

**TAXI AMENDMENT BILL 2007**

*Second Reading*

Resumed from 29 May.

**HON SIMON O'BRIEN (South Metropolitan)** [8.15 pm]: The opposition will support the passage of the Taxi Amendment Bill 2007, although in the course of its passage we will query a number of its provisions. During the course of this second reading debate, I will explain the way in which we intend to explore and ask questions about those provisions, and in some cases offer amendments to try to improve the government's intentions. The bill seeks to amend the Taxi Act 1994 in three significant ways. Firstly, the bill proposes that the government will allow the holders of peak-period taxi plates, of which there are some 70 sets, to upgrade those plates to full, unrestricted conventional taxi plates. The opposition supports this. In fact, we are a little surprised that the government is seeking to do this. That is something that I will return to in just a moment. The first proposal is to allow for peak-period plate holders to buy their way to converting their plates to full conventional plates.

The second element of the bill, on which we will spend a little time, concerns creating an offence if relevant taxi plates are not affixed to the vehicle that a plate holder proposes to operate as a taxi within 14 days. Frankly, the opposition is a little bemused by the rationale that the government has put forward in support of this proposal. I make it clear now that our support for the bill will not hang on the outcome of the house's debate on this particular provision. However, it seems to me that the government's attempt to amend section 21 of the principal act to insert this offence is a perfectly illogical solution to what it claims is a problem. That is something that we will explore during the committee stage. As I said, the opposition will not allow its support for the bill to hinge on this provision, but it feels that it is possibly unnecessary. We will explore in depth how the proposed position fits into the overall context of that section of the act. If we can, we might seek to offer some suggestions for a better way of amending the principal act. I note that Hon Murray Criddle has placed an amendment on the supplementary notice paper. I think that we are up to the third issue of the supplementary notice paper for this bill already.

**Hon Murray Criddle:** I started it.

**Hon SIMON O'BRIEN:** Hon Murray Criddle is guilty for this amendment appearing on three successive supplementary notice papers. As I say, we will work through that issue when we reach the committee stage. The broad parameters of it are this: when a person acquires plates, the government is concerned that the plates be used - that is, that they be affixed to a vehicle that is operating as a taxi to provide a service to the members of the public and to tourists in the Perth metropolitan area. It is hard to disagree. The government is rightly concerned that plates are not simply acquired as an investment that are put into someone's bottom drawer and then taken out and sold down the track when they have appreciated in value. In examining this question, I find a basic difficulty in understanding where the concern comes from. If a person acquires plates - the current market value for conventional plates is roughly \$240 000 - the last thing he would want to do is to stick them in a bottom drawer to let them accrue and appreciate in value. The plates might accrue in value; they will certainly not deteriorate. However, it costs a lot financially to acquire \$240 000 worth of taxi plates. Whether or not people acquire taxi plates in a mortgage-like situation, the fact is that they need a return on their capital investment because it costs to invest that sort of money in that sort of commodity. Why would someone leave the wretched things in a bottom drawer? That makes no sense. The plates could be used to extract a return from participating in the taxi industry, which is direct income. The plates could be fixed to a taxi car and the person who buys them could drive a taxi and earn an income from them. It does not matter whether the person who buys the plates does not want to drive the cab. Conventional cabs are meant to operate 24/7, so one would expect the owner to have drivers working for him. An employee can take the plated vehicle out and, while earning an income for himself, he would also be making a return on the plates for the owner. There are the further options of leasing out the plates to a driver or operator to obtain a return or to lease out a vehicle with the plates affixed for a fee to ensure a return on the financial outlay. It seems to me a nonsense that people would want to invest in \$240 000-a-pop taxi plates and then fail to put them on a taxi vehicle. That makes no sense. I cannot see why the government wants to make that action an offence.

No doubt, the parliamentary secretary will educate us on this point when she responds. I have spoken to people in the taxi industry who have found themselves in trouble with the department for having plates and not affixing them to a vehicle, thereby not having the plates out and about. The reason that is often given to me about why someone has failed to do that is because the owner of the plates cannot get a driver for plates that have been invested in as a second set of plates. In these times of employee shortages, it can be difficult to get people who want to drive not for themselves, but for the plate or taxi owner, during the difficult graveyard shifts and the like. It is sometimes not possible to keep that vehicle on the road. If that is the case, the government may say that such plate holders should divest themselves of the plates that are bought as an investment if they cannot use them to put a taxi on the road.

In response, I would say that the government is setting up a system of rules that allows it to release plates willy-nilly to anyone who wants them. If there is a shortage of taxi plates and, therefore, taxis on the streets of Perth, the government can remedy that situation. The government may turn around and say that it is hard to find taxidrivers in this employment environment, but that would bring us back to the plate holder who has been citing the same problem. How can the owner of taxi plates put them on an operating vehicle if no-one wants to drive it? I understand that the department has prosecuted several people under the provisions of the principal act - the Taxi Act 1994. The department has told us that relevant sections contained in division 1, part 3, of the act are inadequate to deal with a situation in which a person buys plates and then refuses to put them on a taxi. When we look at the sections of the principal act in detail in the committee stage, we will look at not only section 21, but also section 20 to try to work out what it is that the department finds so hard about this particular problem. I am given to understand that there have been one or two cases in which people have been prosecuted for failing to comply with conditions as set out in section 20 of the principal act, which reads -

- (1) The Director General may impose conditions on the operation of a taxi using specified taxi plates in relation to -
  - (a) the area in which, and the hours during which the taxi may be operated and the hours during which the taxi must be operated;
  - (b) fare schedules;
  - (c) driver qualifications and standards;
  - (d) vehicle standards and inspection requirements;
  - (e) insurance requirements;
  - (f) record keeping;
  - (g) complaint resolution;
  - (h) the transfer of the taxi plates,

and such other matters as may be prescribed by regulation.

