CONSUMER PROTECTION LEGISLATION AMENDMENT BILL 2013

Second Reading

Resumed from 21 August.

MS J.M. FREEMAN (Mirrabooka) [10.47 am]: I rise to speak on the Consumer Protection Legislation Amendment Bill that has already passed through the Legislative Council and is before us today. This is one of those bills that change multiple acts. They are never easy to get one's head around because we are flicking through two acts. It is interesting that we call it the Consumer Protection Legislation Amendment Bill because that gives us the idea that there is still some legislation called consumer protection. I remind the house that there is no longer any legislation in Western Australia called consumer protection. It is a bit of a misnomer because the Consumer Affairs Act 1971 was replaced by Australian Consumer Law on 1 January 2011. The prime act is the Fair Trading Act that we all debated in this place in 2010. That act pretty much adopts the federal act. Every time there is a major change to the federal legislation, we are required to come into this place and change legislation yet again. I have said in this place that it does not seem to be the most effective way of applying commonwealth laws, but I understand that it is the preference of both sides of the house. I might be going against my own party position in how that operates. We continue to talk about efficiency and the lack of red tape. The fact that we have legislation such as the Fair Trading Act that has to be amended regularly makes for quite an amount of red tape and bureaucracy that should not otherwise be required. Taking that into account, I understand that when the federal regulations are amended, we are to amend our regulations, and they must then lie on the table of the house. Much of the day-to-day operations of the Fair Trading Act come from regulations. For the benefit of the house, the Australian Consumer Law replaced in Western Australia the Fair Trading Act 1987, the Consumer Affairs Act 1971, the Door to Door Trading Act 1987 and parts of the Trade Practices Act 1974. It is a misnomer to call the bill the Consumer Protection Legislation Amendment Bill because it is more of an omnibus bill, but it was named the Consumer Protection Legislation Amendment Bill because it was highlighted by the Consumer Protection Division.

The bill will amend a number of acts, which I will go through, by making numerous procedural changes and dispensing with the publishing of licence applications in *The West Australian*. A couple of amendments will remove the red tape involved in getting two aspects of planning approval and recognition that an organisation has to comply with a relevant provision. Some provisions of the bill address the fact that some ways of doing things have become outmoded.

Before I go into the bill in detail, and because it is called the Consumer Protection Legislation Amendment Bill, I will regale the house with a story about our most famous consumer protection advocate, Ruby Hutchison. In 1954, Ruby was the first woman to be elected to the Legislative Council. She founded the Australian Consumers Association, the organisation we now know as Choice, which is her legacy. When the male members of this house are on the first floor of Parliament House and they walk towards the gentlemen's toilets, they would see the wall with photos of women. Ruby Hutchison is one of those women. When members have people to dinner, they can tell them that Ruby Hutchison established Choice. On the basis of her establishing Choice, there is a Ruby Hutchison memorial lecture, which, unfortunately, is held in Sydney. Ruby was a trailblazer and a campaigner. She founded the Epilepsy Association of Western Australia; indeed, she was a tireless advocate for people who suffer from epilepsy. For many years she was involved in the Western Australian auxiliaries of Girl Guides and the state's Scout Association of Australia. Ruby was a single mum with seven kids and was well aware of people's vulnerability, particularly women, to pushy door-to-door salesmen and salesmen peddling shoddy goods. She was a strong advocate of her position and point of view. Throughout her parliamentary career she pursued a variety of causes, including the right of women to sit on juries, child welfare, education and housing. In October 1962 she became the second woman to be suspended from the Western Australian Parliament, after Dame Florence Cardell-Oliver, for refusing to withdraw her remarks that she was ashamed to be a member of such an undemocratic chamber. She supported the idea that governments should be constituted with equal representation of men and women. F.J.S. Wise, the Leader of the Legislative Council during her time as a member, described her as rebellious and said that she had an overwhelming enthusiasm for her beliefs. He described her as a fiery speaker who was a tenacious crusader for democratic reform, women's rights and social justice. Most of us tend to pick up a copy of *Choice* magazine when we want to buy a new fridge, freezer or any other large whitegoods appliance. Every time members do, they can think to themselves that in her time, Ruby Hutchison was probably seen as the loudmouth woman of Parliament—and all power to her!

Mr C.J. Barnett: A role model for you, is she?

Ms J.M. FREEMAN: I would like to think that I could be a bit louder, Premier, but the problem with that is that because of my background and the trade from which I come, my being loud usually includes a bit of cussing so I have to watch myself!

Mr M.H. Taylor: We have seen it aimed directly at the member for North West Central.

Ms J.M. FREEMAN: Really? I do not talk to the member for North West Central very often, so I cannot imagine that that would be the case.

I apologise for digressing. Ruby Hutchison is a worthy role model for women such as me in the houses of Parliament. I appreciate the opportunity to remind members of her great contribution to not only Parliament, but also Western Australian and Australian consumers. I am sure that Australian consumer law was well and truly founded by people such as Ruby Hutchison. I am sure she would never have stood in this place and said that she alone created the impetus for change because, like any good woman, she would have recognised that communities, not individuals, make change.

Although we are talking about consumer protection, it will come as no surprise to the parliamentary secretary that I would like to raise the issue of parking in car bays that are operated by the growing number of private car parking management services—I refer to private landholders, such as shopping centres—and the proliferation of the two-hour and four-hour parking signs in those places even though we do not have to pay for parking. There are signs in front of our local shops that state that we can park in the car bays for two hours by agreement. Most of us comply because we are only popping into the shops or doing whatever else. However, we all know that only the state and local governments can fine people for parking infringements. How is it that private companies can install signs stating that people have only two hours to park in that spot otherwise there will be penalties—not fines—even though people have not entered into a contract by taking a ticket and purchasing a service and have parked in what would otherwise normally and previously been a free parking area? How do people incur a penalty? They incur a penalty when those private car parking companies put breach notices on cars requiring the driver of the vehicle to pay the estimated liquidated damages suffered by the parking provider. Owners of shopping centres want us to use their car parks and shop at their shopping centres. By virtue of someone parking in a shopping centre's car park, they enter into a contractual obligation because a parking company has stuck up a sign. If they overstay their allocated time, they may have to pay liquidated damages. A proliferation of these signs means that they are in lots of car parks; members will see these signs if they look around their local area. What is more interesting is that a company may blacklist someone who breaches what is stipulated on the sign. If someone overstays their time in one car park, they may have their wheels clamped if they use the same company's parking at another location. For example, let us say that someone parks at the Westfield shopping centre in Innaloo—I am not sure whether the Westfield shopping centre in Innaloo has this, by the way; I am using it only as an example—does some shopping, gets their hair done and has lunch, and they overstay the two-hour period. They parked in the two-hour spot because they could not find any four-hour spots. This person does not usually go to Westfield Innaloo because they live in Morley, so Morley is the usual place they go shopping. They receive one of these letters that states that they have breached the contractual agreement that they entered into simply by parking. Even though they might have looked at the sign and thought, "I will be out of here in that time", they have breached the contract. They then park at the Morley shopping centre and decide to go into town. They park in the four-hour parking, get on a bus and make it back within four hours. However, because they have breached the contractual arrangement at another car park, they have been blacklisted and come back to find their car wheels clamped—not because they breached the contractual arrangement at Morley but because they breached it somewhere else. I understand that can happen. Someone can then try to give a reasonable excuse to the company and the company may withdraw the claim for liquidated damages. However, it will not withdraw it too many times.

