

Ms Rita Saffioti; Mr Paul Miles; Ms Simone McGurk; Mr Matt Taylor; Ms Margaret Quirk; Mr Tony Krsticevic

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**Division 54: Commerce, \$76 268 000 —**

Mr N.W. Morton, Chairman.

Mr P.T. Miles, Parliamentary Secretary representing the Minister for Commerce.

Mr B. Bradley, Director General.

Ms A. Driscoll, Executive Director, Consumer Protection.

Mr D. Goodwin, Chief Finance Officer.

Mr P. Groves, Principal Policy Adviser.

Ms K. Berger, Acting Executive Director, Labour Relations.

Mr M. Connolly, Principal Policy Adviser.

Mr P.W. Gow, Executive Director, Building Commission.

**The CHAIRMAN:** This estimates committee will be reported by Hansard staff. The daily proof *Hansard* will be published at 9.00 am tomorrow.

It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item program or amount in the current division. It will greatly assist Hansard if members can give these details in preface to their question.

The parliamentary secretary may agree to provide supplementary information to the committee, rather than asking that the question be put on notice for the next sitting week. I ask the parliamentary secretary to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the parliamentary secretary's cooperation in ensuring that it is delivered to the committee clerk by Friday, 30 August 2013. I caution members that if the parliamentary secretary asks that a matter be put on notice, it is up to the member to lodge the question on notice with the Clerk's office.

[Witnesses introduced.]

**The CHAIRMAN:** Member for West Swan

**Ms R. SAFFIOTI:** My first question relates to FTE allocation within the department. I refer to page 643 and the subheading "Consumer Protection". In 2011–12 there was an FTE allocation of 396, and that is forecast to fall to 367 in 2013–14. In what areas of consumer protection will there be reduced numbers of staff?

**Mr P.T. MILES:** As part of the government's workforce reform policies, those numbers have been reduced. I will refer to the director general to give a fuller understanding of where those numbers are from and what areas the department could be looking at moving people from.

**Mr B. Bradley:** The reductions in FTE are required across the board due to the 2012 FTE cap and the public sector workforce reforms. As the member will know, the departments are no longer held to an FTE cap, and as such we are expected to stay within our salaries budget, which has been capped at 2011–12 levels. The FTE numbers that appear in the budget papers are not just relevant to particular divisions of consumer protection, safety, the Building Commission and EnergySafety. We actually put corporate services into those numbers, so the raw number of 367 is not 367 people working in consumer protection; the actual number working in consumer protection is 315. Going back to the 2012 reductions, we tried to rationalise that across the full gamut of our operations. Equally, what we are trying to do with the public sector workforce reforms is, similarly, to run it across all our operations.

**Ms S.F. McGURK:** I take it that it cuts indiscriminately across all the sections, if that is what the director general is saying. Can the parliamentary secretary be specific about what areas of consumer protection have been affected by these cuts?

**Mr P.T. MILES:** Is the member referring to certain services within consumer protection?

**Ms S.F. McGURK:** That is right—the work those people were doing is now not getting done as a result of those cuts.

**Mr P.T. MILES:** Or some efficiencies have been achieved in the workforce. I refer to the executive director, Anne Driscoll, who can give the member an answer.

**Ms A. Driscoll:** Consumer Protection is still in the process of fully assessing the impact of the budget for 2013–14. I think it is important to point out that we have been offered the opportunity to go back to government through the midyear review process. There are quite a lot of non-discretionary activities that we are involved in,

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particularly with the Residential Tenancy Act amendments and the processing of bonds associated with that process. The department is now the mandatory bond administrator. Obviously, licensing activities and, to some extent, investigations are non-discretionary as well. By virtue of the fact that a number of our activities are industry funded, much like the Building Commission and EnergySafety, and we have an independent revenue source, we have the opportunity to go back and seek further funding. In relation to those that are not funded—to some extent we are accepting the intent of government to try to be a bit leaner—we have certainly undertaken some internal assessments of our spending. We are reducing some back office positions and we are going to reduce, in part, our proactive inspections, which are more discretionary, but we do intend ensuring that there is sampling across all current industries that are monitored. It is a bit of a balancing act, and we are still in the process of applying an internal budget that was finalised this week into our budget planning process to fully assess the impact.

[8.10 pm]

**Ms S.F. McGURK:** It is difficult to believe that the numbers could go from 396 two years ago to 367 now—accepting that there might be some corporate overlay embedded in those figures—and that things that were done before can still be done.

**Ms A. Driscoll:** The reality is actually, with these full-time equivalent figures, that we were not fully utilising previously the FTE listed there, so to some extent they were inflated above the reality. I think it is true to say that this next year will be a more direct impact, but in some ways those FTE figures were not being applied in the last few years in any case.

**Ms R. SAFFIOTTI:** The commissioner talked about a reduction in proactive inspections; to which industries would that apply?

**Mr P.T. MILES:** Obviously there are programs that have come to an end. There are also, to my understanding, some federal entities, such as the travel agents board, that are now no longer needed; that is about a year away. I will ask the commissioner to elaborate on that. There are some natural losses of staffing numbers because of the efficiencies that are coming through there because of some of these laws and regulations that are not being policed anymore because they are not there anymore.

**Ms A. Driscoll:** The range of activities that are reducing include, to some extent, retail trading hours; with the widened hours, there is less need to monitor all types of activities. Certainly, travel deregulation has been supported across all states, with the exception, indeed, of Western Australia. This week we released a discussion paper seeking feedback from the community about the deregulation of travel to accord with the case in the rest of Australia. Other areas we review are motor vehicle dealers, motor vehicle repairers, real estate agents, settlement agents, retirement villages, residential parks—to name a few of the industries we visit as part of a proactive assessment. Of course, we also visit general retailers for assessment of product safety provisions, and also to check that scanners et cetera are working accurately; and of course FuelWatch checks as well.

**Mr M.H. TAYLOR:** In reference to the first dot point on page 611 of the *Budget Statements*, can the parliamentary secretary please inform the house about amendments to the Residential Tenancies Act 1987?