Basically, it is a dictatorial system whereby the director general of the department has the powers to describe the conditions that must be met if a person wants to operate a taxi. It strikes me that the government is now seeking to amend an act that probably does not need to be amended to achieve outcomes that should be available to it anyway if a taxi plate owner does not play the game properly.

I will let the government mount and defend its case. I will have more question to ask about that. If we accept that there is a problem - I am not sure that there is; I have had a number of briefings and discussions on this matter - I do not think that the remedy being prescribed by the government will fix the problem. The government is proposing to amend section 21 by inserting the following proposed subsection -

- (1a) A plate holder shall ensure that -
  - (a) within 14 days after taxi plates are -
    - (i) issued to the plate holder under section 18; or
    - (ii) transferred to the plate holder under section 24, the plates are used on a vehicle to be operated as a taxi using the plates; and
  - (b) at all times after the period referred to in paragraph (a) during which the plate holder continues to own or lease the plates - the plates are used on a vehicle operated as a taxi using the plates.

Penalty: \$5 000.

That really means that when an operator acquires plates, the plates have to be fixed to the taxi vehicle within 14 days. A "taxi vehicle" means a fully equipped taxi vehicle that meets all the conditions that the director general might have specified under section 20 of the Taxi Act, to which I alluded earlier. Those conditions include being out on the road, operating as a taxi, within 14 days. This has attracted the attention of most observers. Why 14 days? Is that reasonable? If an operator is simply taking possession of a fully functional taxi and has acquired the plates, why can he not get the taxi out there immediately? Why should he have to wait 14 days? Why would he want to wait 14 days? He might have had to borrow \$240 000 for the plates and another \$20 000 or \$30 000 to acquire the vehicle; he will want to start getting a return on that investment. In any case, why is it 14 days? It does not make any sense. Fourteen days is a very difficult deadline to meet for an operator who does not have a vehicle available to commence operating as a taxi. Most people who acquire taxis - assuming a vehicle is available; typically a late model, second-hand white sedan is fairly available - want to convert the vehicle to

liquefied petroleum gas. The government wants all these vehicles to run on LPG; that is its policy. In any case, we do not need laws to force taxi operators to do that because they do it anyway, for good economic reasons. I do not think it is compulsory yet. However, it may take time, perhaps months, to have the conversion done. While the conversion is being done, the vehicle will be out of action for some little while. The actual LPG conversion may not be an absolute impediment. What may prove to be an absolute impediment is the fact that before an operator can run the vehicle, whether it be powered by LPG or whatever, he will also need to install metering equipment. That equipment usually has to be obtained from the eastern states, unless the operator buys an already equipped vehicle. However, if an operator is setting up a new taxi, it can take some time - months, even - to acquire and fit the sort of electronic metering equipment that the government requires to be fitted in taxis. That is one potentially insurmountable problem that an operator will not get over within 14 days. A second problem relates to the acquisition of compulsory surveillance camera equipment for inclusion in the taxi inventory. It takes some time to source, acquire and install camera equipment, and I am advised by people in the industry that 14 days is not long enough to do so.

All these things have to be considered together; there may well be other considerations. Taxis these days have so many stickers on their windows that an operator would almost need a station wagon to have enough window space for all the stickers to say that people are prohibited from doing this or that. I should think it would take quite a while to whack all those stickers on. Fourteen days is the wrong time. Perhaps it should be 90 days. What is Hon Murray Criddle's suggestion? Is it 28 days?

**Hon Murray Criddle:** Twenty-eight days.

**Hon SIMON O'BRIEN:** Hon Murray Criddle has an amendment standing in his name proposing that the figure be changed to 28 days. That is quite supportable in principle. We will talk about that in due course. However, one could just as easily ask, "Why 28 days?" as ask, "Why 14 days?" Industry groups such as the Taxi Council of Western Australia have suggested that if operators have to acquire metering systems, cameras and so on, 90 days might perhaps be more realistic. However, if the period was something like 60 days or 90 days, the objective would be defeated anyway. The whole idea is to get the plates on the vehicle and the vehicle operating as soon as possible. The last thing we want is a provision under which operators would have three months to get taxi vehicles on the road. I do not know what the happy medium is, but it clearly seems unfair to introduce an offence with a \$5 000 penalty for situations with which an owner of taxi plates, despite his best endeavours, may be unable to comply in the way required by the act. All this is a knee-jerk reaction to one or two court cases in which the department's case failed because the act does not actually specify that the plates have to be attached to the vehicle. Under the current act, if the plates are attached to the vehicle, the vehicle must operate as a taxi. However, the act does not cover a situation in which the plates are not actually screwed on. That is a problem. We will talk about this further in the committee stage. It is possible to make quite a mountain out of that molehill. The fact is that this issue has the potential to impact adversely on future operators, and we really need to canvass why the government wants to frame the new act in those terms.

The third and final key element in this bill relates to a very vexed question in local taxi politics. It is about the percentage of taxi plates that can be so-called "lease plates". This is an issue that has been argued long and hard in the taxi industry, and it is being argued in the context of this bill. We will no doubt visit the issue at some length in the committee stage, so I will not pursue it now.