A young woman with whom I was speaking the other day works at a building with Wilson Parking car parking. She works for *The Sunday Times* and she parks in a parking area allocated to her at *The Sunday Times* building. Wilson Parking has breached her three times. The first two times it told her it was fine. On the third time it said that because it already allowed two waivers, it would not allow a third. She told them it was her car parking area. This company goes through a series of breaches and aspects of how that works and takes away our right to argue against liquidated damages. I raised this with the parliamentary secretary in the estimates committee and the response from the Consumer Protection Division was —

> The terms and conditions of parking at the site state that these are the consequences of parking whilst having an outstanding debt —

If someone has their wheels clamped —

> The parking management company runs a website which enables the public to check on any listing of their registration details and will correct any improper listings should vehicle ownership have changed since the original parking violation ...

We all know about the case that was raised on the ABC in which a woman parked in a car park, came out and found her car had been clamped. My concern is that consumer protection does not believe that there has been a breach of the new Australian Consumer Law with these parking areas. Consumer protection stated —

> Consumer Protection has not found any evidence of breaches of the Australian Consumer Law. Signage at car parks has been clear and accurate. Companies retain sufficient photographic evidence of the parking breach to substantiate the breach notices ...

Members will notice that the signs state "photographic evidence taken". People go around using new technology to take photos without even getting out of the car. It interests me that consumer protection said that, yet there have been two major cases in Victoria. One is the Director of Consumer Affairs v Parking Patrols Vic Pty Ltd. In 2012, the Supreme Court found that between about March 2007 and March 2010, Ace Parking Pty Ltd and other companies and people related to it engaged in misleading or deceptive conduct by, amongst other things, using documents that were likely to mislead users of their car parks about the nature of their authority to demand payment; representing that an owner of a car had entered into a contract with Ace Parking when that owner's car was driven into, and parked in, an Ace Parking car park by someone else, when that was not the case; representing that by entering and parking a car in an Ace Parking car park, the driver had entered into a contract with Ace Parking that included certain onerous terms, when that was not the case.

The law has been questioned. It has been found that the amount of liquidated damages people have been asked to pay is improper. Further, there is Vico v Car Park Pty Ltd, which was a civil claim. Again, that is a Victorian case. The applicant, Mr Vico, was required to pay $88 as liquidated damages for not paying a $15 ticket to park. He featured on *Today Tonight* or one of those evening programs. He went to pay at the ticket machine, but it would not accept his credit card, so he left his car to go downstairs to get money. By the time he came back up, he had received a charge of $88 for liquidated damages for not paying a $15 ticket to park. He then pursued that. The court held that the $88 was a penalty and that penalties are unenforceable under Australian Consumer Law. Therefore, Mr Vico was not required to pay the $88 penalty that the parking company claimed was liquidated damages. The issue was whether the $88 was a penalty and the court found —

> A sum payable can be characterised as a penalty if it is greater than the sum that ought to be paid. Here, that amount was $15. Moreover, a sum will be characterised as a penalty where the amount claimed is extravagant and unconscionable with relation to the greatest loss conceivable from the breach (i.e. non-payment of parking fees) To avoid classification as a penalty, a sum must be a 'genuine pre-estimate' of loss. The $88 amount has no relation to the loss incurred by the car parking company, i.e. a loss of $15.

I might park in a car park that is free because someone wants me to walk into a shop or use their services. If I overstay the two-hour or four-hour limit stipulated on the sign and they penalise me for overstaying that when I paid nothing, we have to think: what is the genuine loss for which the company says it can penalise me? However, consumer protection tells me that nothing within the Australian Consumer Law shows that there are any breaches in this area from those things. I just do not believe that. I do not believe that the department wanted to look into this. With a proliferation of these signs going up, we will start seeing people coming into our office to complain. It is likely that someone who has paid nothing to park and has walked into a shop and overstayed—after one or two times of being able to give a reasonable excuse—is going to walk straight into one of our offices, especially if they have parked in an area outside one of our offices, and tell us that they have received this fine or they have been blacklisted. If someone does not pay the fine, will this company list them as a penalty defaulter? Sorry; it is not a fine, because only local government and government can issue fines. It is a penalty for liquidated damages.

Will people find themselves with a bad credit rating because they parked in a free car parking spot? I am not for one instant suggesting that the issues at Morley shopping centre and at Park 'n' Ride stations where people park do not have to be dealt with. I am not suggesting that the issues with the car park outside my office do not have to be dealt with. For some strange reason when the Mirrabooka bus station was redeveloped, a number of car parking spots were taken away and suddenly people needed somewhere else to park. People then went to the Mirrabooka shopping centre and the shopping centre stuck up a sign saying, "Don't park here for longer than two hours". They then parked outside the building my office is in and now the owner of the building has stuck up a sign that says, "Don't stay here".

By the way, I am referring to Wilson Parking. It operates under a different name but it is a large corporate organisation. I am not suggesting that there does not have to be some sort of monitoring of the car parks it provides to its clients. However, it is not right to put people in the potential situation of, first, receiving a liquidated damages order; second, being blacklisted from other car parks; and, third, ultimately impacting on their credit rating. Those are things that I believe come within Australian Consumer Law and need to be looked at, especially given that two similar cases have been considered.

One of the issues in the Vico v Car Park Pty Ltd claim was whether the notice was given in the car park contract of the liquidated damages payable. That did not have to be considered because of the success of the first issue,

which was about whether there was a genuine pre-estimate of loss; the issue being that if somebody did not pay a $15 car park charge and then had to pay $88, was that a genuine estimation of loss?

It comes down to the question: If the parking is free, how can there be a liquidated damages charge? How can that be a loss when the parking is free? I understand that if I take a ticket in a car park and I overstay, I have entered into a contract for the amount I am going to pay—I get that! How can there be a loss if I suddenly overstay in a car park that is free because it advantages the organisation for me to park there and go into the shop or establishment? I understand if the organisation says that the loss is that I am parking and not using it to go into the shop, but how can it show that someone has not been in the shop? How does an organisation make sure that it is a fair and reasonable thing?

I say to the parliamentary secretary that I will continue with this line, as it is an issue that should be of great concern to the department. Currently, it is happening unregulated. Little bits of stuff are going on everywhere, whereas we need a consistent policy for how that situation can be dealt with. Given that it is happening all over the country and given that decisions have been handed down in other states, it seems to me quite reasonable that it is an area that could be considered for action. I thank the house for the opportunity to raise that issue under the Consumer Protection Legislation Amendment Bill, as I believe it is a consumer issue and an issue we need to take into account.

I note that clause 4 of the bill proposes to amend section 9 of the Commercial Tenancy (Retail Shops) Agreements Act. The parliamentary secretary can, I suppose, give me a bit of clarity on that clause when he responds to the second reading debate. The clause goes some way to ensuring that a lease may require key money or gratitude money. I understand what the minister is trying to do with these changes; it is so that there will be no additional cost to the tenant or lessee by the owner or lessor requiring key money or an incentive from the tenant. My understanding is that this amendment will put a provision that previously existed in the act back into a different section. When I first read the bill, I thought it would disadvantage the lessee, not the lessor, but the explanatory memorandum gave me some confidence that that was not the case.