**Mr P.T. MILES:** Yes; I thank the member for the question.

There have been some significant amendments to the Residential Tenancies Act 1987, and the 1989 regulations. Those amendments commenced on 1 July this year. Those key amendments to the act include the requirement that all written residential tenancy agreements must be prescribed in written form; compulsory property condition reports must be completed at the commencement and conclusion of a residential tenancy; and the prescribed minimum levels of security are now a must—the government has decided there should be a minimum level of security for those homes. There will be a cap, which I think will have the biggest impact on the rental market, on fees that can be charged for someone wishing to look at a home. It will be capped at \$50 for rents below \$400, I think —

**Ms A. Driscoll:** To be honest, I cannot remember, parliamentary secretary.

**Mr P.T. MILES:** We have reduced the cap from \$100 to \$50.

As the commissioner just said, there will be an increase in the transparency in relation to deposits and disposal of bond moneys to make it easier for people to get their bonds back. The government is also very confident that the amendments will deliver residential tenancy regulatory reforms, preserve the investment for the private rental market, and try to balance the interests of property owners and tenants to attempt to reduce some of the disputes that ultimately the Consumer Protection Division has to become involved in. This was obviously done with the assistance of the Department of Housing to deal with antisocial behaviour in those houses. As with any new laws, there is always a period of adjustment, as we have been going through with the bonds. There has been the need for a relevant number of staff to deal with that, as the commissioner referred to. All in all, landlords and

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tenants have been supporting the new laws and regulations quite well, and there have not really been any significant implementation issues at all.

**Ms S.F. McGURK:** My question relates to FTEs under the industry and technology section on page 644 of the *Budget Statements*. In 2012–13, we will have 92 FTEs, and it will decrease to 62 in 2013-14. Could the parliamentary secretary tell me where those positions have gone, what positions have been taken away from the department and what services it has affected?

**Mr P.T. MILES:** As it is a question on FTE numbers, I will defer that straight to the director general to give the member for Fremantle a clear and precise answer.

**Mr B. Bradley:** Again, that number does not necessarily equate to the number of people actually in that division because it has, of course, some of the human resource and finance numbers in there. Essentially, the greatest reduction there is the movement of staff from our division and department across to the Department of the Premier and Cabinet as part of the science people. Fourteen FTEs were transferred out of that division for that reason.

**Ms S.F. McGURK:** The director general said 14 FTEs have been transferred because science has moved out, and some relate to a corporate loading, if you like?

**Mr B. Bradley:** Yes.

**Ms S.F. McGURK:** Have other positions been cut in that area, apart from those that have been taken away because of science?

**Mr P.T. MILES:** I will ask the DG to put in, but the biggest area of impact in that department is the fact that the Premier's office has taken over science; most of those staff are there. There obviously have been some efficiency gains along the way, and there is obviously the public sector reform process as well. I will ask the DG to elaborate.

**Mr B. Bradley:** No, there are no further reductions for this financial year. The financial year 2013-14 is fully funded for the remaining staff.

**Ms M.M. QUIRK:** I refer to page 641 of the *Budget Statements* and the question of occupational licensing. Parliamentary secretary, it has come to my attention recently that there is no licensing requirement for fire engineers in Western Australia, so that virtually anyone can effectively certify a building as being compliant in terms of fire safety. Has any consideration been given to some accreditation or licensing of those people, as they are licensed in other jurisdictions but not in Western Australia?

[8.20 pm]

**Mr P.T. MILES:** I will ask the executive director of the Building Commission, Peter Gow, to answer that question.

**Mr P.W. Gow:** Certification of compliance with building standards in Western Australia is done by registered building surveyors, and they are the only people who provide certificates of compliance under the current Building Act. There is provision in the act for technical certificates to be given by specialists, but that part of the act has not been turned on yet. Building surveyors can seek advice from fire engineers on technical fire requirements, and many of them do, as they used to do under the previous legislation, but at the moment that process is not registered in the sense that they can go to a fire engineer they have confidence in. We have been discussing with fire engineers, building certifiers and the Department of Fire and Emergency Services the best way to switch on the registration of fire engineers and the provisions for specific technical certificates under the Building Act. Those discussions are continuing. We expect to be able to release a discussion paper on that later this year, depending on how quickly we can get agreement amongst the parties on how to do it. Although it is not yet engaged in Western Australia, there are moves to register fire engineers. Once they are registered, they will be able to issue specific technical certificates to building surveyors, who then use those certificates as part of their assurance that the whole building complies with the building standards.

**Ms M.M. QUIRK:** It is a matter of concern to me that people who can hold themselves out as a fire engineer effectively give certification on some aspects of fire safety. I would have thought that that is an area of exposure and that questions would be asked if, for example, a building burnt down. I am just curious to have some sort of time frame.

**Mr P.T. MILES:** As Peter has said, it is obviously being consulted.

**Mr P.W. Gow:** The regime that is in place at the moment for commercial buildings requires not only a registered building surveyor to sign off on compliance, but also that drawings be provided to the Department of Fire and Emergency Services before that sign-off is done for the Department of Fire and Emergency Services to provide its comments on both its operational requirements and the fire safety of the building. Although fire

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engineers are certainly active in preparing designs for buildings and in helping demonstrate that they comply with the building codes, the qualifications and competence of those people are tested by both the Department of Fire and Emergency Services and a building surveyor before their assurances are accepted, so there is a high level of scrutiny over the people who are actively involved in that. By registering fire engineers, we will get a more robust system, and it will also, to some extent, streamline the process and not require everything to go through the Department of Fire and Emergency Services. As I say, we are finalising a discussion paper at the moment and expect to release that in the next few months, depending on the agreement.

**Ms M.M. QUIRK:** What implications will changes to the Building Act have for fire safety certification? Will they narrow the scope of considerations or will they broaden them?

**Mr P.W. Gow:** The Building Act provides a framework for certification that is more robust than the one that existed under the previous legislation. Under that legislation, there was only a requirement that the local government sign off on the plans. There was no requirement that anybody had to be registered or that there be any technical qualification for building surveyors in many local governments. We now have a much more robust system. Every building surveyor is registered now. We will move on to registering fire engineers and other technical specialists. From that point of view, it gives us a clearer view of who is competent, and only those people who are then registered as competent will be able to sign off. In one sense, it is narrower because we are dealing only with registered people, but in another sense, it is a much more robust and flexible system than we had previously.

