I am aware, no.

The CHAIRMAN: That being the case, we have dealt with all the clauses of the bill. Is there anything further you wish to add?

Mr Filov: No. Thank you for the opportunity. We will make a start on getting that supplementary information, although I am happy to wait for the transcript to make sure we provide what is requested.

The CHAIRMAN: I look forward to receiving supplementary information. Mr Grant and Ms Paniperis will liaise about obtaining that. I thank you on behalf of the committee for being here at such short notice. I appreciate your assistance at such short notice.

The Witnesses: Thank you.

Hearing concluded at 5.34 pm