I will explain key money so that people know what it is. The Victorian act has a definition of "key–money". It is an incentive that the owner–lessor gains property from the tenant–lessee above and beyond the normal costs associated with the lease. I understand that this bill will amend the Commercial Tenancy (Retail Shops) Agreements Act to clarify that a landlord may not claim for legal expenses incurred in drawing up a lease. I did write down what key money is. It is a payment without true consideration from a tenant in order for a lease to be granted. That sounds very bribe-ish to me. It sounds like that whole sort of turn up and say, "I'm willing to pay a bit extra to get this area", but I am happy to hear differently if that is the case. Under the current provisions, the clause in a lease to the effect that the tenant is to pay the landlord's expenses of preparing a lease would not be construed as void under section 9 of the Commercial Tenancy (Retail Shops) Agreements Act, but the landlord cannot make a claim for the expenses under section 14B. Therefore, as I understand it, the intention of clause 4 is to correct those inconsistencies and to add the protections currently in section 14B and put them into section 9. That will make it clear that landlords may not claim for legal expenses relating to negotiation, preparation or execution of a lease. However, landlords may claim for legal expenses incurred in connection with the assignment of a lease or the subleasing of premises.

The Small Business Development Corporation website states —

> Often the tenant pays the landlord's legal fees for the preparation and negotiation of the lease documentation.

That seems to me to be a bit different from what this bill states. I will just step back to what the explanatory memorandum is telling me. It states —

> The purpose of this amendment is to make it clear that landlords may not claim for legal expenses relating to the negotiation, preparation or execution of a lease …

Yet the Small Business Development Corporation website states —

> Often the tenant pays the landlord's legal fees for the preparation and negotiation of the lease documentation.

My question is: do we have one government department saying something that is not actually the case? However, tenants can negotiate otherwise. That is because, as members know, tenants always have such power in negotiations, do they not?

The ACTING SPEAKER (Mr I.M. Britza): Just excuse me, member. I am sorry, but the voices are getting higher. I just need to let you know, member.

Ms J.M. FREEMAN: That is because, Mr Acting Speaker, I understand that what I am saying is of such an engaging nature! The website goes on —

> The tenant should, wherever they can, negotiate that each party will pay their own legal costs. At the very least there should be a limit on the amount of the landlord's legal costs for the preparation and negotiation of the lease for which the tenant is responsible.
>
> For leases regulated by the Commercial Tenancy (Retail Shops) Agreements Act 1985 a landlord cannot claim from the tenant legal or other expenses relating to:
>
> - the preparation, negotiation or execution of the lease, renewal of lease or extension of lease;
> - obtaining any mortgagee's consent to the lease; and
> - the landlords compliance with the Act.

I think that is pretty clear. That first sentence made me wonder why the Small Business Development Corporation stated that the tenant might have to pay the landlord's legal fees. My question to the parliamentary secretary is: given that the Small Business Development Corporation is giving that first line of advice, what leases would not be regulated by the Commercial Tenancy (Retail Shops) Agreements Act, other than, obviously, residential tenancies?

Mr P.T. Miles: I think that maybe the SBDC has not got its information correct or up to date.

Ms J.M. FREEMAN: I am happy for the parliamentary secretary to tell a government department that it has not got its information correct!

Mr P.T. Miles: I guess that somebody will now be working that out as we speak, because clearly it is what we have under consumer protection. That will be correct.

Ms J.M. FREEMAN: Absolutely; consumer protection is always correct, unless it is about parking fees! That interested me, and I know that we will not be going into consideration in detail on this bill so I may raise bits and pieces with the parliamentary secretary from time to time.

This bill includes a number of areas in which requirements for publishing notices have been removed. This includes requirements under the Employment Agents Act, the Land Valuers Licensing Act, the Real Estate and Business Agents Act, the Settlement Agents Act and the Travel Agents Act, which does not exist anymore. Amendments in this bill dispense with requirements for publication of licences in the newspaper under those acts. Has that come about because the legislation was changed to bring everything under an omnibus bill? One of the publications that came out at that time about the new WA consumer laws stated that the Land Valuers Licensing Board, the Motor Vehicle Industry Board, the Real Estate and Business Agents Supervisory Board, and the Settlement Agents Supervisory Board were scheduled to be abolished as at 30 June 2011. Of course, the Hairdressers Board was abolished. Just as an aside, when I was at the Polytechnic West Balga campus the other day, I asked people in the hairdressing area whether the abolition of the board had had any impact on the number of students coming into the area. They replied that they had not seen a change, but some of the students and a couple of the lecturers felt that there was a concern about people operating without proper qualifications. I suppose we are relying on the market—get a bad haircut, do not go there again—but it is interesting that it may have a knock-on effect in institutions that teach hairdressing.

The document goes on to state that the licensing functions for these boards will be transferred to the Commissioner for Consumer Protection, and the employing and financial responsibilities for these boards will be vested in the director general of the Department of Commerce. Because of the transfer of all those boards and responsibilities into the consumer protection area, obviously there has been a review of how those operations happened. Is that one of the reasons it was felt that publishing was not necessary? I know that the second reading speech stated that no-one has ever opposed this measure, and the director general of consumer affairs has the capacity to take complaints—and that may be the case, but I wonder whether that gave the extra security so that the public did not have to know because of these functions coming under the commissioner. One of the other pieces of legislation stated that there had to be a list, but now a gazetted list of licensed agents is no longer necessary because that can be obtained from the website. My concern with that is that it is not compulsory to have the list on the website.

I looked at the amendments to the Employment Agents Act 1976, which is a tiny change to dispense with publication in *The West Australian*. I get that this is really costly for people, and it is probably not required as a procedural issue. Again, no-one has ever complained. Is there some other way of letting the industry know that someone is becoming an employment agent? All individuals, partnerships, bodies corporate, companies or other incorporated bodies that carry on business as employment agents must be licensed under the act. This includes traditional employment agencies and employment brokers, booking agencies, babysitting agencies, house-sitting agencies and cleaning agencies. The legislation does not allow the Commissioner for Consumer Protection to issue a licence in the name of a partnership or company. In these instances, the licence must be held by a natural person, an employee or officer of a body corporate, or member of a firm on behalf of a partnership or company. A person is carrying on business as an employment agent if they receive payment for helping people find

employment, or for finding employees for other people or businesses, whether this is done full time, part time or just casually, and whether or not the agent places people in jobs and receives from the employer an entrance fee or periodical contributions. Exemptions are newspaper publications and labour hire companies. I am interested in why they are not considered employment agents. They must come under a different act. Maybe they are incorporated organisations or maybe they are seen as being directly employed. Also exempt are people licensed under other acts to handle the employment of seamen, and state and federal government departments and instrumentalities.

Taking the example of the babysitting agency, it would have some pretty serious obligations. It would need to have working with children checks and other things like that for people to have access to children. I would have thought that it would be worthwhile for other people in the industry to have some way of knowing that someone is applying to become an employment agent. I get that it should not need to be published in *The West Australian*. No-one reads *The West* any longer; we read it online—sorry to the journalists! I understand that it is a prohibitive cost, especially for someone setting up a babysitting agency. Obviously, if someone is becoming an employment agent, the commission would investigate that person. The question is: would we be asking a lot of other people in that industry? Is there some other way to connect with those employment agencies so that something can go on a website or something like that? I am suggesting this because we have such capacity to get information out there in our times. I understand that publishing in a newspaper is cost prohibitive, but there must be some other way to ensure that people in the community understand what is happening.