**Mr A. KRSTICEVIC:** I refer to the fifth dot point under the heading “Significant Issues Impacting the Agency” on page 641 of the budget papers, which relates to international fraud. Can the parliamentary secretary please inform the house about the development of a program between the Consumer Protection Division of the Department of Commerce and WA Police to identify significant losses being suffered by vulnerable consumers?

**Mr P.T. MILES:** I thank the member for Carine for the question. Project Sunbird is a joint project between the Consumer Protection Division of the Department of Commerce and the WA Police fraud squad. It now has an officer stationed within the department. Between August 2012 and May this year, approximately \$6.6 million out of a total of \$16.7 million that was sent to Nigeria, Ghana and Sierra Leone by individuals was identified as likely to be the result of fraud. We have seen some reports of that on television through the good work of the division. A specialist database has been developed to enable tracking and identification information to be recorded, which will enable scams to be identified by department staff who can then alert the community via social or mainstream media. The shutdown of identified scams occurs only through mail intercepts, the closure of websites and the removal of online profiles. Data is collected from victims about their history, and any information about the offender is also recorded. The information is obviously analysed and used to prevent any further victimisation. Approximately 1 000 money transfers a month from 100 to 200 people are being identified as potential scams. As a result, 1 323 letters have been sent to potential victims between January 2013 and June 2013 providing information about scams and victims of crime. There are counselling options. Suspected victims are asked to contact Project Sunbird to discuss their situation. Not everybody wants to talk about it, because they feel embarrassed, but we have to try to get this information to stop this happening. We need that recognition from the victims so that we can identify the losses and where the letters come from. The project has been successful. I do not know whether the executive director would like to elaborate.

**Ms A. Driscoll:** I will just mention that it is encouraging that more and more people are coming to the Consumer Protection Division to declare the fact that they have been scammed. For example, so far in 2013, we have had 305 reports of people being scammed to the tune of \$9.8 million. That compares with the losses reported in the previous year of only \$2.1 million. It is clear that this strategy is having an impact on people coming forward. It is also good that we are starting to see an increase in relatives and friends approaching us on behalf of people they know who are having an online relationship. That is a significant issue for us. The other thing that has evolved, as recently demonstrated with the property fraud issue, is that relationships with the Australian Federal Police, and now the Nigerian and South African police, are also much stronger. The database that we are developing is enabling us to see a web and clear points of contact. We now have the opportunity to intervene in the conduct of these criminals.

[8.30 pm]

**Ms M.M. QUIRK:** From what has been said, I gather the department is now in a position to intervene a lot sooner and to publicise this sort of malpractice, but clearly, because of the international connections, it is not able to take any recovery action or bring the fraudsters to justice in this country because, as I understand it, most are outside our jurisdiction.

**Mr P.T. MILES:** Yes, the member for Girrawheen is right. They are normally outside the jurisdiction. In Ghana and places like that, their laws and rules are probably not as robust as some of ours. I will defer to the commissioner to elaborate further on what those connections are, because they are vitally important.

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**Ms A. Driscoll:** As the member would be aware, the offender associated with the property frauds has recently been apprehended in Nigeria. That was an important case in point. When the exchange of funds was monitored, it appeared that a woman in Melbourne was actually operating as a conduit for the funds. At one point, detailed arrangements were made to effect the transfer of funds. That person was involved in a relationship fraud. That case served to emphasise the importance of this particular exercise and that the people behind this fraud are obviously involved in both sides of the activity. As I said earlier, the robustness and tenacity of the Nigerian police was quite refreshing and surprising, both to WA Police and to ourselves. Apparently, ongoing fraud in Nigeria is now really decreasing the country's ability to attract charitable funding and the authorities are extremely aggressive in wanting to deal with this issue. The links between the Australian Federal Police, the Nigerian police and the South African police, through the consulate in Pretoria, have shown a great deal of common endeavour and commitment to assist us. We have also demonstrated some real capacity in WA. Last week we provided a joint presentation with WA Police on this initiative to the Australian Competition and Consumer Commission. The ACCC is interested in developing the database nationally to much more powerfully impact and monitor the transactions.

**Ms M.M. Quirk:** Do I infer from the fact that WAPOL now has a police officer stationed within the department to assist on these matters that the fraud squad itself is not overly interested, qualified or resourced to pursue these matters?

**Ms A. Driscoll:** The reason for the placement of the officer with us is to manage the privacy and secrecy provisions of the data that we have access to. I emphasise that only a very small number of people have access; I do not have access to that information. WA Police's own fraud squad also has several officers dedicated to this task. It is very much operating across both sites.

**Ms R. Saffioti:** My question relates to occupational safety and health on page 642. I want to ask a question about a particular aspect of the building industry. An issue has been raised with me about the regulation and inspection of cranes and scaffolding in the building industry. I have been told that cranes used in the mining industry require some verification or certification through the Department of Mines and Petroleum, but that those operating within the construction industry do not. Because a high percentage of cranes are now imported from overseas, there have been some safety issues. Has the department received complaints or issues relating to this aspect?

**Mr P.T. Miles:** Is the member for West Swan referring to the big cranes on building sites or mobile-style cranes?

**Ms R. Saffioti:** Both, but the big ones particularly.

**Mr P.T. Miles:** I will ask the director general to answer that specific question. I am not aware of that.

**Mr B. Bradley:** Generally, we have been in consultation with the Department of Mines and Petroleum as a result of mines and petroleum identifying a problem with cranes on mine sites. In examining the general construction sector, we have not found the same problems. In answer to the member's question about whether we have had any specific complaints, I will have to refer that to the parliamentary secretary to consider.

**Mr P.T. Miles:** We will provide that by way of supplementary information. Could the member please clarify what she is seeking?

**Ms R. Saffioti:** Have there been particular complaints in the industry relating to the safety of cranes and scaffolding on building sites?

