



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**(Reference: Annual and financial reports 2007-08)**

**Members:**

**MS C LE COUTEUR (The Chair)  
MR B SMYTH (The Deputy Chair)  
MS J BURCH**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 19 FEBRUARY 2009**

**Secretary to the committee:  
Ms A Cullen (Ph: 6205 0142)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

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## **Privilege statement**

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*Amended 21 January 2009*

## **The committee met at 10.32 am.**

Appearances:

Hargreaves, Mr John, Minister for Disability and Housing, Minister for Ageing, Minister for Multicultural Affairs, Minister for Industrial Relations and Minister for Corrections

Chief Minister's Department

Cappie-Wood, Mr Andrew, Chief Executive

Centenera, Ms Liesl, Acting Deputy Chief Executive, Governance and Commissioner for Public Administration

Gotts, Mr Robert, Acting Director, Office of Industrial Relations

Gilding, Ms Louise, Acting Manager, Work Safety Policy

ACT Construction Industry and ACT Contract Cleaning Industry Long Service Leave Boards

Collins, Mr Phil, Registrar

**THE CHAIR:** Good morning everybody. Welcome. I formally declare the public hearing of the Standing Committee on Public Accounts inquiry into the 2007-08 annual reports open. Everyone has a privilege card. If you like I will read it to you, but I suspect you would prefer that I do not. Before there are any questions from the committee, do you have a statement you wish to make, Mr Hargreaves?

**Mr Hargreaves:** Thank you very much, Madam Chair. I would like to make a short introductory statement. The Office of Industrial Relations develops policy and provides advice in four key areas. These are: occupational health and safety and dangerous substances; workers compensation; industrial relations, including public holidays and daylight saving; and workplace injury and management. This latter function comes within the Chief Minister's portfolio. While I was not the Minister for Industrial Relations over the 2007-08 financial year, it is a subject I am passionate about and would be delighted to answer the committee's questions.

The year 2007-08 was a very significant year in the industrial relations portfolio both locally and nationally. The Work Safety Bill was developed and released for consultation and the bill was then passed by the Assembly late in 2008. The new Work Safety Act replaces much older legislation that really was showing its age. The new act also allows a much closer integration with the provisions of the Dangerous Substances Act 2004.

Producing a draft bill is a very significant piece of work, not least because it brought the ACT to the forefront of workplace safety nationally. That is not just my view. It is no coincidence that the ACT's Work Safety Act is highly consistent with the recommendations of the recently completed national review into model OH&S laws. I might say that when it comes to national harmonisation of OH&S laws the rest of Australia is playing catch-up with the ACT.

Of course, harmonisation of OH&S laws nationally is a major project in its own right which the government is committed to. All Australian governments have taken a

broadly similar approach to regulating for safer workplaces. However, there are differences, particularly with regard to duty holders, defence mechanisms, compliance regimes and penalties.

Achieving model OH&S legislation that we can adopt in the ACT will be our contribution to reducing the variation between jurisdictions, cutting national red tape, boosting business efficiency while providing greater certainty for business and protections for our workers. As I have already noted, it does not hurt that in achieving this national objective we in the ACT will have fewer adjustments to make than others, primarily because of the excellent work that went into our own Work Safety Act. The ACT is a small jurisdiction and playing a part in the national harmonisation of OH&S laws places a heavy demand on our resources. However, it is so important that OIR will continue to make a contribution on behalf of the ACT.

Unfortunately, it is inevitable that there will be workplace injuries and as such there is a requirement for effective workers compensation. In 2007-08, consultants completed a review of the ACT workers compensation scheme. This review sought to address the perception that workers compensation premiums are higher in the ACT than in other jurisdictions. A number of the priority recommendations have been implemented. A contract has been signed with an actuarial firm to provide reports on premium pricing reviews for the past and forthcoming financial years. Additionally, the Office of Regulatory Services is well advanced in a procurement exercise to replace the current AIMS workers compensation database which will, in turn, allow a number of other recommendations relating to data to be met.

OIR has also conducted a review of consumer fireworks as a part of the general review of dangerous substances in the ACT. The review process included a series of three community focus groups, in-depth interviews with members of the industry, an online survey and telephone surveys of focus groups both before and after the Queen's birthday long weekend. Changes that flowed from this review included only permitting fireworks to be discharged on the Saturday and Sunday of the Queen's birthday long weekend and ceasing at 9 pm rather than 10 pm. The sale of fireworks is also restricted to Friday, Saturday and Sunday of the long weekend with retailers only permitted to advertise their sale for a total of seven days.

My views on consumer fireworks are quite well known and I am sure the committee will have questions for me, won't they, Mr Smyth? I do hope so. I point out now, though, that while the consultation did show the community is divided on the issue of fireworks, there are somewhat more people in the community that are very opposed to consumer fireworks than there are who are very supportive.

In 2007-08 OIR conducted stakeholder discussions around a security payment scheme for the building and construction industry. Other than Tasmania and South Australia, who are in the process of implementing security payment schemes, the ACT is the only jurisdiction without such a scheme and we intend to implement one. Contractors have a right to be paid for the work that they do and in the economic environment we are entering it is important that governments do all they possibly can to ensure that money in the building and construction industry continues to flow smoothly and quickly down the chain of contractors and suppliers. This consultation has been complex. While the existence of different models gives us precedents to work on, it

also provides a ready range of different views to consider and to resolve.

Of course, in addition to the significant projects I have just mentioned, in 2007-08 OIR made amendments to the Standard Time and Summer Time Act 1972 to harmonise daylight saving down the east coast of Australia. Amendments to the Workers Compensation Act 1951 allowed for home modifications where needed by injured workers to be included as compensable.

OIR also strengthened anti-discrimination laws for same-sex parents through the Parental Leave Legislative Amendment Bill 2008. I will be happy to answer any questions that the committee might have. I have expert officers here with me who will give you much detail.

**THE CHAIR:** Thank you, minister. As you alluded to, I have some questions on fireworks. I will not disappoint you; I will start on fireworks.