Mr P.T. Miles: One of the reasons we are doing away with newspaper advertising is obviously to turn over licences a lot faster. That was one of the big issues, because they were holding onto them for too long, and it was quite time consuming. The consumer protection website now allows the public to put in somebody's name to see whether they are licensed under a certain category. That was not there before this amendment, so you can search the CP website and get that information.

Ms J.M. FREEMAN: That is if someone wants to procure a service, but if, for example, someone already offering a service knows someone they were employing at some stage —

Mr P.T. Miles: It would show that they hold a licence.

Ms J.M. FREEMAN: I get that, but that relies on a person investigating that. It does not rely on it just coming up and does not rely on something that went out regularly to agents. I foresee problems. The parliamentary secretary and I both know, after hearing evidence to the Joint Standing Committee on Delegated Legislation, how local government must publish things in newspapers in a particularly structured way, how, one, cumbersome that was and, two, pointless it was when it was not done properly. I am not suggesting for one minute that this is not a good change, because I think publishing in newspapers is a cumbersome practice of the past, but given the way people use websites now, it would be good that if someone were applying for a licence—babysitting comes to my mind—there were a portal of information to show that certain people are applying for information. If there is a body of knowledge out there that says, "Maybe not this person, and this is the reason I think you should be cautious about this", that would give the Commissioner for Consumer Protection greater information. The more information that is available on areas for which people are vulnerable, the better informed the community is. It is similar to what I was saying in debate previously: it is better to have a system that prevents risk than a system that responds to risk. Risk needs to be taken out of the system. If something can be done to get that information to take away that risk, that is a better way of progressing the issue. That is only a suggestion. I understand that these are tiny amendments being made to acts and that it is difficult to have a long debate about them. We could have a long debate about whether the Employment Agents Act is still relevant. One would have thought that by this stage, it would be covered by federal legislation.

Mr P.T. Miles: It probably is.

Ms J.M. FREEMAN: But there is a state act operating here and people are doing things set out in it, so there probably is duplication. One way to reduce red tape, parliamentary secretary, would be to stop the duplication between state and federal acts.

I will move on to the procedural changes to the Fair Trading Act. I understand that changes must be made regularly to omnibus legislation. All power to the department for putting together such legislation, although I am sure it took some years to do. I am intrigued that even though it is only a procedural change, I would appreciate an explanation for why this bill will amend the heading of part 6 of the Fair Trading Act from "Division 1 — Interpretation" to "Division 1 — Preliminary".

Mr P.T. Miles interjected.

Ms J.M. FREEMAN: I know that perhaps this is a case of micromanagement, but is that because the bill will also add —

> … an authorised person cannot be prescribed by an Act or regulations under the *Criminal Investigation Act 2006* section 9(1)(a).

I get why that is being put in the bill and that we do not want an investigation carried out by an officer of consumer affairs to be a criminal investigation. I have no problem with that, but why is there a need to change the title, because is that not an interpretation of an authorised person or an aspect of it? The parliamentary secretary probably does not have to answer that, but I do suggest that in years to come, when a lawyer says, that is not an interpretation of what an authorised person is because Parliament changed the word "interpretation" to "preliminary", so Parliament's point of view and purpose for that was not that Parliament wanted people to interpret that authorised persons cannot be prescribed by an act, regulations or criminal investigation, it just wanted everyone to know that it is a preliminary point. That does come to mind. I am sure that is not Parliament's intention. Parliament's intention is to say that when "authorised persons" is interpreted, they should not be interpreted as authorised persons under the Criminal Investigation Act. I understand that.

Proposed section 83(4) of the Fair Trading Act is interesting. It refers to something that has been seized and the matter goes to the State Administrative Tribunal for review. Clearly, someone at some stage has argued that what has been seized is legal professional privilege. Having been involved in a couple of legal professional privilege arguments over the years, I put on record that I think that is hilarious that what is being put in the legislation states that when an application consists of legal professional privilege, the tribunal must comprise a judicial member. I think that is very funny because lawyers think only lawyers understand legal professional privilege.

Ms M.M. Quirk: That's not correct.

Ms J.M. FREEMAN: I am sorry, member for Girrawheen.

Ms M.M. Quirk: In fact, quite often non-lawyers try to use it as a shield when they are not entitled to, as we discovered recently.

Ms J.M. FREEMAN: Perhaps that is the point. Perhaps non-lawyers have tried to use it as a shield that applies to seizures and so we need a judicial member on the State Administrative Tribunal to give it gravitas and make sure that everyone believes they knew what they were talking about.

Dr A.D. Buti: You do need it.

Ms J.M. FREEMAN: I am happy to hear from the member for Armadale.

Dr A.D. Buti: I totally agree. The government seems to have a policy of trying to remove lawyers from bodies such as this, as it did with the Mental Health Bill that went through. I am totally in agreement with you in that respect, although I do also agree with my colleague the member for Girrawheen.

Ms J.M. FREEMAN: I do not agree with that. I think lay people should understand the concept of professional privilege because it is a shield. When I worked as a workers' compensation advocate, I would get the articled clerks who came down to cut their teeth on me, because it was a non-legal jurisdiction so the law firms sent out articled clerks. They would hide behind the concept of legal professional privilege. In a court that relies on all documents being put on the table, they would try to use techniques that were of no advantage to either party, just to frustrate the process. I read some case law because of the process to frustrate the proceedings. I do not necessarily think a judicial member is needed, but I understand why it is being done—it just gets rid of the argument.

Dr A.D. Buti: I totally agree with you. It does need a judicial officer!

Ms J.M. FREEMAN: No, I am saying that it does not, but I understand that it gets rid of the arguments about legal professional privilege.

Ms M.M. Quirk interjected.

Ms J.M. FREEMAN: I am happy to take interjections. Gosh, I will run out of time!

I understand proposed section 112(1), which states —

> ***regulated person*** has the meaning given in section 88A.

I love it how section 88 uses gobbledegook to describe a regulated person—a regulated person is someone who is regulated. I always love those descriptions.

In an effort to move on quickly, I turn to the amendments in the bill to the Motor Vehicle Repairers Act 2003 that dispense with the requirement to provide planning certificates. That change makes perfect sense. The repairers will have to continue to comply with planning laws, but they are not required to do that as a precursor to licensing. All power to the Consumer Protection Legislation Amendment Bill! If only we could delete that type of stuff from bills more often. I had great joy reading about vehicle repairers and the many classes of

licences. I was pleased to see that the bill will broaden the scope of warranty provisions of repair and will dispense with the requirement to provide planning certificates. I note that they also ensure that they shift to the State Administrative Tribunal instead of the Magistrates Court. I have gone through the small acts that have been amended to dispense with the need to advertise. The Limited Partnerships Act is just a delegation to the commissioner. Sometimes I look at these things and want to find out what they mean; I had seen "Ltd" before, but had never looked at that act, so I did. I need a life!

Mr R.H. Cook: You're a member of Parliament—of course you need a life!

Ms J.M. FREEMAN: Section 4(2) of the Limited Partnerships Act reads —

> A limited partnership shall not consist, in the case of a partnership carrying on the business of banking, of more than 10 persons, and, in the case of any other partnership, of more than 20 persons, and, must consist of one or more persons called general partners, who shall be liable for all debts and obligations …

Would a limited partnership fall under the state act? It would not be under the federal act, because limited partnerships are obviously not corporations. Does a limited partnership give people the right to register under the federal act? The parliamentary secretary does not have to answer me now—he can maybe do so outside the chamber. Maybe consumer affairs will send me an email informing me that I have it all wrong.