In the course of considering the provisions - I refer primarily to provisions relating to clauses 4 and 5 of the bill - it should be remembered that these provisions have been previously debated in principle in this house. The Taxi Amendment Act 2003 did some extraordinary things. If members examine, as I have, the 2003 debate, they will see that we are about to be confronted with the exact same questions that were asked in this place back in 2003. To make absolutely sure that we revisit them at length, I have taken the liberty of placing amendments on the supplementary notice paper to raise the same arguments of principle. The arguments of principle basically come down to the fact that there is a definition of "relevant percentage" in section 16 of the Taxi Act 1994, which this bill proposes to amend. Section 16(10) of the principal act states -

**"relevant percentage"** means -

- (a) 20%; or
- (b) if another percentage is prescribed by regulation, that other percentage.

"Relevant percentage" is the term used to describe the percentage of taxis that can be lease-plate taxis as opposed to fully owned, conventional taxi plates that are bought and sold, sometimes by investors, but more commonly by taxi operators who use their investment in taxi plates as a form of superannuation. This has always been a vexed issue, and I think every member of this house knows it. As to how many taxi plates should be available in the marketplace, under the initiatives of the current minister, the concept of lease plates has also come into the mix. Those who want to own and operate one or more taxi plates in their ownership have a very different view of what the system should be from those who want to lease comparatively cheaper plates from the

government to own a taxi as the way in which they earn their living. That is not surprising; indeed, some years ago Hon Graham Giffard chaired an inquiry into those matters on behalf of the minister. If my memory serves me correctly, Hon Ken Travers also chaired an inquiry into taxi issues, but those relating to regional taxis. I say to Hon Ken Travers that I have looked at both, of course.

**Hon Ken Travers:** Then you would be enlightened.

**Hon SIMON O'BRIEN:** I would also say to Hon Ken Travers that it was quite an interesting report, but I will not be referring to it at all in the course of this debate because we are not talking about regional taxis - plus I have a desire to treat my fellow members humanely by not subjecting them to that. Unfortunately, I must refer to the Giffard report because it does touch on metropolitan taxis, which is what these provisions are about. The Giffard inquiry team went to the taxi industry and put to its representatives a range of propositions about the future of leasehold versus freehold taxi plate ownership and fully transferable taxi plates. They had a good crack at it. From memory, I think they put seven propositions to the panel of taxi industry representatives. Five of those propositions were a variation on taxi plate buyback. The minister had a good crack at selling the idea of plate buyback, but only 48 per cent of industry participants were in favour of five out of the seven proposals, those five being the ones that involved buyback. By a small majority the industry participants involved in the debate at that time rejected the idea of buyback.

Hon Murray Criddle is a former Minister for Transport. He obviously had some dealings with the sector. His government was moving towards a buyback of lease plates. That did not happen. The taxi industry, through its representative bodies, made a 180-degree policy change, moving from being in favour of a buyback of plates to being against a buyback of plates. Within the industry itself, things are not that black and white; there is a variety of different points of view. All those points of view are fairly understandable if one knows the circumstances of the person proffering the point of view. Hon Graham Giffard's report involved getting people together. We can imagine hired venues, cups of tea, slides shown on an overhead projector and butcher's paper, and facilitators, consultants and all sorts of people asking various questions and reporting the outcomes of those deliberations in the report to which I am referring. I do not know how much that process cost. It probably would not cost that much for some morning tea and a bit of butcher's paper; in fact, I have done it in opposition with industry inquiries.

Some of the findings of the Giffard inquiry included results such as taxidriviers who did not have plates wanting access to plates more cheaply rather than having to buy them and taxi plate investors not wanting to have the regime of taxi plate ownership by investors done away with and contending that if they were to be bought out, their plates should be valued at a substantially higher rate than the market rate. I could have told them for nothing that they would get those sorts of answers; in fact, there are probably nomadic Australians wandering around the Central Desert who have never laid eyes on a taxi and who could have told them that for nothing. However, the fact of the matter is that the one thing the Giffard report did show was that a lot of points of view are held throughout the taxi industry, depending upon where people sit. An owner-operator would have a different point of view from an investor; an employee-driver would have a different point of view from an investor; an employee-driver would have a different point of view from someone who perhaps owns a taxi but has to hire plates from an investor. Everyone has his own point of view. The trouble is that the taxi industry does not speak with one voice, and it is vexing. I can almost understand the minister's frustration.

**Hon Paul Llewellyn:** That is very generous.

**Hon SIMON O'BRIEN:** Yes. It is no secret that the minister and the taxi industry are basically at each other's throats. There is no love lost. I can understand the minister being frustrated because this industry does not speak with a single voice. The search is on for a way in which to rationalise the taxi industry in a way that maintains incentives for industry participants, provides a service at levels reasonably expected by the public and guarantees the future, while at the same time - as one must do in every deregulation situation if that is the course one chooses - making sure that it is fair to those who have put blood, sweat, tears, time and money into buying taxi plates in the same way as others in other industries have bought quotas, licences and so on. That is the challenge for government. However, what the government is doing in the third and final part of this bill is tweaking that system. I know it is terribly interesting, but the sector is on tenterhooks about these particular provisions. They need to be fully explored when we get to the committee stage, but they merit a bit of an explanation right now.