**MR SMYTH:** Before you do, could the minister put his well-known views on fireworks on the record?

**Mr Hargreaves:** They will be forthcoming very shortly, Mr Smyth. Hang on to your hat; it might explode.

**MR SMYTH:** You cannot tell us now?

**Mr Hargreaves:** Certainly, but I will wait for the questions.

**THE CHAIR:** The question is not about your views, I am afraid, but I am sure you will have a chance. Has the level of illegal activity been more or less this year than last year, and are the incidents getting more or less serious?

**Mr Hargreaves:** Thank you very much, Madam Chair. I will get the officers to give you some specific detail on it, but I would like to put a couple of things down. When we talk about the survey results and issues like that, comparing them over previous years, it is fair to say that it is about a fifty-fifty split—people wanting to keep them and people not wanting to have them. When we looked at the breakdown of those numbers, we found that when you look at those really opposed and those really supportive, something of the order of 65 per cent were really opposed and 35 per cent were just opposed, as against 65 per cent who just wanted them and 35 per cent that really truly really wanted them. So if you take those people who are half ambivalent about this out of the system, you find 65 per cent of people wanted them banned against 35 per cent of people who wanted to keep them. That is in general terms. Over them all, you have got about a fifty-fifty split. I am in the process of compiling a cabinet submission to go forward outlining those particular things and the laws as they stand at the moment, putting in as much detail as I have available.

However, at the end of the day, this is a choice between seeing somebody really thrilled for a couple of seconds or seeing an animal killed. Let me be absolutely as blunt as I can about this. I have one cat that came to my family at three months of age. He was rescued. He had kerosene on his back and he was on fire. He had fireworks strapped to his belly and my daughter rescued him. In fact, I am going to the vet's

tonight to possibly put down another cat who eight months ago was frightened by a firework which was let off illegally. He ran across the road, was hit by a car and lost his leg. That particular illegal firework explosion cost my cat at least six months of its life. So please, committee, do not ask me if I am going to recommend this ban; just ask me when I am going to recommend this ban. I think that has answered your question, Mr Smyth.

**MR SMYTH:** Possibly.

**Mr Hargreaves:** Next.

**THE CHAIR:** Could we just get down to—thank you; I appreciate your views—the actual numbers?

**Mr Hargreaves:** I will ask the officers to give you as many numbers as you like.

**Ms Centenera:** What you are asking is really part of the province of the police and the Office of Regulatory Services. What I can tell you is that, as part of the general review of the Dangerous Substances Act and the fireworks review, we did seek some statistics from them. I have not got them readily to mind, but we can provide them.

**THE CHAIR:** That would be very useful for us.

**Ms Centenera:** But one thing that the police made very clear to us was that some of these figures are call-out figures and they do not reflect the number of call-outs that they receive or that they attend. With fireworks, of course, it is difficult. Once they are discharged, it is gone. It is very difficult to compile evidence of any use to pursue a prosecution for the illegal discharge of fireworks. The public are very aware of that, and they indicated through the focus groups that they were very aware of that. That is reflected in the report as well. A lot of it is not reported because the public think, “I’m not going to get anywhere anyway.” And a lot of the time the police say, “Look, we’re really sorry.” If they get a lot of calls from one particular area, they might go, but with isolated ones, because they are unlikely to lead anywhere, they have to make what I suppose is a business decision in terms of whether they go or not.

In the paper for the last fireworks season, there was quite a report on criminal damage. There was the man who had his windscreen damaged from a firework being strapped to it and there were stories about blown-up letterboxes et cetera. Obviously, apart from the illegal discharge, there is that criminal damage as well—that element, which the police can give more figures on and which we can seek from them.

One thing that we did not get from the figures with the dangerous substances review, but that we received through a previous fireworks review, concerned black market operations, which are part of that illegal use. We did not delve deeply into that; the police could not give us figures. I believe the minister, from his participation in a previous review, may have more to say on that issue.

**Mr Hargreaves:** Yes. Thanks very much, Liesl. One of the things that we do know is that, when the suppliers purchase the fireworks—predominantly from China—they order in many tonnes of the fireworks. The last time I checked, we let off about

three-quarters of a tonne on the weekend. It does not take a rocket scientist or a firework scientist to figure out that it is going somewhere else. I have asked my officers to talk to their colleagues informally about what other jurisdictions are feeling about this and whether our existence and the continuation of our regime is making it difficult for their counterparts interstate; the answer is yes, it is.

I draw the committee's attention to a previous report that the Assembly standing committee did on it. I do not see any evidence of change in the use of the illegal stuff. What people do—you can see it every year—is buy their 25 kilos and not let them all off. They keep them. They will let them off for a couple of weeks after that. It is isolated and it is reducing, but it is still happening. It happens before the long weekend and after it.

I do not have a quarrel, and nobody I know has a quarrel, with people who use them responsibly. I know at least one person who has a bonfire party in their cul-de-sac; it is fantastic and I pay respect to their organisation for that. But I was called out to my neighbour across the road to see what was left of his letterbox and to see that the cement slab which was on the top of that letterbox had frisbeed across the road. I also saw the results of fireworks taped like a claymore to the side of Ric and Vic's convenience store in Kambah—which blew a hole in the place and into their refrigeration unit. I have seen the after-effects of it myself. Quite frankly, people are getting sick of it. I would like to see the committee say something about it in their report.

**THE CHAIR:** But just in summary, in terms of knowledge we have, we do not really know whether the change in rules made any difference to the level of incidents or illegal activity? We just do not know?

**Mr Hargreaves:** I will provide some statistics for the committee on the number of dogs lost and dogs killed—other animals, those sorts of things—over the last couple of years, which will be informative. I am happy to do that.

**THE CHAIR:** Thank you.

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**Mr Hargreaves:** And a report. You will find that the incidents are—I would ask the committee to have a look at the level of these incidents and see whether they are going down or going up and whether you think the existing level down or whatever is acceptable. I suggest to you that it is not. We will give you as much in the way of numbers as we can to assist in your thinking.