Finally, we all know that the Travel Agents Act dispensed with publishing, but that act has been dispensed with anyway, so it does not matter. I note those poor people sitting on the side of the docks the other day; I warned the parliamentary secretary —

Mr P.T. Miles: I did make a phone call that very morning!

Ms J.M. FREEMAN: The parliamentary secretary stood warned! I did say to him that that is the nature of the industry and that he might want to think about how he would protect those people. Luckily, they got some sort of compensation or their money back or were able to shift onto another cruise.

I turn to the Residential Tenancies Act, a section of which the Consumer Protection Legislation Amendment Bill 2013 will change for much the better. But I think we have missed an opportunity with this bill in that there are a couple of other things in the Residential Tenancies Act that, after consideration, should have been included in this bill. The first is that in Western Australia, unlike South Australia, New South Wales and Queensland, people are not offered at least one fee-free way to pay rent. Somebody could be told by the person they are renting from that they have to pay or transfer their rent into an account with a fee attached to it, or they have to pay it to a particular real estate agent for which there may be a fee. In South Australia, New South Wales and Queensland, in the case of third party rent collection, people have the protection of being offered at least one fee-free way to pay rent. We know that people now have housing stress because they are paying above 30 per cent of their income for rent, and many people are living on shoestring budgets. If we do not have legislation that takes away the necessity to pay a fee for paying rent, I think we are not doing our job. We have done our job here by ensuring that 30 days after the renegotiation of rent, the amount cannot change; we have made that clear and fair. This is simply another fair issue we should have dealt with; it would have been a simple thing to add to this bill.

We have also not looked at how to better provide guidance around what should be considered as an excessive increase in rent. The Australian Capital Territory legislation specifies that the landlord needs to justify the increase—a range of options are provided, such as market rents and the condition of the property—and that an increase of more than 20 per cent of the average increase in rent is excessive. I and the parliamentary secretary know that people can apply to the commission or a magistrate if they think there has been an excessive increase, but there is a whole list of conditions, and the onus of proof is on the renter. There are obviously all the other issues around whether that jeopardises somebody's tenancy, but let us say it will not. The onus is on the renter, but there must be some threshold at which the onus flicks back onto the landowner. Remember that to the landowner, it is a business. I keep saying to people that we have to stop thinking about rental properties as being our properties: they are a business. If landowners are excessive in the way they manage their business, and we give them a threshold of excessiveness, that is a fair thing.

The changes to the Residential Tenancies Act introduced new provisions that the Department of Housing specifically wanted. It believed it was being hampered by the act in being able to respond properly and efficiently to issues raised by residents living around Department of Housing tenants. I stood in this Parliament and asked the minister whether it would stop the Department of Housing using section 64, no-ground notices of 60 days, and he said yes. That has not been the case; a procedural injustice is still happening out there with the Department of Housing. It is still sending 60-day eviction notices out to people, without following the process that was introduced into this Parliament so that there would be procedural fairness on both sides. That should not

occur. If the department wants to be treated differently from the owners of every other rental property, it should use that process. It should not have recourse to the 60-day, no-ground notices.

I commend the bill to the house. I commend the department on its good work; it would not have been easy. The department must have some sort of database for all those little changes.

MR D.A. TEMPLEMAN (Mandurah) [11.47 am]: I congratulate the member for Mirrabooka for that marathon speech, and what a fine contribution! Mine, of course, will also be a headland speech; it will be a speech that will no doubt be referred to in the future as one of the significant contributions of the member for Mandurah in this place. I am sure that in years to come contributions from names like Ruby Hutchison will pale into significance when people read my contribution! Seriously, I would like to make a contribution, and although it may not be compared with the Keating Redfern speech of 1993 or the Gettysburg Address of 1873, some may say it has significance.

I wanted to highlight a couple of the amendments to acts proposed by the Consumer Protection Legislation Amendment Bill that were addressed in detail by the member for Mirrabooka. I noted the mention of the late Ruby Hutchison. Not only did she make a very significant contribution to the Parliament of Western Australia when she served in the other place, but also, as the member for Mirrabooka highlighted, her legacy continues to be an important issue and matter—the importance of protecting consumers and ensuring their interests are considered into the future.

The Consumer Protection Legislation Amendment Bill 2013 amends 14 acts, and I just want to highlight a couple of them in my contribution to today's debate. After reading the second reading speech and looking at the clauses in the bill, I wanted to highlight the amendments to the Retail Trading Hours Act 1987. I note that that act refers particularly to the criteria that apply to small retail shops. As we know, there was a significant change back in 2009 to the retail trading regime in Western Australia. The issue of retail trading hours has a very long history in Western Australia and has been a bone of contention for many, many years. Indeed, growing up in Northam, I can always remember that the Northam shops would always close at 12 noon on Saturday. Then in the early 1980s, changes were made to allow all-day Saturday trading, with the exception of bakeries and butchers. I remember going to Coles or Woolworths in Northam, and even though by then we had all-day trading on Saturdays, at 12 noon they still had to clear out all the packaged meat from the refrigerated shelves, because they were not allowed to sell packaged meat after 12 noon on a Saturday! We had a very interesting situation; although we had all-day Saturday trading, if people did not get their sausages or chops for their afternoon barbie before 12 noon, they would miss out. I think there was a similar arrangement for bread, from memory; there was no fresh bread on a Saturday or Sunday, unless one went to a specified baker. The only bread one could buy from supermarkets was day-old bread, and they had to put up a sign saying, "Day-old bread". It was a very nice sign, though, I must say; a very creative sign!

We have come a long way. The place where I live, Mandurah, has an interesting retail history because until the late 1980s, Mandurah used to close up shop on a Wednesday afternoon. If one went to Mandurah on a Wednesday afternoon, there would be no shops open after 12 noon because all the proprietors were at the local golf club; that was the golfing day! Shops would cease trading on Wednesday afternoons, but we had all-day Saturday trading because of the tourism nature of Mandurah. Interestingly enough, Mandurah was the first place to test 24-hour supermarket shopping in Western Australia. Back in the late 90s, there was an anomaly in the Retail Trading Hours Act that, for a short period, allowed for 24-hour supermarket trade outside the metropolitan area. As members will know, I have always argued and highlighted to the house that Mandurah remains a regional centre outside the metropolitan area. For a brief period, Coles was open for 24 hours a day. In regional centres back then, as is the case today, local councils determined retail trading hours, and the then Mandurah council agreed to a request to allow 24-hour trading. Coles snapped up that concession and for a short period—I think it was less than two weeks—traded 24 hours a day. Coles in Mandurah no longer occupies the same building, but back then one could go to Coles at 4.00 am to make one's purchases. I remember visiting Coles during this window of opportunity at, I think, 1.00 am, and it was a very popular place for people coming out of the nightclubs who were hungry; they all went to Coles to avail themselves of chips and other snacks after having frequented the nightclub!

Dr A.D. Buti: Nightclubs in Mandurah?

Mr D.A. TEMPLEMAN: Oh yes, the good old nightclub that was there.

Dr A.D. Buti: Just one?

Mr D.A. TEMPLEMAN: Well, it was still a nightclub! Of course, the Peninsula Hotel was also a nightclub; it went on till the early hours of the morning, but I, being a very good boy, very rarely went to these places! In keeping with the tone and the theme, seeing as this is a landmark speech, I will continue.