What the government proposes is at face value relatively simple; that is, a change to the definition of "taxi" to make it "conventional taxi". That means that the act says at the moment that the percentage of taxis that can be leased is expressed as a percentage against the total number of taxis that are licensed in the metropolitan area. The proposal is to change that percentage to be a percentage of the total conventional taxi fleet; that is, not including certain peak-period or area-restricted taxis, multipurpose taxis and so on.

I do not know whether that is much more than a cosmetic change. I really cannot see what difference it makes in absolute terms. If anybody can demonstrate the difference to me, they are welcome to do so. So far the

government has not been able to, the Taxi Council of Western Australia has not been able to and the bloke at the bus stop has not been able to. I do not know what is the alarm about that, particularly when one considers the other provisions contained in the existing legislation; that is, that the government can make the percentage whatever it wants to anyway. I do not know what the big debate on the change to the definition is about. In committee we might find out a bit more and members might see me educated before their eyes, but so far everyone has failed to educate me.

The second part that gives rise to concern is that at the moment the figure in the act is 20 per cent. It is proposed to delete that 20 per cent and make it 40 per cent. At face value that is a radical change. From the point of view of those in the taxi industry who do not want to see more leased plates, it is a great concern because it is an apparent doubling of the number. The story goes further than that, and that is what I meant when I was talking about the 2003 debate which I will force the house to revisit through the few amendments I have put on the notice paper. The principal act provides at section 16(10) that "relevant percentage" means -

- (a) 20%; or
- (b) if another percentage is prescribed by regulation, that other percentage.

In the first instance it says 20 per cent, which is definite, and that was the figure that was agreed to in 2003 between the government and the taxi industry. However paragraph (b) makes it meaningless. The government is free to put out a regulation stating whatever percentage it wants. The 20 per cent is some sort of a reference that would have lasted about a day and then it would have become absolutely meaningless. The proposal now is to change the relevant percentage to 40 per cent or, if a higher percentage is prescribed by regulation, that percentage. The proposed amendment means that there is no longer the pretext of 20 per cent and it will be a minimum of 40 per cent. The government can prescribe a different percentage still, but it will be higher. It appears that this government's policy is for a higher number of leased vehicles.

I suspect that a saturation point would be reached, but theoretically it could be 100 per cent. I will be interested to see how this is intended to work in practice as an arithmetic exercise. I will put it into another perspective before moving on from this point and leaving the detail for the committee stage. The government has exercised its power to regulate for another percentage on several occasions. The 20 per cent has long ago been passed. The government regulated some time ago to change that figure to 30 per cent, as it can do. The Taxi Council jumped up and down, as we would expect it to, because it agreed on 20 per cent with the government but the government said, "Blow you, we will make it 30 per cent because we want to provide more plates for the market and we will do it through the vehicle of more lease plates. In effect that will create a higher proportion of lease plates versus the total pool. We need to regulate to allow that to happen." Now, a 40 per cent minimum is proposed. Amendments on the supplementary notice paper will change that 40 per cent to 30 per cent. That is a waste of time because the government has further regulated more recently to make that figure 35 per cent. That is what exists now. Section 16(11) states -

A regulation prescribing the relevant percentage shall not come into effect until such time as the regulation is no longer capable of being disallowed pursuant to section 42 of the *Interpretation Act 1984*.

I advise members that that time for disallowance has long passed and the figure is, by regulation, 35 per cent. If the government wants to change that to 37 per cent, 37.5 per cent or 43.2 per cent recurring, all it has to do is regulate accordingly. The inanity of subsection (10) takes us back to the 2003 debate, when both you, Mr Deputy President (Hon Ken Travers), and I were in this chamber, whereby on the one hand paragraph (a) states the legislated figure is this amount and paragraph (b) states that the government can regulate to make the figure anything it likes. That is a paradox, or possibly a oxymoron. It is contradictory in terms of the legislature's practices.

Hon Peter Foss, on behalf of the then opposition, because tragically we were an opposition in 2003 as well as in 2007, pointed out the apparent contradiction in the provision that was included in the 2003 legislation. He asked members to make up their minds about what they wanted. He said they wanted the situation either in paragraph (a), whereby the Parliament would legislate the figure and if they wanted to change it they should bring in another bill and the opposition would look at changing it, or in paragraph (b), whereby the Parliament contemplated devolving the power to make the decision by regulation. He said they could have one or the other. He also said that regulation-making powers for this sort of thing were not uncommon and that if they wanted to do it that way, they should do it, but they could not have both because it is a contradiction. If members review the *Hansard* of the day, they will note that Hon Peter Foss pushed that very hard. Hon Murray Criddle would probably remember it well.

**Hon Murray Criddle:** I remember everything Hon Peter Foss did; he did it very well.

**Hon SIMON O'BRIEN:** That is right. The house did not find favour in that argument at the time and that is the reason for section 16(11), which, at the very least, states that the regulated percentage cannot come into effect until the time for disallowance has passed. We could have an absurd situation whereby a higher percentage is regulated and comes into effect immediately. On that basis a lot of lease plates, which as we know have to be affixed to a taxi with all its accoutrements, security cameras, metering systems and LPG conversion, are put into the market. What happens if this house disallows that regulation? Clearly that cannot happen. Hon Peter Foss managed to sell that very good proposition to the house and as a result the legislation includes section 16(11) to prevent that conflict. Unfortunately, and without reflecting adversely on a decision of the house but using it in retrospect, the provision that we are looking at offends just as much now as it did then, and for the same reasons. That is why I will insist, having been given the opportunity, that we go back to that debate. Maybe today the house might find a reason to correct what I believe is a technical error. I have proposed a way to do that by way of an amendment on the supplementary notice paper. I have proposed that a figure of 35 per cent be substituted in paragraph (a), and that paragraph (b) be deleted. If other members have any other ideas, they can put their amendments on the supplementary notice paper. They might want to see it done the other way around. I want to make the reasons why I have proposed that very clear at this time because I know a lot of people in the taxi industry will be very concerned about the outcome of this debate. I acknowledge that the relevant percentage was conceived as 20 per cent by agreement between the government and the taxi lobby. I also acknowledge that the taxi lobby is disappointed that the government has exercised its power to regulate for higher percentages. The actual percentage at the moment -