**The Chairman:** Is the parliamentary secretary happy to provide that?

**Mr P.T. Miles:** Yes, I am happy to provide that.

**Ms R. Saffioti:** I have one further point. I have heard stories of what seems to be an emerging issue of cranes collapsing on building sites, particularly the high percentage of equipment being imported without proper inspections. That could have significant impacts on workers' safety.

*[Supplementary Information No B47.]*

**Mr D.C. Nalder:** I refer to the fourth dot point on page 641 about licensing. Can the parliamentary secretary inform the house about the national developments in the deregulation of travel agents?

**Mr P.T. Miles:** As I indicated earlier in answer to a previous question, there has been a review of the National Co-operative Scheme for the Uniform Regulation of Travel Agents. The review was initiated by consumer protection ministers in 2009 and was to include extensive national public consultation. As a result of that review, in December 2012 the ministers agreed, by a majority decision, to the phased ending of the national scheme in favour of an industry-led accreditation scheme, and the reliance on the Australian Consumer Law and other

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safeguards to protect people. Western Australia and South Australia did not vote to end the national scheme. They indicated at the time that they would consider options in light of these developments. Although WA has recognised the need for change, there is a desire to first consider less costly regulatory mechanisms. There is also the concern that the transitional plan to effect the change is not sufficiently detailed. The question for WA now is whether we should adopt a national position or whether there should be a case for some level of industry-based regulation for WA travel agents. A position paper assessing the cost and benefits of a range of options for the future regulation of travel agents was released on 19 August. Although the position paper recommends the deregulation of WA travel agents, that does not represent a final government position—we have not made that as yet. Once stakeholder views have been considered, we will make that decision. Stakeholders have until Friday, 4 October 2013, to make a submission on what they believe is the best way forward.

**Ms S.F. McGURK:** My question relates to the line item “Employment Law Centre Western Australia” on page 647. It is halfway down under the heading “Details of Controlled Grants and Subsidies”. It appears that the Employment Law Centre of WA will not receive any funding after 2014–15; is that correct?

[8.40 pm]

**Mr P.T. MILES:** Thank you, member for Fremantle. The purpose of the grant to the Employment Law Centre of WA is to enable the law centre to assist disadvantaged employees with employment-related matters in both the state and national systems. It provides a wide range of services including fee information and legal advice, advocacy referrals, training, and community legal education. The ELC is the only community legal centre in Western Australia focussing on employment-related issues. I will ask Kristin to elaborate and provide more information.

**Ms K. Berger:** The Employment Law Centre has been funded by the government since 2005. The funding is usually done on a three-year basis, and some funding also comes from the federal government. The three-year funding cycle ends in 2014–15.

**Mr P.T. MILES:** The program is running its course.

**Ms S.F. McGURK:** Is it envisaged that it will be refunded because it has been funded for quite some time? There would be some concern if there was an expectation that it would not have continued funding.

**Mr P.T. MILES:** My advice is that it is too far out for us to make that decision. I do not want to use the jargon line “it is out there in the forward estimates” but it is something that the government has not decided on.

**Ms S.F. McGURK:** Some years ago—I think under this previous Liberal and the first coalition government—Minister Buswell tried to take funding away from the ELC and was embarrassed because the Department of Commerce referred people to the ELC for legal advice, so it was required to put the funding back in place. Is the ELC aware that it has guaranteed funding until only the end of the next financial year?

**Mr P.T. MILES:** I will ask for further advice from David because it is also dependent on a commonwealth contribution. David will be able to enlighten us a bit further.

**Mr D. Goodwin:** The normal arrangement that is contingent on a co-contribution from the commonwealth is generally negotiated on a three-year period, and that will be resolved as we lead up to the conclusion of the current agreement. This is why it does not currently appear in the out years until there is more confidence about the commonwealth contribution.

**Ms M.M. QUIRK:** My question basically relates to a WorkSafe issue. I refer to the first table on page 643, and the line item titled “Outcome: A Community with workplaces operated in a safe and fair manner”. I have a specific question about improvement notices issued to the then Department of Environment and Conservation, now called the Department of Parks and Wildlife. About 10 successive workplace notices were issued on fire fighting vehicles involved in a fire at Two Peoples Bay late last year, and my question relates to the process. How is it that 10 successive notices were issued rather than just one? Is it a question of not complying within a certain time so another notice was issued? I would like know the circumstances around how that occurred.

**Mr P.T. MILES:** I will ask the director general to give us information on that matter.

**Mr B. Bradley:** I do not know the details surrounding the particular event that led to the notices, but the normal course of events is that if an inspector is of the opinion that a breach of a regulation warrants the issue of a notice, that notice will then be issued. He could issue multiple notices or it might be a notice for each particular item, and he would do that because some notices can be effective within a short period and some might take a longer period. The recipient of the notice could then, if it was felt that the time given by the inspector was short, refer that notice to the commissioner who would then assess whether that extra time is warranted to ensure compliance. The objective is to always ensure an improvement in the health and safety at a particular workplace.

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**Ms M.M. QUIRK:** I have a further question. I will give the director general more information, which might jog his memory. This matter relates to DEC vehicles following the death of a DEC employee in November last year.

**The CHAIRMAN:** I will direct that question through the parliamentary secretary.

**Mr B. Bradley:** I am aware of the event but I am not aware of the particular notices issued. The event is still potentially a prosecution, as I understand it, so that is why I do not know the details.

**Ms M.M. QUIRK:** Is there a time limitation on prosecutions under the department's act?

**Mr B. Bradley:** I believe it is three years.

**Mr M.H. TAYLOR:** I refer to page 641 and the fourth dot point on licensing. There are many small businesses in the motor vehicle industry. Can the parliamentary secretary inform the house about what the government is hoping to achieve in the review of the motor industry legislation that will assist in the regulation of this industry?