**THE CHAIR:** Thank you.

**MS BURCH:** You mentioned in your opening statement that you surveyed and you spoke with the community. Was that before or after the changes?

**Mr Hargreaves:** Both.

**MS BURCH:** Can you provide a summary of that as well?

**Mr Hargreaves:** Yes.

**MS BURCH:** Just to see whether people felt that there was a difference.

**Mr Hargreaves:** There is no doubt in the world that the restrictions down have restricted the availability. We are not talking here about those people who use it responsibly. They say, “Okay, I’ll comply with that.” They are fine. It is the people who will say, “Okay, if I’ve only got a shortened period of time to get it, I’ll just get twice as much.” That is the story. Also there is the case of the illegal use and the illegal fireworks themselves. If we have a retail marketplace out there, we just do not have the resources to police the whole lot.

We know that recently there were incidents where the use of thunder kings was around. A thunder king is an illegal firework. It has a different chemical composition than fireworks used to have. They used to have gunpowder; they do not any more. They are a cocktail. Some of them have got magnesium in them. When magnesium goes off, it can take your hand off. One of those thunder kings has the same explosive power as an antipersonnel mine. We are talking about explosives here; we are not talking about the harmless crackers you used to hold in your hand as kids. What these people are doing is strapping three or four of these thunder kings together. That is what is blowing up trees. A lot of the trees that were being set on fire recently were done with fireworks. And a lot of the bushfires that are deliberately set—Mr Smyth would know this from his firefighting experience—were set with a delayed fuse on fireworks.

We can have whatever regime you like, but if those people have access to this thing they will go. It was said once that if we were to ban consumer fireworks they would go underground. I would contest that, because we are the wholesale outlet for that. If we ban them here, they will not be imported into the country, so they will not be brought in and therefore go underground. Furthermore, they will not be underground in the other jurisdictions either.

**MR SMYTH:** Can you tell the committee how many prosecutions occurred in the last 12 months?

**Mr Hargreaves:** Yes. I cannot tell you the number, but we will get it for you. But I can tell you, from previous years, when I was involved in this issue, that we had something like 47 prosecutions against a particular supplier who I will not name at the moment, and those prosecutions were unsuccessful. Part of the problem is that there is a merry-go-round of legislation which affects this. You only need one to be ineffective and the whole lot falls over. My informal advice from the DPP is that there will be only one effective way to stop it, and that is to ban consumer fireworks. We can fix up all of these pieces of legislation—it will take us ages—but some of the legislation is not even ours.

I tried to find out why Customs would let some of these things into the country. The plugging at the bottom of a lot of the fireworks is mud, and the mud comes from China. It should not be allowed in this country, because it could be contaminated; it could have anything in it. When it is let off, it is blown to smithereens and you might say that that is not a bad sterilisation method, but if it is not we have got a problem. Customs only randomly check a container; they do not check every container. They

just pick a container and say, “We’ll check that one to see whether it’s got illegal fireworks, dangerous substances and/or other things like that.” They do not check it.

**MR SMYTH:** Has there been any seizure of non-shop-good fireworks in the ACT in the reporting period?

**Ms Centenera:** That is a question you would have to ask ORS or the police.

**Mr Hargreaves:** Yes, that is an ORS question.

**MR SMYTH:** So they do not tell you what is being collected?

**Ms Centenera:** They would tell ORS, the regulator, but they would not necessarily tell us, as that is policy and legislation.

**MR SMYTH:** But in terms of your review and the effectiveness of the legislation, surely that is something you would look at?

**Ms Centenera:** I can provide the review report. The process for the review was that there was a call for submissions. We did some. We had extra discussions with the police; in fact, they were part of our panel for the community consultation. We can provide you with whatever the police provided us with.

**Mr Hargreaves:** Madam Chair, in response in part to Ms Burch’s query, I have in my hands two final reports entitled *Research on the ACT’s consumer fireworks regime* conducted by OIR, one on 16 March 2008 and one on 20 August 2008. I was concerned that reports could be biased—that, if you do it two days after a Queen’s Birthday long weekend and you just happen randomly to pick a number of people who have had an adverse experience with it, it will be skewed. So we did the survey before the long weekend and also after it. I will table both of these two reports.

**THE CHAIR:** Thank you. Any more on this?

**MS BURCH:** This is my last question on fireworks. Given that you note that there are 35 that are keen to have that—you made mention of a local community that has fireworks for the families—have you considered options with community groups or scout groups where you can have those local, controlled and managed as an option?

**Mr Hargreaves:** What are we talking about? We are talking about unqualified people getting access to these explosives. We are not talking about the licensed pyrotechnicians who will do the firework display at the Tuggeranong Community Festival or Skyfire. We are not talking about that. What we are talking about is stopping the people out there in the community who are not skilled in the safe handling of explosives.

One of the suggestions made some years ago was that we could have training regimes. Training regimes are okay for one person, but if you have got a whole community of people doing it, even if it is just a street, you are not going to get them all. Also, I do not think that would be a particularly efficacious thing to do; it would cost us a fortune and it would not necessarily work. As I say, though, the issue is not really

for those people, because those people are doing the right thing. They are, for example, not letting them off in grassed areas; they are making sure they are on a hard surface; they are making sure that young children are 50 metres away from them—those sorts of things. It is the people who are getting hold of an illegally acquired firework, sometimes doctoring it to make a bigger explosion and then using it for uses that it was never intended for.

**MS BURCH:** I guess the issue is whether there is a way to accommodate those sorts of people and get rid of the really illegal—

**Mr Hargreaves:** That is what has been happening since the original report came down when I was in opposition. I was on the committee for justice and community safety then. The idea was that we would have a regulatory change. I know that Mr Smyth was the minister responsible at the time; he would remember that we thought, “Okay then; we will see how the community goes. We will restrict it down.” When we came to have the authority about this, we brought in a more draconian measure than Mr Smyth did, because we were not getting the results that we had hoped to.

I think that we are now at the sort of base level where we are about it. I guess it is going to come to a decision for the community. You cannot really restrict it much further now, so either we are going to accept the fact that we are going to allow this illegal activity to go on or we are not.