**Hon Paul Llewellyn:** It's a mixed bag.

**Hon SIMON O'BRIEN:** That is fair enough; it is a mixed bag. We might ask the government to tell us the actual percentage in reply to this debate or in the committee stage, because it literally changes from day to day as plates are issued and as plates change hands. The definition is proposed to change slightly as well. It will change a bit. I understand that 30 per cent has been surpassed, or it is at least around that figure, and the legal limit of 35 per cent is in force. Different figures have been provided to me. We will have an opportunity in this debate to work out what it is. It is somewhere within the 30 per cent threshold, and the government has a 35 per cent level available to it. It is in place right now. My thoughts are as follows. If we were to try to change it now to 30 per cent, until the bill is assented to, the government could still keep issuing lease plates to the extent of 35 per cent under the current regulation. It could be argued that that would be unconscionable but that has not stopped it before. That could happen. We have that same old argument that Hon Peter Foss was trying to avoid. Whereas if we limit it to 30 per cent plus any higher amount that the government wants to make it, that is an empty gesture because it will not make a blind bit of difference to the reality on the streets. However, 35 per cent does lock in a figure that is already lawfully available to the government, but allows for substantial growth in the number of lease plates out there. In other words, it gives options to the government in its mix, particularly when one allows for the change in definition. That is fair to all concerned. It is fair to the government and its policy. It recognises reality in allowing a buffer. It recognises the fact that the level of 30 per cent has been and gone for now. That debate has been lost by those in the taxi industry who are opposed to it going any higher. That is why I propose that the figure be 35 per cent. I also propose that the second part, the regulation-making power, be done away with because it is an absurdity to have both provisions. A lesser position that I would accept on behalf of the opposition is to do the reverse; that is, to institute a purely regulation-making power and to get away with the fixed percentage by legislation. The principle is the same. The government's proposition is an insult to logic and the form in which we should legislate. It is as simple as that. One of those should go. One of them should have gone in 2003 but now that we have another bite at this particular cherry, we should fix that up.

The debate about percentage will go on amongst the industry because of the nature of it. I already discussed that at length earlier in my speech. The debate about the percentage of lease plates will also go on because it is a matter of government policy. Government policy changes in response to market forces and the particular views of the government of the day. I guess that will not change. I feel that the solutions to the problems of the taxi industry - there are many - will not be found through our consideration of this bill. We can do a little about the legislation here, but I do not think we have licence to go any further than what is contemplated by this bill and by the amendments. All of that is a debate for another day. Looking at the history of debates on the taxi industry, I am damned sure that we will have it again and we will have it more than once while we are all here.

That is an overview of the three main features of the bill. As I indicated, we will support the bill as it is if necessary but we will offer amendments and the reasons for them in good faith and maybe come up with something a bit better attuned to the needs of not only the sector, but also the public that relies on it. Taxi users seem to get forgotten in a lot of the debates about the taxi industry.

To make that improvement to the legislation, there is one more matter that I want to explore. It is something that I touched on in my opening remarks when I referred to the question of peak-period plates and the capacity of the

owners of those 70 plates to upgrade or purchase a higher grade of plate and convert them into a conventional plate. I would like to discuss the possibility of an indenture provision. I think that is the term that I am looking for. The only reticence I have about what is proposed in the upgrading of plates is that we do not find that a number of peak-period owners suddenly find themselves in the privileged position in which they have less valued peak plates and they can add a further figure to purchase them up to being a full plate but at a discount rate. I have seen some of the figures that the minister is prescribing. She has come up with a reasonable rate, but it is an attractive rate. I do not want to see some peak-plate investors suddenly turning away the day after they upgrade their plates and cashing them in, getting the money from someone else, putting it in their pocket and walking away from the industry. That would be undesirable and unfair. If they were required to keep operating those new conventional plates and not dispose of them for, say, two years after they upgrade them, that would deal with that concern. Perhaps in reply, the parliamentary secretary might offer us a response as to how the government feels about that proposition, and whether it recognises that there is an issue that needs to be attended to. If people want to buy conventional plates, we would expect it is because they want to participate in the industry in the long term. It is not unreasonable. I think that is consistent with the current government's policy - frankly, I think it would be consistent with any government's policy; that is, that we want people buying plates to have a long-term commitment to the industry. If the parliamentary secretary could indicate in her response the government's thoughts on that matter, it would be appreciated. Perhaps we will be able to revisit that issue during the committee stage. I have not put an amendment on the supplementary notice paper to generate discussion; I have simply raised it now in this way to indicate that we will come back to it. Frankly, if the government wants to make an amendment to do that -

**Hon Adele Farina:** I think you will find that two amendments are already on the supplementary notice paper to deal with that matter.