**Mr P.T. MILES:** Thank you, member, for the question. The combined review of the Motor Vehicle Dealers Act 1973 is currently underway. The review will look at ways to improve and modernise the legislation to ensure it remains relevant to the current marketplace. It is an important review that will pave the way for establishing the government's future policy direction and legislative reform agenda on the regulation of repairers and dealers. The review will also look at ways it can reduce unnecessary legislation and red tape where possible. A discussion paper was released on 5 August 2013 inviting stakeholders to provide input into the review. The review is supported by a comprehensive communication strategy aimed at encouraging consumers and specifically industry stakeholders to have their say, and includes direct contact with some 17 000 industry participants. I understand they have until 5 November this year to make a submission or a review. I will now ask the commissioner if she would like to add to my answer.

**Ms A. Driscoll:** Perhaps simply to note that it is an area of interest. There has been quite a lot of contextual change to the regulatory market. We had the introduction of repairers, and it is true to say that there have been mixed reviews about the effectiveness of that regulation and its desirability from the industry itself. The Australian Consumer Law has brought with it a number of clearer consumer guarantees et cetera that raise questions about whether we need the specific warranty provisions in the motor vehicle dealers legislation. There is a question about whether we should continue to have motor vehicle salespeople licensed or whether it is sufficient to have them monitored through the dealer's licence. A number of questions have been put to consumers as well as the industry, and we will certainly be interested to get feedback. Some excellent survey questionnaires are now available for consumers as well as industry. They really seek to have consumers talk about the things that have gone wrong for them so that we can construct something that really addresses the issues that they are confronting.

[8.50 pm]

**Ms R. SAFFIOTI:** My question relates to local content, which is referred to on page 642. Does the department have a local content unit? If it does, what is the role of the unit and how many people are involved in ensuring and encouraging local content in our manufacturing industry?

**Mr P.T. MILES:** The government has had a fairly substantial involvement in local content; it did under the previous minister, Hon Simon O'Brien. Obviously, a number of factors always impact on local content for the local manufacturers. At one time it was the high value of the Australian dollar, which has dropped considerably. Other factors are competition with manufacturing regions and lower cost structures. This industry and innovation division looks after local content for the government. It will continue to implement the local industry participation framework, thereby contributing to the effort to get an even playing field for our local suppliers, and assist Western Australian industry to increase its capacity to be competitive internationally. I have been to some of the briefings about what is going on in our mining industry. In the past, some of our larger companies were not even able to present tenders in the right format. The government has been very helpful in providing software to companies to be able to do that. We are trying to improve their administration in submitting tenders. I will ask the director general whether he wants to elaborate on that. It is something that I have been involved in and I know that the minister, Hon Michael Mischin, has been involved in it as well.

**Mr B. Bradley:** I cannot give the member the exact number of people, but we added five people to the unit during the course of 2012 to work with industry in light of the new policy that was launched. Roughly, the number in that unit is about seven or eight.

**Ms S.F. McGURK:** My question relates to service 2, "Safety and Employment Protection and Construction Standards", on page 644. I hope this is the right division. I am wondering how many safety inspectors are employed within the department. Is this the relevant division in which to ask that question? How many safety inspectors are employed and how does that compare with the last two financial years?

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**Mr P.T. MILES:** I will refer that, because it is a full-time equivalent count, straight to the director general.

**Mr B. Bradley:** Over the last few years we have had 103 authorisations for inspectors. Clearly, we have had difficulty filling all those positions. As of today when I checked, we had 15.6 vacancies. At present we are seeking appointments for scientific inspectors—there are 2.6 positions—and the balance are for general inspector positions. During 2012, we got down to as few as 69 inspectors, but with the contraction in the mining and resources sector towards the end of last year and the early part of this year, we have been able to employ further inspectors. With this current redundancy round, only one inspector has been endorsed as satisfying the criteria. We have swapped that with another position that was vacant, so we will retain the 103 authorisations.

**Ms S.F. McGURK:** The director general talked about the number of vacancies being quite high in 2012. Was the total number of inspector positions the same?

**Mr B. Bradley:** Yes.

**Mr A. KRSTICEVIC:** I refer to the second dot point under “Significant Issues Impacting the Agency” on page 641, which refers to retirement villages and residential parks. Can the parliamentary secretary inform the house about the expected time lines for the completion of the review and how the government intends to address residents’ concerns about security of tenure?

**Mr P.T. MILES:** The department has received almost 800 stakeholder responses to a recent discussion paper in the form of completed survey forms. The next phase of that review is to develop a consultation regulatory impact statement to outline a range of options for further comment, which it is intended to release later this year. The statutory review is expected to continue for the rest of this year and into next year, 2014. The issue of security of tenure is being considered as part of a review, and a number of options will be canvassed for residential parks that offer long-stay sites, including those sites that have mixed use—that is, holiday stays and long-term stays—and also lifestyle villages. We want to achieve a workable balance between the competing interests of both. Obviously, the key objective for the government is to commit to a process under which all the stakeholders will be given the opportunity to provide input and offer a range of options through consideration of the consequences of any proposals, and develop those pursuits and those reforms. I know that this one is pretty close to the member, with the industry in his area, as well as in my electorate. I will ask the commissioner to add some meat to the bones, because the review has been going on for a little while

**Ms A. Driscoll:** This area is certainly one that is a challenge. To some extent the perspectives of the residents do not reconcile easily with the perspectives and desires of the operators. Obviously, the feedback we have had from tenants is that they want to seek greater security of tenure and ensure ongoing affordability of park living. Conversely, the view of operators is that they want to ensure that laws do not limit their ability to manage the park according to their needs and to maintain their operations in a way that attracts investment. These views are not easily reconcilable. However, some improvements are seen as being viable. It is intended that there be some options in the next phase of the consultation to be considered by both operators and owners.

One of the issues we are also considering is that of lifestyle villages, where people have tenure for up to 40 or 60 years, and whether there should be quite a different set of arrangements for that circumstance to ensure that, given that contractually they have been offered tenure for 40 to 60 years, there is some security and charge over the land or some sort of memorial that guarantees the decisions and the protections that people would expect with that sort of contractual arrangement. There are a number of complex issues, and we expect to have a discussion paper out towards the end of this year.

[9.00 pm]

[Mr P. Abetz took the chair]

**Ms M.M. QUIRK:** I refer to page 641, the second bullet point “Retirement Villages and Residential Parks”. Some legislation went through last year and it was foreshadowed a second tranche of legislation would follow the recommendations of a parliamentary committee. At what stage is that legislation?