The city council of the day then closed the loophole and rescinded its permission for Coles to trade 24 hours a day. To be honest, back then it was unlikely that it would have continued anyway because I think it was quite unsustainable. If one went in there after 7.00 pm, one would rarely see anybody except the checkout operators, a couple of shelf stackers and a security guard. Just for the interest of members, Mandurah is also one of only two places in Australia where a McDonald's restaurant has closed. In the 1970s, a McDonald's restaurant opened in Mandurah at the Silver Sands shopping centre, and it was one of only two in Australia that has ever closed; it did not last very long.

Dr A.D. Buti: Did it get replaced by a Hungry Jacks?

Mr D.A. TEMPLEMAN: No, it was actually replaced by a Red Bull! Do members remember Red Bull? Red Bull in the 1970s and early 80s was a chain of hamburger joints; that did not last very long either! So in terms of retail trading, Mandurah has a couple of firsts.

I note that for the purposes of the definition of "small retail shop", one of the amendments to the Retail Trading Hours Act actually increases the number of employees from 18 to 25 persons, and limits to not more than three the number of such shops that an operator can own. I would be interested to hear some detail in the parliamentary secretary's response about how we are to reach these magical figures, from 18 to 25, and where the criteria or formula is generated. From memory, going back to the 1990s, the number was originally 10 employees. I am just interested in the history of this number of employees, how we get to this figure of 25, and why it is 25 and not 30 or whatever. I do not expect the parliamentary secretary to answer that question now but it is an interesting point.

The other thing I wish to say is that through this bill we will abolish the Retail Shops Advisory Committee, which I find very interesting. It has not met for seven years. The terms of appointment for the latest committee members expired on 30 April last year. Were appointments made over the past seven years without the committee meeting? It seems that some members held positions until 30 April last year and they have not been renewed. As I said, that committee has not met for over seven years. I would be interested to know how it got to that stage and what its purpose was. I am assuming the purpose of the committee was to advise on retail shops. I do not know whether that included bigger stores such as the large retail chains that now exist and the small ones, many of which have gone by the wayside.

I understand that amendments will be made to the Fair Trading Act 2010 relating to clarification of investigations and enforcements under the Criminal Investigations Act 2006. From what I can gather, these are clarification amendments.

In his second reading speech, the parliamentary secretary referred to the Motor Vehicle Repairers Act 2003, which seems to be one of the significant acts that will be amended. He highlighted the deletion of the need for repair businesses to have multiple licences for different classes of motor vehicle repair. I think it is proposed that they be consolidated into one amendment or act that I gather will save money. It will be a cost-saving measure for licence holders because they will not have to apply for an individual licence for every aspect of their business. Instead, they will be consolidated. I ask the parliamentary secretary to give us an indication in his response to the second reading debate or, indeed, in consideration in detail, of whether that is a significant cost reduction. The parliamentary secretary might give us an example of the current requirements of a repair business and what might be required under the new arrangements. For example, mechanical repairer B, because of his or her qualifications and capacity, currently has seven or eight licences. What do they cost? Under this proposed new regime, which I understand is a consolidation of qualified licence holders within the motor vehicle repair industry, what will he or she be expected to pay?

[Member's time extended.]

Mr D.A. TEMPLEMAN: The Petroleum Products Pricing Act 1983 is demonstrative of an outdated piece of legislation. In the old days, one would bang a notice on the front of a terminal gate as a transparency measure, knowing full well that very few consumers would turn up to the front office to check the gate price. As we know, that is clearly available on the FuelWatch website and also on terminal operators' websites.

I note a couple of other amendments to acts that refer to the modernisation of the reporting aspects of consumer information, which reminds us that consumer information has predominantly gone to the website-type phenomena. A lot of notices that would have appeared in the notices section of *The West Australian* are also being discontinued and reference is made to websites. To me, that shows the importance of ensuring that websites are absolutely usable for consumers. I think about the more senior members of our community. Over 25 per cent of the population of Mandurah is in the seniors category, and not all of them are computer literate, although I am always impressed to learn of the increasing number of seniors in my electorate, and I am sure throughout the state, who are computer literate —

Mr G.M. Castrilli: They join computer clubs.

Mr D.A. TEMPLEMAN: Yes, and I want to mention one. The late John Perry passed away earlier this year. I went to his funeral. John lived in the RAAFA Estate in Meadow Springs. When he first moved to the RAAFA Estate 12 to 15 years ago, he started a computer club. During the time he ran those courses, something like 2 500 people went through them, which was remarkable. All of them were seniors, trying to get a grasp of modern technology. My nana, who celebrated her ninety-third birthday on 7 September this month, is on Facebook.

Dr A.D. Buti: I saw a lovely photo of her.

Mr D.A. TEMPLEMAN: Yes. She lives in Narrogin. She is 93 years of age and is on Facebook. She is very computer literate now. She was one of those people who did not really want to embrace the technology and now she is so glad she did because her hearing is suffering and her eyesight is not overly good either. It is the key way that we communicate with her as grandchildren and great-grandchildren, which is tremendous.

We are now referring so many more notices and information to consumers. Indeed, in the old days, as mentioned earlier, a lot of things were posted in *The West Australian* or even in the *Government Gazette* advising people of what was going to happen. If people had any complaints or objections et cetera, they were advised to write to certain bodies. That has been done away with in many respects through some of the amendments to bills. If we are channelling most of our consumer information to websites where someone finds out about something, how to get a form or how to access information about something of a consumer nature, it means that the quality of the website that people are directed to becomes critical. It has to be easy to use, user-friendly and very clear. Consumers seeking information that is important to them need to be directed to a site that is professional. I am not saying that the one that exists is not professional but it underpins the importance of ensuring that that is a key consideration.

I turn to the Residential Tenancies Act. The member for Mirrabooka, who I know has a deep interest in residential tenancy issues and is a great advocate for consumers in that area, made some interesting points that she asked the parliamentary secretary to clarify. I am interested to hear his response to the issues she raised within the context of the Residential Tenancies Act. I understand that the amendment in the bill specifically includes reference to a rent increase when rent is payable after it is calculated with reference to a tenant's income. There are issues related to that, such as security bonds et cetera. I would like the parliamentary secretary to comment on the issues raised by the member for Mirrabooka about the amendments to the Residential Tenancies Act 1987, which were highlighted in his second reading speech.

Finally, I refer to the Residential Parks (Long-stay Tenants) Act 2006, the amendment to which is minor; indeed, it will simply change reference from the "chief executive" of the department to the "Commissioner for Consumer Protection". The amendments that will be made to the Residential Parks (Long-stay Tenants) Act and the Residential Tenancies Act are definition-related amendments, but the parliamentary secretary will note that the submission period for the statutory review of the Residential Parks (Long-stay Tenants) Act was only recently concluded. This is a big issue for a number of people in my electorate. The Residential Parks (Long-stay Tenants) Act captures people who live in park homes but who do not own the land on which the park home is situated. A situation in my electorate relates to a person who is seeking to sell his park home and the right of that person to sell that property independently, which I will raise with the department.