**THE CHAIR:** Anything more about fireworks? The next thing I would like to talk about, also alluded to in your discussions, is the work safety bill. I know that it has not yet come into operation, but would it have made any difference—

**Mr Hargreaves:** Sorry, Madam Chair; could you speak up a little bit, please? You have got a lovely voice but it is not loud enough.

**THE CHAIR:** I am so sorry. The work safety bill has not yet come into effect, but would it have made a difference on the Queen Elizabeth II site where we nearly had a major disaster? That was where the concrete collapsed.

**Mr Hargreaves:** It is a bit hypothetical, Madam Chair. We would like to think so. One of the issues about the work safety bill is that it is about changing the paradigm—changing the mindsets—as well as about installing penalties. You have to start somewhere, and that is what we are starting with—to change the mindset. Would it have prevented the death of a person? Honestly, I do not know. I would like to think that if we do not do something like this you can guarantee one coming up again.

**THE CHAIR:** Any other work safety questions?

**MRS DUNNE:** Can we have a run down on the time line for the finalisation of the work safety bill?

**Mr Hargreaves:** I will ask Ms Centenera to do that.

**Ms Centenera:** The work safety act is due to commence on 1 July 2009. What we are

working on at the moment is the basic essential regulations to accompany that act and guidance material on consultation—because the provisions were changed quite substantially between the old occupational health and safety act and the new work safety act—as well as consultation and a bit of drafting in relation to some essential codes. Construction is the one that springs to mind. We can provide the committee with a full rundown of the work that is associated with the introduction—and the transitional and consequential amendment bill also, to bridge the old and the new.

**MRS DUNNE:** The work on the codes—where is that?

**Ms Centenera:** The work on the codes? The construction code is one of the codes that are under consideration. It is basically the implementation of nationally declared codes that we are looking at. There is also one, I think, on licensing. I might ask Ms Gilding if she can come up here; she can provide a better rundown because she is the one with the running of that particular part of the act.

**Ms Gilding:** There is a lot of work being undertaken to implement the Work Safety Act, and we have picked off the key regulations that need to actually be reviewed and remade, to start with. In terms of the construction time frame, they are not planned for implementation on 1 July.

But certainly the current regs that sit under the Occupational Health and Safety Act will be reviewed and remade. Of particular importance is the actual licensing, the operating licence for high-risk work. What we are looking at doing there is implementing the national standard to start alongside the other on 1 July. We are also looking at keeping that in step with what is actually happening in New South Wales.

Work in relation to construction will be a little bit further down the track. In terms of the codes—ORS has been looking at those codes—we will be making transitional arrangements for them. There is a raft, there is quite a lengthy list that I can certainly provide for the committee, but there is a lot of work to be undertaken in terms of reviewing those codes and making sure that they are in step, so to speak, with the Work Safety Act.

**MRS DUNNE:** And how much of that is going to be done before 1 July?

**Ms Gilding:** How much of the codes work?

**MRS DUNNE:** Yes.

**Ms Gilding:** At the moment we are looking at transitioning the bulk of the codes over. They will have a sunset clause on them and they will have a 12-month period within that Work Safety Act until they then will no longer be in effect.

**MRS DUNNE:** So what you are actually saying is that at the moment you are going to transition those codes through the next three months, you will not be finished the work, and you are giving yourself another 12 months on top of that to remake a whole range of codes.

**Ms Gilding:** Yes.

**MRS DUNNE:** From scratch or keeping national work in mind?

**Ms Gilding:** Absolutely keeping the national work in mind. Wherever there is national work we will certainly have a look at what the existing ACT code is and ensure its compatibility. Obviously that goes through a process of consultation. Where there are differences, we will take that to the ACT Occupational Health and Safety Council for their advice to the minister.

**Mr Hargreaves:** One of the other things that was just mentioned, I think, which is noteworthy, is that we need to make sure that we have a consistency with New South Wales as well because we have a lot of cross-border activity through Queanbeyan and as far as Goulburn and ourselves. It is a little bit out of step, and we have got to make sure we do not get it out of step.

**Ms Centenera:** The other thing that I would mention that has to be borne in mind is that on the current national harmonisation timetable we are all going to get new codes as of 2011. I suppose what we want to do is transition across these codes so that they still have applicability and so that there is still that legislative infrastructure there for the ACT, at the same time recognising that by 2011 every indication is that those national codes are just going to carry over as well. Just in case there is something that the OHS review panel or Safe Work Australia decides they are going to make major, major changes on, then the best thing we think is to carry over the existing and not create, I suppose, three levels of very major change if that was to eventuate, even though that looks unlikely at the moment.

**MRS DUNNE:** I am now confused. Ms Gilding was saying that those codes that would be carried over would have a 12-month sunset clause but that does not take us out to 2011. What is going to fill in the gap until we finally make the change?

**Ms Gilding:** During that 12-month period each of those codes will be reviewed by the Office of Regulatory Services. We will have to re-declare those in the interim while we are waiting. We are often waiting for reviews to come from the ASCC. We have to give consideration to this: do we jump, do we implement or do we wait? I think at the moment we prefer to take the proactive approach so that business and workers actually have guidance material that they can look at.

**MRS DUNNE:** So the codes are not being reviewed by your area; they are being done in ORS?

**Ms Gilding:** They are. The codes would be the regulators and how they would be set out, how they would be approaching each of those issues.

**THE CHAIR:** Anything more on that topic?

**MRS DUNNE:** Just one more thing if I could, Madam Chair. Ms Gilding, you said before that the first priority was essentially codes that relate to licensing, presumably of things like cranes, forklifts and heavy machinery.

**Ms Gilding:** We are looking at the regulations. You have got your main act, your

regulations and then your codes and your standards that sit under that. We are starting with the regulations; so what we would be doing is remaking and updating the occupational health and safety general reg which came into force last May.

We are including the new detail for consultation provisions under the general reg; we are reviewing and consolidating the regulation of occupational health and safety in terms of manual handling. We are reviewing and remaking the Magistrates Court occupational health and safety infringement notices and we are repealing the certification of plant users and operators regulation 2000, which is the implementing of licensing of people performing exactly that high-risk work.