**Mr P.T. MILES:** We were just talking about that.

**Ms M.M. QUIRK:** I do not know that we were told a time frame.

**Mr P.T. MILES:** The member is correct. In 1992 the Retirement Villages Act was passed. In November 2012 some amendments were made to it, combined with a new code of conduct for retirement villages that will be introduced in 2013–14. Work will commence on the second bill to complete the reforms; in fact, I think work has started on that. A statutory review of the residential parks regulations is also to be completed. I ask the commissioner to elaborate further on the Retirement Villages Act.

**Ms A. Driscoll:** As the member knows, the act was passed late last year. The focus this year has been on the development of the regulations as well as the code of conduct. There is a complex interrelationship between the

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code, the regulations and the act. To give some sense of the complexities Consumer Protection has been working through the code itself will address the key issues that, for example, came up through the Karrinyup Lakes review, such as information to residents regarding village budgets, clarifying the arrangements for capital maintenance, clarifying arrangements for budget surpluses, introducing mandatory auditing of accounts et cetera.

Additionally, the regulations themselves are complex in nature. For example, we have been working with both residents and operators on what fees and charges will be prohibited from being recouped from residents. As the member can imagine, we are going through a great deal of detail to itemise the things that cannot be charged to residents such as legal fees, travel by managers and depreciation, which is an important one. We are also looking at what must or must not be included in residents' contracts, so, again, the level of detail is significant. Having said that, we understand the imperative, because the issue of recurrent fees and charges and the fact that residents who have left the village can be asked to continue to pay those for an extended period means that we need to bring this to an end. It is a priority. Four policy staff are currently working on the code and the regulations to make sure they fit with the act, and drafting has commenced on the regulations.

We have also consulted on the code and that closed off in July, so we have 20 representations and submissions to consider. It is the intention of Consumer Protection to finalise the regulations in early 2014, ideally with an implementation around March, given that the industry, consumers and residents will need some education.

**Ms M.M. QUIRK:** What is the date Consumer Protection will start on the second tranche of the act, bearing in mind that is considered to be more controversial and may require more consultation?

**Mr P.T. MILES:** I defer to the commissioner.

**Ms M.M. QUIRK:** The regulations are due in 2014, but the second bill?

**Ms A. Driscoll:** Are you asking about bill two?

**Ms M.M. QUIRK:** Yes, bill two.

**Ms A. Driscoll:** Some preliminary work has commenced on bill two, but it is Consumer Protection's priority to focus on the regulations and the code because the imperative for the residents is to have a managed arrangement for recurrent fees payment. So it has been clearly conveyed to all stakeholders that that is the priority. While some work has commenced on bill two, the focus has been on ensuring that recurrent fees and charges are managed, that it is possible for a statutory manager to be appointed, that there is clarity and there are a number of issues involved in the contracts et cetera. Deliberately, the components of bill one were the priority from the residents' perspective. They are what drove the initial focus and, therefore, bill two will have to be the focus for 2014.

**Ms M.M. QUIRK:** The Attorney General has called for submissions on powers of attorney. I would have thought that the capacity to enter into commercial relationships such as this may be a live issue. Has Consumer Protection made a formal submission to the Attorney General or does it intend to contribute to the review of powers of attorney?

**Ms A. Driscoll:** Yes, the recommendation arising from the review was that anybody involved in the administration of a retirement village cannot in any way be involved in the arrangements in managing a senior person's assets et cetera. To some extent the recommendations from the review will seek to outlaw any involvement whatsoever in the village as it relates to the individual's assets and rights.

**Ms R. SAFFIOTI:** My question refers to page 640, "Consumer Protection", and country-of-origin labelling for fruit and vegetables and other food. What role does the department play in inspecting and ensuring appropriate food labelling in our stores?

**Mr P.T. MILES:** Some of that is done through the Department of Agriculture and Food, but I will ask the Commissioner for Consumer Protection to detail what is done through this department.

**Ms A. Driscoll:** A level of monitoring is undertaken by the Department of Agriculture and Food, but certainly if there are any approaches to Consumer Protection that suggests there are misleading misrepresentations, we will pick up that issue and investigate it. Provisions under the Australian consumer law set out the arrangements and how terminology can be used when labelling origin of food, such as "Made in Australia" or "Product of Australia", and there is a range of rules for the percentages by which components are put together, and so on. In essence, yes; potentially, a matter such as this would be a misleading representation under the Australian consumer law and, as has recently occurred with the Australian Competition and Consumer Commission, Consumer Protection would also be happy to take on such a matter.

**Ms R. SAFFIOTI:** Is the country-of-origin labelling for fruit and vegetables monitored by the Department of Agriculture and Food?

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**Ms A. Driscoll:** That is my understanding; yes.

**Ms R. SAFFIOTI:** A personal obsession of mine is free-range eggs. Which would be the appropriate department to make claims to if one believes misleading statements have been made on the labelling of free-range eggs?

**Mr P.T. MILES:** I would say that it is still agriculture, but the chair could probably answer that better than I. I ask the commissioner to answer.

[9.10 pm]

**Ms A. Driscoll:** It is an area of interest nationally, and several jurisdictions are looking to impose mandatory requirements about free-range eggs and the number of hens per hectare et cetera. Equally, there are some voluntary standards; indeed, I understand they vary considerably, which is an issue because some of the standards are quite ridiculous and the number of hens would not accord with our image of free-range eggs. As I said, there is interest nationally, and WA is monitoring the situation in other states. Having said that, it is possible, even with the existing general provisions, to use Australian Consumer Law as a basis for challenging eggs that have been sold, for example, as free range but that are quite the contrary. Again, if there is evidence that there is a completely different scenario to that being advertised, it is possible to make a prosecution on those grounds.

**Ms R. SAFFIOTI:** Would that go straight to the Australian Competition and Consumer Commission?

**Ms A. Driscoll:** Also to the Consumer Protection Division, as we basically operate concurrently in the same space. Generally, the ACCC will take matters that cross state boundaries—a national provider; but if it is local provider, it will generally be the Consumer Protection Division.