I will finish with some comments about the officers of the Department of Commerce, because consumer protection issues now come under the Department of Commerce. I commend department officers for the way they have handled a couple of issues in my electorate recently, including one that involved a new retirement village. I wrote to the minister about my concerns, which are ongoing and being investigated. These matters are being competently handled by officers from the department. As members would know, when we talk about retirement villages and those who live in places that are captured by the Residential Parks (Long-stay Tenants) Act, we are talking about people who can be vulnerable because of their age or the nature of their infirmity if, indeed, they are infirmed. When departmental people address their issues and needs, they need to be mindful of their situation. I was impressed with the department officers who became involved with the issues in my electorate. I am sure the same can be said about their dealings with issues in other electorates. Those in my electorate with issues are very concerned about their homes. They own their building, but they do not necessarily own the land and they know that they are vulnerable—and they feel vulnerable. It is crucial that the consumer protection officers who deal with these people are skilled. From my experience, those officers are skilled and they are doing a tremendous job.

I am sure Hansard has captured the flavour of my landmark contribution this afternoon. With that, I commend the bill before us. I am sure that it will pass reasonably quickly through this place.

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [12.08 pm] — in reply: I thank members opposite for their words today on the amendments contained in the Consumer Protection Legislation Amendment Bill. As

was stated by the members for Mirrabooka and Mandurah, the bill will amend 14 acts. I will clarify some points for the member for Mirrabooka. Western Australia continues to have a Commissioner for Consumer Protection, who administrates the 14 acts that are being amended by the bill, which is why the bill has been called the Consumer Protection Legislation Amendment Bill. It is important to remind ourselves that we still have a consumer protection commissioner.

The member for Mirrabooka's contribution was extensive. She spoke consistently for an hour about the provisions in the bill. The member wandered off slightly when she talked about car parking and parking signs. I will take that issue on notice and determine whether it is consumer protection that looks at car parking rules and regulations. I have a feeling that local government takes a wider interest in car parking. Before the member for Mirrabooka rushes back to her seat to interject, I advise her that I will take that issue on notice. I will get advice about whether car parking involves consumer protection as well as local government. I think what the member said is quite valid. Shopping centres have "free" car parking; however, if people park their cars for more than four or five hours, their car can be towed away or they can be fined extensively, which is what happened to a friend of mine at Lakeside Joondalup. I told her to promptly go to centre management to explain that she had been watching a movie in the movie theatre, after which she had lunch and then shopped with her mum at Target. It is not uncommon for people to shop for seven or eight hours during the day. I am a shopper, so I should know! I will take that question on board because it is important. The member for Mirrabooka raised other questions about labour, licences et cetera and although I do not have the answers right now, I will come back to her with answers. I am looking at different pieces of legislation. I am very happy for those that are valid to be picked up by the federal jurisdiction. However, I am very conscious to not lose the Western Australian industrial relations process. As I said to the members for Mirrabooka and Fremantle during estimates hearings, that is something that the Department of Commerce is trying to hold onto. It is too easy to handball everything to the federal government's Fair Work Ombudsman.

The member asked why we had decided to not publish notices in the public notice section of *The West Australian* and other newspapers. The department has worked quite extensively to upgrade its website to include a search facility to combat that. Bear in mind—I think I said this in my second reading speech—that in more than 10 years there have been only five objections and not one of those was upheld; nobody missed out on a licence because of that. A benefit to the person and the agency in general is that we can turn over the licences more quickly and at any time the Commissioner for Consumer Protection can revoke a licence that has been issued on her behalf. If somebody has not been dealing in the right area of their licence, she can apply to have that licence revoked. Clearly, that person can appeal that process, and rightly so. It is not as though we are taking away that part of the Commissioner for Consumer Protection's powers at all.

The agency is doing a very good job of approving people. It does a lot of background checks, such as working with children checks. Obviously, the Department for Child Protection and Family Support continues that work. The Consumer Protection Division does character reference checks to see whether someone is in good standing for a number of reasons—police checks and credit reference checks. That is all part of that process. As we know, in today's world, as the member for Mandurah was saying, all that information is available online. If we want to purchase it, we can find out about anybody we like. The agency is doing an extremely good job in that area; it is trying to modernise and streamline, but still provide good access to information when required. That picks up a point that the member for Mandurah spoke about. I agree that it is all very well for everyone in this chamber to pick up a smartphone or a computer and logon and check out these facts on department websites, and others such as business websites. Fuel Watch, for instance, is probably one of the most successful parts of our agency. Each nightly news bulletin publishes and explains the fuel prices for the next day. I cannot see that ever being removed. I note that the federal government is giving more powers to the Australian Competition and Consumer Commission to investigate fuel pricing irregularities, such as when two service stations in the same suburb from a particular brand offer prices that are 10c a litre different. I am glad that the ACCC has been able to move into that space and use some of our agency's resources to progress that.

Another question members opposite asked was why the department is tweaking its criminal investigation process. I can tell members that the amendment to do with not allowing our departmental investigators to use the Criminal Investigation Act is the result of an anomaly with the Fair Trading Act. It was clearly put to me that officers went in and did a search and somebody claimed that they had professional privilege. Although that issue went away very quickly, it led the department to ask for some advice about its investigation process. It was clearly determined that there is no way that we want consumer protection people to carry out investigations under the Criminal Investigation Act. We are making it clear that the Criminal Investigation Act does not apply to the consumer protection officers. None of the officers in the agency thought they had that role, but there has been an incident that has led the Consumer Protection Division to recognise that it needed to define it better and provide a level of training to make sure that consumer protection officers do not go anywhere near criminal —

Ms J.M. Freeman: By way of interjection, because we are not going into consideration in detail, I am of the view that New South Wales has a dual investigation role—investigation and they have the capacity to do some or to use their investigation for criminal investigations. Do you know whether other jurisdictions do that? Given it is an Australia-wide piece of legislation, is this making it consistent with what happens in other jurisdictions?

Mr P.T. MILES: I would have to take that one on notice. We are purposely saying that we do not want dual roles. I do not know whether any other agency in the federation allows for dual roles. I guess when we do investigations, we may very well take consumer protection people with us to make sure that that part of the law is being carefully looked at, and then other police officers will do other things. I guess to a certain point, if someone felt it was necessary, they would take the appropriate authorities with them.

Member for Mandurah, the motor vehicle licences issue is quite a strange one. We are reducing it purely because of red tape and a fee of about $117 or $118 is involved for the person applying for the licence. An organisation such as John Hughes has to have 44 licences to operate its service department. That is red tape gone bonkers. He should have a licence to operate his service centres, but he should not need a licence to operate vans that go around to change people's car batteries. We do not need a mobile mechanic to have a licence. Providing that the principal company is licensed and the mechanics and the staff have the appropriate trade registrations and so forth, we feel that we need to pare back some of those other licences. Organisations, whether it be Automotive Holdings Group or John Hughes, have to put administration staff in place to keep those licences up to date. It is not necessarily about only the cost of the licence. They all feel that the fee is quite a just price. It is about the ongoing costs that they are incurring. More importantly, it is about the cost that the agency is incurring. It costs a lot more than $117 to produce that licence. In today's world, we have to start heading towards fee recovery—that is another delegated legislation process coming out—and that would probably mean that licence fees would need to go up to $300 or $400 each. We need to be mindful that businesses need to operate and be effective in the commercial world.