**MRS DUNNE:** You are repealing that. What are you substituting it with?

**Ms Gilding:** We are going to be implementing the standard but we are also taking a close look at what the other jurisdictions are doing, particularly in terms of load shifting. Forklifts are kept in but there are a lot of other pieces of machinery licensing that have not been included in the standard, which we do currently assess, and we will maintain a regime of licensing and competency and assessment under that.

We are waiting—and this is one of the things that we are waiting for; there is a stage 2 review of that national standard by the ASCC—to see whether they are reviewing whether those load shifting requirements should be back in the standard or whether they should be back out. Again, we are playing a waiting game. So we are proposing a transition period until that review comes down, whilst also looking at what New South Wales is doing, what Queensland is doing, what Victoria is doing, and trying to keep in step on those things.

**MRS DUNNE:** One of the things, if I might, Madam Chair, that are currently in the state of play is that once you get a licence to be an operator of a forklift or one of these things you have got the licence forever.

**Ms Gilding:** Yes, that is right.

**MRS DUNNE:** Is that going to come under review?

**Ms Gilding:** Yes. Under the standard there are quite a few changes, and one of those is a five-year licence and a continuous assessment for competency to operate that machinery.

**MRS DUNNE:** I suspect there will be a lot of people out there in the industry who will have to be alerted to that because—

**Ms Gilding:** Yes, absolutely.

**MRS DUNNE:** It is one of those set and forget things.

**Ms Gilding:** That is right, but we are obviously putting a process in place that will ensure that we have considered workers' interests. People will not be—I am lost for words.

**Mr Cappie-Wood:** People will not be taken by surprise.

**Ms Gilding:** People will not be taken by surprise—thank you, yes—by the changes.

**Ms Centenera:** And that their business is not unnecessarily hampered, because if you think you have got a licence for life, (1) you can get tricked and (2) it is like the cost of a licence and the cost of being reassessed and all those sorts of things. They are all the things that we were discussing with the Office of Regulatory Services to try to make sure that there is minimal burden but at the same time compliance with the national standard.

**MR SMYTH:** To follow up on that whole issue, it is covered in the first dot point of the future directions. I note in the 2007-08 annual report the future directions are for 2007-08 which might be just a typo, but what consultation is being undertaken with business and what efforts are you making to ensure that the minimum impact is made on business at this time when things are already quite tough for a lot of firms?

**Ms Gilding:** Obviously we have been consulting all along the way with the Occupational Health and Safety Council which has, as you know, employee and employer representatives on it. We have certainly tried to find a balance for business and for worker safety within the legislation. They often say that the detail is in regulation. When we have this package together that is proposed to be implemented under the WSA, we certainly are planning to release exposure drafts as that was an actual recommendation that we had from the council.

**Ms Centenera:** At a higher level as well, these national standards all go through an extensive consultation process before they get declared, and that is a public process. It goes through a full regulation impact statement process. There are working committees that comprise membership from the commonwealth and the various jurisdictions. So it goes through two rounds at that national level and then, of course, between jurisdictions. Whether you are big or small, there is always going to be some detail that you have to work out to make sure that it is particularly applicable and that is where we commence with the OHS Council and the stakeholder groups, as Louise mentioned.

**THE CHAIR:** On a totally different subject, you have got in your future directions “contribute to development of the community sector portable long service leave scheme”. That has been on the drawing board for a long time, as far as I know. How is it going and what are the problems? Why can it not happen?

**Mr Hargreaves:** A lot of the issues with the portability of long service leave have to do with the nature of the employment, the casualisation of the workforce, part-time workforce, people moving from one to the other, having a casual relationship at employer A, moving to another one at employer B. Also we have challenges on the nature of employment. Some people will be employed casually in one particular occupation and employed casually in another occupation and that has actually given us quite some substantial challenges over time.

With the industries that have already got it—there are great models there—it has been a bit of a challenge. It has been a bit of a challenge getting employer groups,

businesses, to embrace it—and the workforce as well. So there have been some challenges. It has never been understood that it would take very little time; it has always been understood that it would take quite a bit of time to actually bring this off. But I will get more detail and give it to you.

**Mr Cappie-Wood:** Before I pass over to Liesl, the Office of Industrial Relations is taking responsibility for any legislative requirements coming out of this. The 2007-08 budget made provision for implementation of those moneys provided to assist in that. Those moneys went to DHCS. DHCS is leading this process. As such, they have got a committee that has been formed which is made up of various government agencies, including our own, and at this point in time they are preparing, effectively, documents which would lead to consultation on this basis.

**Ms Centenera:** There has already been a discussion paper and there were responses to the discussion paper, but DHCS is still in the consultation process. Is that correct, Robert?

**Mr Gotts:** Yes, essentially. As Liesl said, there is a project team that has been put together which DHCS is managing. Our role is to make sure that when the time comes we have the legislative arrangements in place so that it will be able to operate.

**Mr Hargreaves:** So in a snapshot, Madam Chair, the process is being driven by other agencies and we are just going to pick up the legislative responsibility for it.

**THE CHAIR:** You said “when the time comes”. Have you any idea when the time will be?

**Mr Hargreaves:** You should ask that of the Minister for Community Services.

**THE CHAIR:** I guess we will.

**Mr Hargreaves:** Yes, I encourage you to do so.

**THE CHAIR:** Fair enough. Moving on to the review of workers compensation, one of the two recommendations was to move out of the Comcare scheme. Has the government started work on that? Is there a time frame for it? I have more questions on that, but I will just start there.

**Ms Centenera:** There was one recommendation in the report recommending withdrawal. We went back to the consultants and questioned them quite closely because the recommendation was not well supported, in our view. We went back to them and we said, “Where’s the evidence?” Even they at the end of the day said, “That was more a statement of personal view than of something that came out a lot in the consultation.” But it was a very strongly held personal view that they held. Mr Segrott, who was part of the review and is part of our OHS council, felt that that should feature. We did not think that was inappropriate or anything like that, but we just wanted to get to the bottom of it.