**Hon SIMON O'BRIEN:** I did see a supplementary notice paper a little while ago.

**Hon Adele Farina:** One amendment is from Hon Murray Criddle and the other is from the government.

**Hon SIMON O'BRIEN:** If that is what the amendments relate to, it looks as though we will have advanced a long way. We will look at that. I indicate that if that is the government's intention, the amendment will have the opposition's support. I indicated earlier that that was the matter that I wanted to come back to later, and I have done that. They are the three key parts of the bill, and I have indicated the opposition's attitude to each of those. We recognise that the government of the day has not only a responsibility, but also the power to run this regulated industry and seek to achieve the outcomes that the community reasonably expects. At the same time, of course, the opposition has a responsibility to ensure that the interests of all the participants are protected. I feel that the total future of the taxi industry is very uncertain. I would not want to be an active participant in it at the moment, because there is great uncertainty. However, hopefully, the industry will be able to find a way ahead, perhaps by finding that elusive common voice that it has never seemed to have. However, that is a matter for another day. The opposition will support the Taxi Amendment Bill 2007.

**HON MURRAY CRIDDLE (Agricultural) [9.12 pm]:** Obviously, Hon Simon O'Brien has outlined at length the issues with the Taxi Amendment Bill 2007. However, I will just touch on the three amendments to the bill that I have on the supplementary notice paper. I have met with industry representatives Joanna Ammon and Kevin Foley from the Taxi Council of Western Australia, and the amendments are a direct result of the communication I have had with those people.

First, the bill provides for the enforcement of conditions when taxi plates are not used in the industry for long periods. I note that the amendment to clause 7 seeks to delete the period of 14 days and insert 28 days. That will give taxi owners time to make the required changes to the plates and the technical controls in the taxi to make it functional and to address the mechanical and electrical requirements. In some cases, owners may well need to find a driver to operate the taxi. I understand that the taxi industry feels that 28 days is a reasonable amount of time, but I note that the minister is seeking to change it to 60 days. After that time, there is a period of 45 days during which the owner of the taxi must dispose of the plates. I want to raise a couple of issues with that period. The parliamentary secretary might address these issues when she gives her response to the second reading debate. Paragraph (1c)(b) of the government's amendment to clause 7 states "in accordance with section 16". I would like the parliamentary secretary to identify the issues with section 16. When we debate the amendment, I would like some indication of exactly what that means. In the government's amendment, the minister is clearly seeking to give more time, and the time for disposal is 45 days. If I am wrong, perhaps the parliamentary secretary can correct me.

Secondly, there is provision for greater flexibility to issue more plates in response to the demand for taxi services. Every day of the week I hear that more taxis are required. I have found that the peak period for taxis is at weekends. The requirement for taxis is at its highest level on Friday and Saturday nights, or when there is a large event such as a football, soccer or rugby match or some other large event that requires peak-period taxis to

be on the road. Increasing the percentage of taxi plates from 20 to 30 or 40 per cent will allow the government to increase the number of leased taxis on the road; therefore, there is a possibility that the price of taxi plates will fall. The industry has raised this issue with me, and it needs to be comfortable with that percentage. Once the percentage rises above 30 per cent, the price of plates may be dampened. I know that a big discussion is taking place about investors in the taxi industry. The percentage is quite high, but it is an issue for those people. Some owners have used this investment as their superannuation. This is one way that the prices can be dampened. I understand what Hon Simon O'Brien has said about percentages and so forth. However, with the numbers in this place, we can get rid of the regulations and put in a percentage to stick by, if that is the way Parliament wants to go. The issue of regulation should be clarified here and now; otherwise the industry will not know where it stands. Taxi plates can be sold as well as leased, of course. However, I am reminded of the discussion about the buyback system. If plates are leased, the percentage of plates on the road that are owned by taxi owners will diminish. Therefore, in some ways the government will reduce the percentage of owned plates. The buyback scheme should not cost more over time; in fact, it could cost less because the value of the plates will diminish as the percentage rises. There will be all sorts of arguments about that issue, but that is one argument that has been put to me. That is an issue that we will need to discuss. I note that the minister has made her position clear, so we will discuss the other amendments on the supplementary notice paper.

The third issue I want to raise is the reasonable restriction provided for in clause 10. When people shift from restricted-hours taxis to conventional taxis, there is a possibility that they will be able to buy the plate for a lower price and sell it straightaway to make a profit. I have an amendment to that clause, but apparently it is not satisfactory and the parliamentary secretary will move an amendment to insert a period of two years. The only drawback is that if the owner of a plate must get out of the industry for medical grounds or other reasons, there is no escaping the fact that the owner must keep the plate for two years. That issue needs to be discussed and clarified during the committee stage.

They are the three issues that arise from this. As I said, my amendments arose out of a discussion with the industry. The industry has been split 50-50 on the buyback system for a long time. We were looking at that issue when I was the minister. Of course, if a buyback system were put in place, all members of the industry could lease plates off the government, and the government would then virtually have control over the number of plates on the road without any impediments. That is one of the ways around it. However, it must initially find the money to buy the plates. As Hon Simon O'Brien indicated, they are quite expensive plates. People own them for superannuation and other investment purposes, and that is something that we need to consider.

I will listen to the response of the parliamentary secretary to the second reading debate with interest and will join in the debate on the bill during the committee stage, because we need to sort out those issues as we go through the debate.