The other matter the member for Mandurah asked about was increasing from 18 to 25 the maximum number of staff whom retailers can employ on a Sunday. Although that was a Liberal Party policy at the 2013 election, it was brought about by representations by many retailers—not only IGA ones, I might say—that they were unable to employ enough people on the shop floor to get people through their checkouts in a reasonable time. Back in 2010 we amended the act to increase it to 18 and now we are lifting it to 25. They still retain the status of small business in doing so; it just means that they can grow their business and have some more staff on the shop floor. Also, we are changing the number of stores that allows someone to still be in the small business retail category from three to four. People will now be able to own four stores and still qualify as small business retailers. An IGA, a delicatessen or a kiosk can now own up to four stores and still remain open 24 hours a day if it so wishes. That is the bracket of stores that can open 24 hours a day, seven days a week. The one that fell into the trap on that one was the Mal's stores around the place. Those stores had to reconfigure their structure to operate the hours they wanted to operate. As everybody knows, government does not want to get in the way of any business to be able to operate, and if a consumer market is there, obviously a business needs to open and be able to sell to that consumer market.

That is pretty much all I need to cover and I will end on that. I guarantee to provide the relevant information to the two members who asked for it during their contribution to the second reading debate. The legislation contains a bit of red tape and quite a few technical amendments.

As an upside to the member for Mandurah, I did note down his advice to abolish the Retail Shops Advisory Committee. In fact that committee has not met for more than eight years. The work that the committee had been doing since it was established in 1987 is actually the work that the consumer protection staff do themselves now. That is the reason the committee has not met anymore. I assume that there is no need for that committee to keep going. As I said, it has not met for eight years. It has no members; their terms expired back in 2013. It is therefore just a matter of removing provision for that committee from the act and to start clearing up the act.

I point out an issue about retail trading, although I do not know why the issue came about. In the past three to six months there has been much agitation about deregulating trading hours. The Minister for Small Business and I have said time and again to all the organisations that we will not deregulate trading hours. There is no appetite in the government to do this. We do, however, have to fix some anomalies that allow some shops to open and others cannot. The member for Mandurah very eloquently referred in his speech this morning to a list of shops that could not sell fresh bread years ago on a Saturday afternoon. We still have some of those abnormalities in the act that we need to clear up. We still want to offer competition to the bigger players. We have an issue at the moment that some of the bigger players are not in direct competition with the smaller players because the act does not allow it. Both parties want the act changed. Again, I just say that to try to put a different flavour to what we are dealing with at the moment. I recommended to the minister to put to cabinet a small change to the Retail Trading Hours Act. It is nowhere near the change that people are thinking about. Nine o'clock is fair

enough Monday to Friday. Sunday trading will stay the same. It is just a small tweak in the mornings to more than likely allow some of the businesses in the CBD to open earlier than eight o'clock, and possibly to allow some other hardware stores to be a bit more competitive.

Ms J.M. Freeman: And no change to penalty rates?

Mr P.T. MILES: We have no control over penalty rates. As the member knows, that is controlled by a federal act. I reminded the Minister for Small Business, when he talked about the matter, that the Industrial Relations Act in WA covers only about 180 000 people employed in this state. It does not cover anybody else. Everybody else is covered by the federal Fair Work Act. Therefore, if the member wants cheaper coffee and lower rates of pay on Sunday, she would need to address that with federal members.

Ms J.M. Freeman: Coffee is no more expensive on Sunday than it is when I buy it on Tuesday!

Mr P.T. MILES: It is the same price; she is right.

Ms J.M. Freeman: Yes, that's exactly right.

Mr P.T. MILES: That is something that we cannot deal with and we are not going to deal with.

Ms J.M. Freeman: Can we fix the coffee prices in Perth while you're at it?

Mr P.T. MILES: No; that is market forces. Perhaps the member for Hillarys can help.

Mr R.F. Johnson: Some people call it extortion!

Ms J.M. Freeman: Yes, extortion!

Mr R.F. Johnson: Do you know how much a cup of coffee costs?

Mr P.T. MILES: Yes; thank you very much.

The DEPUTY SPEAKER: Order, members! I think that is enough.

Mr P.T. MILES: Thank you, Madam Deputy Speaker. I will finish on that note. I am very happy for everybody to have had input. I think it was very good. I thank the member for Mirrabooka and I will get for her the information she sought. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [12.36 pm]: I move —

That the bill be now read a third time.

MS J.M. FREEMAN (Mirrabooka) [12.37 pm]: I rise very briefly at the third reading stage to give a bit of a summary of the Consumer Protection Legislation Amendment Bill 2013. We did not go to the consideration in detail stage but we did ask the parliamentary secretary about a number of different aspects of the bill during the second reading debate, and the bill will obviously be agreed to. I want to particularly summarise the retail trading hours and the increase in the number of staff from 18 to 25, as I did not speak about that in my contribution to the second reading debate. I note that the parliamentary secretary stated to the house that in this time of uncertainty with the recently released Harper review, the increase in staff from 18 to 25 would grow businesses. It is a good thing that the government will put certainty back into the environment and into the market around this change, because if we expect IGAs such as the Westminster IGA, which is a great IGA in my electorate, to grow its business, it needs that certainty that the parliamentary secretary has given. I suppose it is important to maintain that certainty, given that the government intends to look at some of the abnormalities in the act, and in doing that to be constantly clear about that change from 18 to 25 staff members. I just put on record that that change has not been held up by the Labor Party. As soon as this bill came into the house, we expedited debate on it to ensure that it would pass through Parliament as quickly as possible, as I know that a number of businesses are waiting on it. Now they will have that certainty for establishing and growing their businesses and they can have certainty that they can increase their number of businesses from three to four. We need to settle that certainty for a significant period so that it is placed in concrete for them, because constant change is not good for confidence in a business. It is not good for what we want to achieve in terms of a healthy environment for retail trading businesses. I have not said that I in any way disagree with the parliamentary secretary on the matter of dispensing with the need for advertising. I was saying that information should now be put on the internet, and maybe an app for a smart phone, because it is important to have the information

available. I know that only a small number of people have made complaints. That may be because only a small number of people read that part of the newspaper. If the website has been updated to that point, so that people applying for licences are advertised on the website for other people to make comment, that can only be of benefit to the commissioner.

The parliamentary secretary outlined that people wishing to obtain details about licences have to purchase it. It might be a little bit outside the third reading rules here, but members know that I have a view that if we in this house make legislation that people have to comply with in order to operate, that should not mean that we limit access to any information through people having to purchase it. That is what gives us the strength in our system: when we legislate for things, people have easy access to that information. That should apply to obtaining information on who is licensed and who is not, and the details pertaining to that. That makes putting the information on the website more important. If people need further details, I would caution against any prohibitive cost being applied to that.

The parliamentary secretary has undertaken to respond to my interjection about not doing criminal investigations, to establish that the change is consistent with other jurisdictions, given that fair trading is a part of the Australian consumer laws. It is important that we know that, because fair trading is a part of those broader consumer laws.

I want to put two last things on the record. In regard to parking and local government, I approached the local government in the City of Stirling because I agreed with the parliamentary secretary that it may be responsible, but it handballed it back to me, saying that it was a state government issue, or a commerce issue, despite the fact that the council was trying to work with local businesses in that area and obtain other ideas and other aspects. If the council policed that parking area, it could fine people for offences. I cannot see why the local government cannot go into that space; it seems like a space that it could go into. I have not approached the association, but I will do so, on the advice of the parliamentary secretary, and follow it up. Finally, I am told reliably by the member for Hillarys that penalty rates have no impact on coffee, because coffee should cost less than a dollar. That is an issue that consumer protection should take up.

Question put and passed.

Bill read a third time and passed.