Whether the ACT Public Service should stay in or out of the Comcare scheme is quite a vexed question which goes back a few years. In fact, I am sure Mr Smyth knows

that better than any of us. There was quite a bit of work done, I believe, before 2000 even, that related to whether we should withdraw or not. We had a look at that work and we thought that matters had not progressed—except for one material difference which I will go on to—or really changed all that much that required a revisit or another review of that work. The work still seemed entirely relevant.

The only issue that came up related to journey claims, the fact that coverage had been removed for journey and recess claims. There were many views as to whether or not that was a good idea. We are now in the situation where 50 per cent of jurisdictions cover journeys and 50 per cent do not. It is quite a difficult issue. Some coverage is provided by various unions and it is quite murky. To be blunt, where we are at the moment is that we have not decided to proceed any further because we have that work that was done in the late 1990s and we thought that that was still quite relevant.

The other thing we are waiting for goes back to when the Rudd government came to power. There was a policy of reinstating journey and recess claims and there was going to be a review of workers compensation with a view to harmonisation—much like they are doing with occupational health and safety at the moment. That review has not commenced but they have reviewed Comcare as an organisation, and I think their legislation, and we are waiting on the outcomes. While it was mostly about self-insurance under the Comcare scheme, there was much mention of journey claims.

Our own representative on the safety, rehabilitation and compensation council put forward journey claims as a major issue for the ACT. We are waiting to see what comes out of that review. If the journey claims issue is fixed then I think the work still holds and is still incredibly relevant now. We did not think that there was any reason to go back over it, but we are waiting to see where that goes. The report has been with the Deputy Prime Minister since the end of July. We are just waiting to see what comes of it.

**THE CHAIR:** Do you have any idea of the views of your employees?

**Ms Centenera:** Of employees, in relation to the lack of journey claims coverage?

**THE CHAIR:** More generally, moving from Comcare. Was it supported by the employees?

**Ms Centenera:** It is only anecdotal, and it is split. The Comcare regime has a lot of benefits attached. It has much more generous benefits than the ACT private sector scheme in many areas. On the other side it is split between “I want my journey claims back” and the, I suppose, ideological view that we are the only public service that is not covered by our own workers compensation legislation. There is a thought that everyone should be covered by the same thing, just as an ideal. It is a very split view as to whether we should stay in or leave. The other thing is that the ACT Public Service has never known any different; we have always been covered by the Comcare scheme.

**THE CHAIR:** Earlier the minister mentioned—or at least I think he did, on my reading—that if the ACT government were to move out of Comcare and go into private insurance presumably it would make a considerable difference to ACT

insurance premiums. The other thing I am interested in is that ACT insurance premiums are considerably higher than those in other jurisdictions.

**Mr Hargreaves:** I did not actually mention it. It was in your reading.

**THE CHAIR:** I am sorry; I read it.

**Mr Hargreaves:** It is a legitimate question, but I did not mention it.

**Ms Centenera:** It is hard to say. We do not have any actuarial assessment of that particular factor. I do not know whether Peter can shed any light on this through anything that ACTIA has done. The general thinking, and I quite understand this, is if you make the pool larger then you know the premiums will be lower because you are spreading it across a wider base. But on the flip side that is a very baseline assumption and it would require a much higher level of investigation before we could go there. Some of the review stuff at the end of the 1990s looked into that and there was a disparity of views there, from my recollection, as well, but nothing conclusive.

**Mr Hargreaves:** The other thing, of course, Madam Chair—I do not wish to be too evasive—is that the Office of Industrial Relations in this sense does not compile insurance policy. That is why we have an authority to advise us. We look after the legislative aspects of that.

**MRS DUNNE:** On the subject of premiums—if I might add to that, Madam Chair?

**THE CHAIR:** Yes.

**MRS DUNNE:** This is a matter of clarification: who does what and to whom. What steps are being taken in government to address the apparent disparity in compensation premiums for people in the ACT, as opposed to other jurisdictions?

**Mr Hargreaves:** And what sort of people in the ACT? Our responsibility is to our employees. We have answered that question, I think, in respect of our own employees.

**MRS DUNNE:** In respect of your own employees, but in terms—

**Mr Hargreaves:** Are you talking about the private sector?

**MRS DUNNE:** Across the board, including the private sector. What are the factors, and this is a policy issue that can—

**Mr Hargreaves:** I do not know that we are in a position to answer it, whether it is the insurance authority one should be directing that question to.

**Mr Cappie-Wood:** There are elements that contribute towards the nature of the premium which you have to look at through the claims history. There is clearly a trend, and I think this is in the documentation, towards fewer claims but of a higher amount. It is a question of drilling down into why that is happening and under what category does it fall. Is it slips, strains and falls? Is it mental duress? What form of claims are coming in?

What we are seeing is a general trend, if you like, for that lowering of number but increased amount of those claims; hence some agencies have been very proactive in terms of this. I would have to compliment the Department of Health in particular who have been very proactive, as have all health jurisdictions around Australia, in terms of their very focused attempts in that regard. But you would anticipate that because it is about the nature of their particular activities. So it is about making sure we can identify this. There is regular reporting that goes to agencies now so they can have sectoral breakdowns. It is not just by individual agencies per se but elements within agencies, and you see specific activities which require focused attention.

This is now the subject of regular discussion at the management council. This is something which we want to pay particular attention to. It was mentioned by the Chief Minister at the public administration awards yesterday that he was looking for an award for agencies or individuals who contribute towards improving the occupational health and safety arrangements, which would in turn flow through into the premium horizon.

**Mr Hargreaves:** Madam Chair, I seek your indulgence to expand on an answer to Mrs Dunne's question. She asked about the total system across the ACT and the private sector as well. There is some work being done with the OH&S commissioner, the insurance authority and OIR on that process. I will ask Liesl to give you some information on that.