**HON PAUL LLEWELLYN (South West)** [9.20 pm]: Debate about the taxi industry has gone on for a long time in this chamber. I suspect that until we have a good sense of the kind of philosophy that we would like to use in the management of this transport service, the debate about the level at which to set the conventional plates and so on will continue. I understand that Hon Jim Scott performed the role of discussing the taxi industry on behalf of the Greens (WA) in the previous Parliament. I have had to go back to some first principles, such as the kind of service that we are trying to provide. Clearly, it is a transport service that has a range of different operators. Consumers need the service to be delivered in good time and in good faith. Owners and operators of taxis have rights and responsibilities in operating their services. They need to operate in a secure environment and with good faith about the investments that they have made and so on. It is not a straightforward industry by any means. There are lease plates, conventional plates, restricted-area plates and multipurpose taxi plates, and the permutations of how people have organised the rights associated with operating those plates are very complex. Some companies operate fleets of 50 cars, some individuals own plates but sublet them and some people own a car and lease a plate. It is a very complex industry. As a result, there is a fairly wide range of views about how it ought to be regulated.

The industry needs to be regulated primarily because it is very responsive to boom and bust conditions in the economy. The economy is currently amped up and the taxi industry is looking reasonably good. There is a lag between the number of taxis on the road and population growth, so there is a small window of opportunity and speculation. Owners of conventional taxi plates are getting capital growth on their assets. The problem is that demand within the taxi industry is very lumpy. It is lumpy not just in weekly and monthly trends; the demand caused by some special events simply cannot be met by using a restricted quantum of taxis. A system needs to be modelled and understood. All those variables create a complex service industry that needs to be regulated in some way. Regulation is needed for safety reasons. Tariffs and fares need to be regulated so that the industry has a predictable cost structure. Entry into the taxi industry also needs to be regulated. Clearly, that seems to be at the heart of this bill and of the debate that seems to be re-emerging all the time. Entry into the industry has an impact on the value of the plates and assets. It is that issue that drives a certain kind of debate; that is, that entry



into the market should be reduced to create capital growth. Operators want that in good faith because they have invested in the industry and operate a good service. There is more than a grain of truth in that.

If we want to measure the effectiveness of a regulatory framework, we should not necessarily look at the inputs. What we tend to do with the management of many systems of government is to consider how the inputs are looking; for example, how many taxi plates, cars and drivers are there? What we need to look at and regulate are the outcomes; that is, the quality of the service. This is a service-based industry. To some extent, that should be the driver for the design of the regulatory framework. In other words, what outcomes do we want for the industry - that is, not only in the provision of the service but also for the people involved in it? The traditional model of regulation has been regulation of entry - the input model. There are some good things about that model, because it gives owners of taxi plates the security they need to continue to operate in the industry for a long period, which gives them goodwill. However, on balance, it is probably not the ideal system for two reasons. Firstly, by creating expensive taxi plates - in Western Australia they are relatively expensive - an added cost is imposed on drivers and this is passed on to consumers. We can take that on face value. Secondly, it sets up opposing interests between the owners of taxi plates on the one hand and consumers on the other hand. In regulating this service-based industry, there needs to be some synergies and alignment between taxi owners and taxi users so that the market operates in a direction that provides better service and outcomes. This is illustrated by a 2003 survey included in a report by Hon Graham Giffard that reviewed the taxi industry regulatory scheme, which found that while 82 per cent of consumers wanted an increase in the number of peak-period taxis operating on Fridays and Saturdays, only 19 per cent of industry operators wanted that, and for obvious reasons. That is the 80-20 principle.

Should I keep going? What time do we finish?

**The DEPUTY PRESIDENT (Hon Ken Travers):** Ten o'clock.

Several members interjected.

**Hon Ray Halligan:** It is riveting.

**Hon PAUL LLEWELLYN:** I am riveting myself! I am trying, in some ways, to set out some of the intellectual framework that may help us to resolve - I know this is very deep - the model that we will use.

**Hon Adele Farina** interjected.

**Hon PAUL LLEWELLYN:** I am not reflecting on members who have spoken. I am sure that there is phenomenal intellectual rigour in this place that I am yet to find out about. However, I will carry on. Where was I?

**Hon George Cash** interjected.

**Hon PAUL LLEWELLYN:** It was, but I lost it for a moment!

One response to the taxi problem is to completely deregulate the taxi supply and to have a free market. In theory, the best way is to go from a highly regulated model to a free market model. Evidence suggests that there are problems with that model. Studies of the taxi regulations in 43 American and Canadian cities and counties found that many jurisdictions that had deregulated their taxi industries reversed that decision because of the adverse impact deregulation had on drivers' income and the quality of service. There is no easy solution to this, but a full deregulation of the industry and a free-market approach does not seem to be a good model. We are stuck with a regulated model.

A 2003 study of the impact of taxi deregulation in the Northern Territory found that a significant reduction in service standards and driver income occurred as a result of the full deregulation trial in that territory. The Greens have become very much involved in the discussion about the taxi industry. I will try to summarise what we have learnt and skip over the intellectual rigour of Hon Graham Giffard's extraordinary reports and all the other reports. I note that in 2003 the entire taxi industry, as I understand it - I have been a member of this chamber for only two years - agreed to favour a complete buyout of all plates. Those members who are awake might recall that move. When the economy started to look up, licence plate holders changed their minds and decided that the situation was not so bad anymore and that they should keep their plates. That suggests that there is a lot of latitude in the way in which we can organise this industry without necessarily causing its meltdown. Effectively, we want to achieve a good service and good output and a satisfied set of service deliverers - taxi drivers, operators and so on - who are getting a fair return on whatever investment they make, be it capital, cars or time. There is a fair amount of latitude in the system.