**Ms R. SAFFIOTI:** Another situation would be if a particular egg farm was receiving eggs from another company and then relabelling them to give a different impression about the eggs being produced. For example, if there was evidence to show that eggs were being dropped off and put in different cartons, is that something we could refer to your agency?

**Ms A. Driscoll:** Again, it would depend on the nature of the representation. Obviously, people supply eggs to a wholesaler, who might then package them together, so it would depend on the circumstance and the relevance to the consumer.

**Mr D.C. NALDER:** I refer to table 2, “Details of Controlled Grants and Subsidies”, on page 647. Can the parliamentary secretary inform the chamber about the funding grant to the Employment Law Centre Western Australia of \$864 000 over the next two years?

**Mr P.T. MILES:** The government has provided funding to the Employment Law Centre Western Australia since 2005. The budget contains a funding allocation to the centre of \$424 000 for 2013–14 and \$440 000 for 2014–15. The Employment Law Centre is the only community legal centre in Western Australia that assists vulnerable disadvantaged employees. We talked about this earlier in answer to a question from the member for Fremantle. The centre provides a wide range of expert services. During 2013, the centre provided assistance for more than 4 300 metropolitan and regional callers on its advice line; it also provided further expert assistance in the form of its in-house solicitor and evening legal service appointments to about 300 clients, and it undertook nine representation matters. During 2012–13, the centre’s 6.5 FTE staff were supplemented by 35 in-house volunteers and external pro bono support from national commercial law firms to the value of more than \$700 000. It is clearly a very good centre.

**Ms S.F. McGURK:** Is there still an equal pay unit within the Department of Commerce; and, if so, how many FTEs are attached to that unit? Can the parliamentary secretary outline some of the unit’s activities?

**Mr P.T. MILES:** Does the member for Fremantle have a page number on that?

**Ms S.F. McGURK:** It relates to the activities of the Department of Commerce.

**Mr P.T. MILES:** That is no problem. I ask the director general to answer that one.

**Mr B. Bradley:** The government is committed to continuing the important work of the pay equity unit. That unit will continue to assist public and private sector organisations implement strategies to improve opportunities, workforce participation and career progression for Western Australian women, and to reduce the gender pay gap. To round that out, I think the unit has one person.

**Ms K. Berger:** The unit sits within the policy and legal directorate and its work is spread across a number of policy advisers in that directorate.

**Ms S.F. McGURK:** Are there no dedicated FTEs to that unit?

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**Ms K. Berger:** At the moment we have 1.2 FTE. I am thinking about that, because some of them are part time, but it is more than one person.

**Ms S.F. McGURK:** But less than two?

**Ms K. Berger:** It has two actual people, one of whom works part time, who are dedicated to that work and, in addition, other people within the policy and legal directorate also carry out that work.

**Mr P.T. MILES:** It is probably a hardworking mum.

**Ms S.F. McGURK:** The parliamentary secretary would be aware that WA's gender pay gap is quite significant compared with the national average, so it is an important area for all governments to address.

**Ms M.M. QUIRK:** I refer to the service summary on page 640 and to service 1, "Consumer Protection". Has the annual testing of show bags been undertaken for this year; and, if so, what are the dangers that the young and young at heart should look out for?

**Mr P.T. MILES:** Is the member applying for the job?

**Ms M.M. QUIRK:** Sure!

**Mr P.T. MILES:** That is something that the commission does on a day-to-day basis!

**Ms A. Driscoll:** It is on an annual basis. The annual checking of show bags has occurred. I am yet to get the results of that process. We will provide the minister with those details as soon as they are available. They have not been finalised at this point.

**Ms M.M. QUIRK:** As a general principle, what are the particular concerns or types of criteria that are used to determine whether a toy or whatever is dangerous?

**Ms A. Driscoll:** About 50 mandatory standards are common across Australia under Australian Consumer Law. The focus on show bags is generally on things such as choking hazards, so small items that are targeted to young children that present a risk. In recent years there have been issues with paint that contains lead being used on a range of toys. The focus too is on different toys having appropriate age references in terms of suitability. They are just a few of the sorts of issues that will be considered as part of that assessment. In essence, we apply the 40 current product safety standards to the items being reviewed. Clearly, things like cot standards do not apply, so it is looking at toys et cetera that are in those show bags.

**Ms M.M. QUIRK:** These are national standards that are being used. Is it the case that every jurisdiction, every state, does this testing or does the commission rely on what is done in other states?

[9.20 pm]

**Mr P.T. MILES:** What does the member mean?

**Ms M.M. QUIRK:** The commissioner said that the testing has not been completed yet. That seems to imply that, although they are national standards, each jurisdiction does its own testing. Is that the case?

**Mr P.T. MILES:** Yes, that is correct. That is the case. I will ask Ms Driscoll to provide further detail.

**Ms A. Driscoll:** The product safety arrangements across Australia are very well coordinated. There are regular telephone link-ups. It is the case that show bag providers basically have a cycle around Australia, so we are very much informed by findings in other states to ensure that they are not then offloaded in a new jurisdiction. However, as we have experienced in the past, it is not uncommon to find toys et cetera that are a problem, and of course we do not want to entirely rely on other states and their own assessments. Having said that, in recent years the number of issues that have been identified have been very, very low, and from memory, last year almost nothing was identified; there may have been a small issue that was quickly identified, such as a labelling issue.

**Ms M.M. QUIRK:** When is this likely to be made public in terms of Western Australia?

**Ms A. Driscoll:** It would normally be the case that it is about a week to a fortnight out. As the member will be aware, to some extent it operates as both a form of publicity for the upcoming show, and a degree of comfort for people attending the show that their interests and their children's interests, in particular, have been safeguarded.

**Mr J. NORBERGER:** I refer to the third dot point on page 642, under the heading "Occupational Safety and Health", about the model work, health and safety regulations. Can the parliamentary secretary inform the house about the effectiveness of WorkSafe and our current occupational health and safety laws?