**Ms Centenera:** One of the recommendations of the review was that there should be further actuarial work done. That was reflected in the budget funding because there was money set aside for the consultant review, which was completed, and then there was further money set aside. It was already foreshadowed at the beginning of the review that we would need further money for actuarial reports. As the minister alluded to in his opening speech, that has been conducted.

We are now getting some information around "what do you think the premium should have been, and what do you think the premium should be for next year?" There are two views on why ACT private sector premiums are too high. There is one view that insurance operators are skimming profit. Of course, the ACT has a privately underwritten scheme and the seven insurance companies set the levels. If you are a business you shop around and you choose the one you like.

The opposing belief is that employers are under-reporting the number of employees or the number of people that they are covering for workers compensation. We are taking care of that side to do with insurers by engaging this actuary, and ORS is looking, through its monitoring, at reporting of employees and whether that part of it is being complied with. So we are doing those reports. The other thing is the data which the Office of Regulatory Services is working on. It was part of, I think, four recommendations from the review. That is all of that stuff around the AIMS database. It is currently looking at better reporting and better statistics out of the system so that it is more transparent.

The other slew of recommendations was to do with things around the scheme that would work better on a daily basis. In terms of lowering those premiums it will not

really touch that so much as it will reduce the cost of the operation of the scheme. Really, it is requiring a look at the premium numbers, which is what we have hinged on the actuary.

**MRS DUNNE:** How long is that work expected to take?

**Ms Centenera:** Till the middle of this year, I think.

**Mr Gotts:** We are expecting the first report from the actuaries later this year, before the end of this financial year, and there will be reports in the outyears as well. The expectation is that the information contained will assist employers and insurers to understand factors according to different industry groupings across the ACT and therefore be able to form better views on what they actually do.

**MR SMYTH:** And is that the reason for the upgrade to the computer system, the database?

**Mr Gotts:** The upgrade to the computer system is a different thing. It reflects the age of the existing AIMS database and the necessity to look forward. As Ms Centenera said, there are several recommendations in the report that relate to the provision of data. ORS are in their own process of replacing the AIMS database and undertaking an exercise for that, which you can speak to them about, which will make it easier to provide data to those who need it.

**Mr Hargreaves:** I make the point, Madam Chair, that the review was undertaken in 2006-07. The report was given to us in August 2007. I do not suppose the committee has got a copy of that report.

**THE CHAIR:** No, I have not got it.

**Mr Hargreaves:** We will get you a copy of that report. You also might like to know that in the 2006-07 budget we provided \$400,000 over the next three years to review the private sector workers compensation scheme as part of the whole process. As I say, it is a very complex issue and we are going with it, but I am happy to get you a copy of the report so you can see the basis on which our consideration has been made.

**Ms Centenera:** The review of the AIMS database is separately funded, so that is additional to the \$400,000.

**THE CHAIR:** As I understand it, at present you are doing the actuarial review. That would just inform the private sector as to what actuarial you think should be happening, but there is no intention of going past information, or really—

**Mr Hargreaves:** We need to get that information. That applies to one of the recommendations—I think it is recommendation 4—of the report. Once that is done we can consider the report in a more holistic and total package. If as a result of that it means that we needed to have a change to the legislative regime we will give that some thought. If it just means that what we need to do is to inform business that this is the situation with the private sector insurers then that is fine too. But we cannot have a total response to the report until that actuarial work has been done.

**Ms Centenera:** And further consultation work. Mr Gotts has just told me that one thing that the consultants emphasised was that they had to proceed with caution. There was a major round of changes in 2002, which we are still assessing and still seeing the benefit of, and they said that all the information should be taken together as a whole. I think it is recommendation 45 in the report. We will provide you with the report. It is something that has to be considered holistically on the basis of their report and any other information that we receive.

**THE CHAIR:** Will the report come to the Assembly?

**Mr Hargreaves:** It is a publicly available document. It is out there in the public arena already. I could just give you the reference and you could get it yourself, but I will not. We will get you a copy of the report as well. That is just to save time.

**THE CHAIR:** Thank you.

**Mr Hargreaves:** It is available now. You can get it.

**THE CHAIR:** And the one that you were doing, the actuarial one, that is currently being—

**Mr Hargreaves:** That work is being done.

**THE CHAIR:** And that will become publicly available?

**Mr Hargreaves:** What will happen is that we will need to do a response to the whole report and then the information we get out of actuarial thing will inform that particular response. Of course we will make that information available to the Assembly and make it a publicly available document. At the end of the day, Madam Chair, we are talking about our attitude towards a private sector scheme. It would be totally inappropriate for us not to share it with those people that it affects.

**THE CHAIR:** It is an important issue. I come from the IT area and I know that insurance rates are twice as high here as they are in Victoria for exactly the same thing. It does not seem right.

**Mr Hargreaves:** Sometimes we get that kind of regime in the ACT because they can, and we pay. Maybe we need to expose that and then not do it.

**THE CHAIR:** Yes. It just leads to employment not happening in the ACT, basically.

**Mr Hargreaves:** Yes, we could be the victims here.

**Ms Centenera:** As mentioned before, the ACT has a privately underwritten scheme and in Victoria and New South Wales they have publicly underwritten schemes. So they are in a far better position to dictate where the premiums are set. At the end of the day, even with all the information at hand, we are still at the mercy, if you like, of seven insurers in terms of how they deal with any regulation or legislation that we throw at them and, I suppose, business conditions.

**THE CHAIR:** So in the possible responses you are not considering—and I am not suggesting this—any change from private insurance?

**Mr Hargreaves:** I do not propose to give it any thought until we have got the actuarial information in and we can see the whole thing in its total package, then we will do that sort of thinking and, of course, we will share it with everybody. You share it with everybody because out of it will come a series of actions and those actions have to be endorsed by the community at large before we actually take them.

**THE CHAIR:** Are there any more questions on this area? Mr Smyth.

**MR SMYTH:** You mentioned the child labour legislation. Can you update the committee on where that is at and likely time frames?

**Mr Gotts:** Where that is up to at the moment is that DHCS is doing some work with the community. They have recently produced a consultation paper which has been provided to us for comment. That will obviously then go out for general comment. Our role will come in once DHCS have played their role and the public consultation to follow up with the actions that are required has been held.