I will now compare the current situation with the situation that will result under the proposed changes. Currently, up to 35 per cent of all taxi plates can be government plates, and this number can be increased further by regulation. The bill will allow up to 40 per cent of conventional plates to be government plates and, again, that figure can be further increased by regulation. That is quite a significant distinction that has not been

adequately discussed. Under the proposed changes, there will be no cap for non-conventional plates - that is, peak-period, multipurpose and restricted-area plates. That is an interesting distinction that has not been made clear. In one case we are talking about a percentage on all taxi plates and in other cases we are talking about a percentage of conventional plates with a considerable capacity to respond to the market through the issuing of non-conventional plates. We will deal with these matters and the way they will play themselves out during the committee stage. I notice the new supplementary notice paper, which is the fourth in the series. I have not heard about the principles that have emerged. I certainly have not discussed them with anybody, although I have formed a view on most of them. The primary concern should be the delivery of a good taxi service to the consumer, but consideration must be given to the interest of drivers and owners of taxi plates. I refer to the impact on consumers. Government plates will tend to reduce the cost of taxi services, because owners who do not need to borrow \$230 000 for plates will not pass that cost on to consumers. An interest rate is associated with a capital investment such as that, which is in addition to the cost of leasing a plate. In the longer term, more taxis are likely to be available if the leasing of government plates is favoured over the sale of plates, because fewer taxi plate owners will be lobbying to restrict supply. We know that it is in the interests of some taxi plate owners to limit supply because they benefit from capital growth. I can understand that. However, whenever anybody enters a marketplace, they take certain risks with their capital investment, part of which involves the regulatory environment in which they will be working and the uncertainties in the marketplace.

The second consideration is the impact on drivers. Maybe this is intuitive, but my assumption is that they should be able to secure a better income because they pay lower rates to lease government plates than they do to lease private plates. In my many journeys as a taxi customer, I have taken many polls of taxi drivers, and their attitude has been consistent. Many who lease plates seem to prefer that model, because there seems to be greater security with a 10-year lease of a government plate even though it provides less flexibility when it comes to managing all the booms and lags in the system.

The impact on private plate owners should be a consideration. An increased number of government plates will make it harder to find drivers, because drivers prefer cheaper rates and the relative security of leasing. This industry is being impacted more by the lack of reliable drivers than it is by the lack of taxis. Even if we were to increase the number of plates, I rather suspect we would run into trouble trying to keep those taxis on the road to provide a service, because it is as difficult to find taxidivers as it is to find plumbers and everyone else in this overheated economy. This has happened as a result of a series of decisions on how fast people want to shift assets and make big capital investments. Nevertheless, the taxi industry is being driven by the resource boom at the moment. There is competition between the need for drivers and the need for workers in other parts of the economy.

It seems to me that the interests of taxi plate owners are already protected by the provisions of the Taxi Regulations 1995. They currently establish an overall cap of 0.86 metered taxis operating per 1 000 head of population, so those regulations set the template for the number of taxis per head of population. A recent article in *The West Australian* has the headline "Perth's taxi ratio the worst in nation". It reads -

The truth behind Perth's late-night taxi crisis has emerged with new figures showing that there is just one cab for every 1111 people - fewer taxis per head of population than any other major Australian city.

...

In Brisbane, the ratio is 888 people for every taxi, 900:1 in Sydney, 940:1 in Melbourne and 1097:1 in Adelaide.

The Perth ratio will drop if another 130 taxis are added. Of course, this bill deals with some of those issues by setting some time limit between when people get a licence and when they need to have their vehicle operating on the road. The Greens will have something to say about that. I rather suspect that it is more sensible to extend that period. I do not know whether the right number is 60 days or 28 days, but we can take some advice on that.

Quite possibly the best long-term model is to move to 100 per cent government leased plates with existing private owners bought out through a fair, equitable industry-funded scheme. Bear in mind this is not a government buyout, but is industry funded. Basically, some kind of reasonable formula could be created in which the move could be made over a period of time to 100 per cent government leased plates. In the meantime the government's model is acceptable, keeping in mind the existing limits on the total number of plates per 1 000 people. That is the key at the heart of this matter. The act already sets out a minimum number of taxis that need to be on the road. We are clearly not meeting that provision, but it seems to be a reasonable guideline.

The upgrade of peak-period plates to conventional plates is another aspect of this bill. Given that there is a complete removal of the cap on the leasing of peak-period plates and that the government's intention is to lease more plates in this area, the proposed upgrade of a small discount on normal prices provides some compensation for the impact of the private owners and peak-period plates. There needs to be a fair process, which is fully industry funded and which ensures a fair transition towards a new ownership structure in the industry.

The Greens support the principles and intentions of the bill. We will be dealing in detail during the committee stage with the various proposed amendments, because I believe some very clear framework needs to be set out. We have some difficulty with one or two of these very new amendments in the supplementary notice paper that I received this morning. It would have been better had we been given these amendments a little earlier and had some discussion about them and the opportunity to clean up some of the issues. However, I am happy to deal with them during the committee stage. The Greens will support the general thrust of the bill. We will have a fair amount of discussion on how its provisions should be fully implemented.

Debate adjourned, on motion by **Hon Adele Farina (Parliamentary Secretary)**.