**Mr P.T. MILES:** As we know, the process of harmonisation of the occupational safety and health laws was not about reform, but as the former chair of WorkSafe Australia noted, the exercise was about harmonisation and putting everybody on the same page in terminology, and that harmonisation was never going to provide a regime

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that, in itself, would result in reduced rates of injury or fatality. Against that context, the government is very pleased to be able to advise that there has been a continued reduction in the rate of lost time, injury and diseases in Western Australia. The frequency range in 2011–12—being the most recent full period for which the data is available—is 9.23 per one million hours worked, which was an improvement on the rate of 9.39, recorded in 2010–11. The total rate of improvement in the frequency of lost time injuries and diseases since the Occupational Safety and Health Act 1984 came into effect in 1988–89 is about 73.8 per cent. The average work-related fatality incidence rate per one million workers for the five-year period from 2008–09 to 2012–13 is 14, compared with 16 between 2007–08 and 2011–12—a 12.8 per cent reduction. Averages are used due to the significant variances that arise each year; on average in Western Australia, a person is fatally injured in a workplace every 21 days, which is an improvement on 19 days from previous records. That is still a sad part of workplace accidents, unfortunately.

**Ms R. SAFFIOTI:** I refer to page 639 and the line item “Royalties for Regions—Regional Buy Local Initiatives”, under the heading “Spending Changes”. Are any further buy local initiatives being funded in 2013–14 and for the forward estimates, or is that a specific program that has now ceased under the royalties for regions banner?

**Mr P.T. MILES:** Where did the member see that?

**Ms R. SAFFIOTI:** On the bottom of page 639 under “Spending Changes”.

**Mr P.T. MILES:** It is different from my page, but I will refer the question to the finance man at the table.

**Mr D. Goodwin:** I was actually just pointing out that it is on page 640 on our version of the print! That is why we could not find it.

What I understand about the program is that it is a finite term project that is funded under the royalties for regions scheme.

**Ms R. SAFFIOTI:** What did that project actually fund? Was it in any specific geographic areas? I understand that maybe it was run in Albany. Could anyone let me know what that project actually funded?

**Mr P.T. MILES:** We do not have that level of detail, but I am happy to provide it by way of supplementary information, if that is okay with the member.

**Ms R. SAFFIOTI:** That would be great; I thank the parliamentary secretary. The supplementary information is a breakdown of spending that has occurred under the royalties for regions scheme regional buy local initiative.

*[Supplementary Information No B48.]*

**Mr P.T. MILES:** Did the member suggest that it was for an Albany program?

**Ms R. SAFFIOTI:** I thought Albany was one.

**Mr P.T. MILES:** Okay; we will find out.

**Ms S.F. McGURK:** I refer to the dot point heading “Associations and Charities” on page 641. In answer to a grievance from the member for Southern River, the parliamentary secretary said that the amendments or any amending bill of the Associations Incorporation Act will be introduced in September this year. Can the parliamentary secretary confirm that it will be introduced during the two weeks of sitting in September?

**Mr P.T. MILES:** I will seek some further advice on that. I remember that we talked about that during the grievance, and it is something that has been in the back rooms of ministers’ offices for a long time. Hon Michael Mischin is very keen to see this legislation come before the house. I will ask Ms Driscoll to indicate what the progress of that is, because I think it is close.

**Ms A. Driscoll:** We are at draft four of the bill. In recent months we felt it necessary to consult with peak bodies of the not-for-profit organisations, in that they have raised a couple of new issues that we have needed to consider. We have also taken the opportunity to test with them the new framework that we have adopted. The member may recall a green bill in 2006; it was extraordinarily large in quantum and we felt that it was at a point that was inappropriate for not-for-profit organisations to have to deal with such a large document to manage their operations. Essentially, it has been simplified to some extent. We have also had to delay the advance of the bill because of several issues happening nationally. Most recently, the commonwealth government instituted the Australian Charities and Not-for-profits Commission, and that has itself introduced a number of tiers of reporting for different sized not-for-profit bodies, applying to both associations and limited companies. It has been important to align our legislation as best we can to ensure that there is not unnecessary duplication for not-for-profit organisations that can least afford it. We are close to finalisation; as I said, we have taken the opportunity over the last few months to check with peak bodies that we have it right, and the response has been really positive, so we are expecting to introduce, through the minister, legislation in this current sitting.

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**Ms S.F. McGURK:** Is the parliamentary secretary aware that school P&C constitutions currently breach the act?  
[9.30 pm]

**Mr P.T. MILES:** I will ask if I am aware of that. Am I aware of that?

**Ms A. Driscoll:** Perhaps we might ask precisely in what way.

**Mr P.T. MILES:** Okay.

**Ms A. Driscoll:** I think I know, but perhaps —

**Mr P.T. MILES:** In what detail does the member believe that P&Cs are in breach?

**Ms S.F. McGURK:** As I understand it, it relates to —

**Mr P.T. MILES:** I want the dot point, member!

**Ms S.F. McGURK:** — the nature of the decisions that are usually made at ordinary meetings that in fact could be required to pass a hurdle of a general meeting. But in fact they are decisions made at ordinary meetings all the time, but if they were challenged they could be contrary to—I would not go so far as to say illegal—the P&Cs' own constitutions because they are contrary to the act. It is not my view necessarily, but it is one that has been put to me.

**Mr P.T. MILES:** I thank the member for that. I will ask the commissioner to elaborate.

**Ms A. Driscoll:** Generally our approach to complaints relating to associations is to try to seek a resolution with the members. It is the case that if changes to rules are made, they are required to be through a general meeting with required notices et cetera. It is also the case that, in the end, if they are deemed not to have been passed appropriately, they are deemed not to have occurred. We take matters as they are presented to us, so if we were to be approached to consider such a matter, then we would, as necessary, deem the changes not to have occurred and assist people to make them in a way that is consistent with the legislation.

**Mr P.T. MILES:** Can I just elaborate on that. The department is very conscious, when it is dealing with those sort of public issues, and it does work very closely with any organisation to make sure it does not wander from where it is supposed to be. But obviously the changes that we are proposing to bring in later in the year will probably very much clear that up.

**The appropriation was recommended.**