**Ms Centenera:** Just to expand on that, child employment is currently regulated under the Children and Young People Act, which is a separate minister. Of course we have an interest as an employment issue; obviously OIR has a big interest. It is a difficult area because it is also caught up in the discussion about changing the school leaving age, which the department of education and the minister for education have also mentioned. Recent indications from the commonwealth are that they want to ratify the ILO convention on minimum age.

**Mr Gotts:** Yes, that is right.

**Mr Cappie-Wood:** To add to it further, if I may: yes, it is a three-part process. The commissioners for children and young people around Australia are actually trying to get together to see whether there is a common approach to this. All of them are reviewing their approaches, whether they have existing legislation or they do not and to see whether there is a common capacity to bring this in. I understand that that was discussed at the last commissioners meeting when they came together in Australia.

**MR SMYTH:** Which was when?

**Mr Cappie-Wood:** I understand it was in about September last year, from memory.

**MR SMYTH:** I noticed in the 2006-07 annual report that it is one of the future directions for 2007-08; so nothing has happened in that financial year? Is there an expected outcome in this financial year or will it take longer?

**Mr Hargreaves:** I think the point that Ms Centenera was trying to get to was that we are merely being responsive to the other minister, the minister for education. I cannot tell you that. We are just responding to what their communication strategy is and what they conclude from that.

**MR SMYTH:** I understand that, in relation to the Children and Young People Act, you have a watching brief as, in effect, the group that regulates employment?

**Mr Hargreaves:** People performing their functions under the Children and Young People Act will then say to us, “We need to effect a change in legislation X, Y, Z.” Then they will give that charge to OIR and we will then effect that legislative change and go through that process. We will bring it forward. I am not sure who actually does. I think it is the minister that brings it forward to the Assembly.

**MR SMYTH:** Before you continue on that, does that mean you will take it out of the Children and Young People Act and put it—

**Mr Hargreaves:** No, not at all.

**MR SMYTH:** Why will you effect the change?

**Mr Hargreaves:** There will be another piece of legislation which may affect this. And it may be that there is a slight change to that. I do not know, and we will not know until the consultation process is over because now we have got the ILO implication on top of that. It is a wider body of work to be done. But again my agency is responsive to the other minister’s imperatives.

**Ms Centenera:** To provide further background on why it was included as a specific issue, though, in the 2006-07 report—as you are probably thinking, “Why include it in the annual report as something so important if we have only got a watching brief?”—in 2006-07, Work Choices carved out child labour as one of the areas that states and territories could still have laws about. And we were concerned about the effect of Work Choices on young workers at the time. It was thought if things deteriorated we would look at child labour as a means of providing extra protections and further protections. We started to look at that but then, of course, with the change of government, we are all looking at a new industrial relations regime for everybody; so we just thought yes, it was not appropriate to proceed as a major project at that time.

However, on top of that there were the changes to the Children and Young People Act. The reason why DHCS is doing further consultation is that they are considering standards. We would have a very large input into the minister making standards under that act and in terms of how it affected workers under the age of 18. It is still a major body of work, should it come about. We keep being assaulted by different, other levels of consultation and other policies that really affect where that is going, If the school leaving age changes from 15 to 17, the type of work that you allow 15 to 17-year-olds to do will change dramatically.

**MR SMYTH:** Is there any data on the incidence of child labour in the ACT and were there any prosecutions in the last 12 months covered by the annual report?

**Ms Centenera:** You would have to ask—

**Mr Hargreaves:** It is the other minister’s responsibility.

**MS BURCH:** I have a question on the paternal leave legislation. It is in place. Is there any feedback about how that was received?

**Mr Hargreaves:** I have not seen anybody object to it.

**Ms Centenera:** The parental leave legislation actually reinforced the situation that was already occurring in the ACT. The reason why we needed to change it was that the Human Rights and Equal Opportunity Commission had identified it as a discriminatory piece of legislation, and the government viewed that as not acceptable. It was already the case that same-sex parents had some level of protection under the Discrimination Act and this just reinforced that and removed that anomalous reference.

**THE CHAIR:** Have we any more questions?

**MRS DUNNE:** I have got questions on the Occupational Health and Safety Council.

**THE CHAIR:** That was where I was going next. My final question on this area is about OH&S for the community sector. You regulate that, I believe. You talked about how well things are going from the government point of view. What issues are you having with the community sector?

**Ms Centenera:** The OH&S Commissioner is doing a specific project in relation to OHS for the community sector, I believe in conjunction with various partners. I suppose we would legislate and do policy in respect of that sector, the same as we do for any other sector. We do not have any specific initiatives. That has been taken up at the commissioner level.

**Mr Hargreaves:** If the committee has a specific issue about that, I am quite happy to relay that to the OHS Commissioner and get a response by him.

**THE CHAIR:** Thanks. I will take that on board. I do not have a specific—

**Mr Hargreaves:** I think that is probably the best way of handling it at the moment. We are quite happy to assist the committee in any way we can.

**THE CHAIR:** More generally, we have been thinking in terms of carers, health carers, assisting people who have large bodies to move.

**Mr Hargreaves:** What we will do, if you like, is get the commissioner to actually give us a statement on what responsibilities he sees in relation to the community sector and provide that to the committee.

**THE CHAIR:** That would be good, yes. Thank you. Do we want to move on to other areas? We are now on the construction industry.

**MRS DUNNE:** I have a question on the Occupational Health and Safety Council.

**MR SMYTH:** Is there somebody from the council with us today?

**Ms Centenera:** I sit on the OHS Council.

**Mr Hargreaves:** But I appoint them.

**THE CHAIR:** We can do OH&S next, if you would prefer, Mrs Dunne.

**MRS DUNNE:** Yes, if I could.

**THE CHAIR:** Sure.

**MRS DUNNE:** This is something I am not entirely sure about. Does the term of everybody on the OH&S Council come up for renewal at the same time?

**Mr Hargreaves:** I have just reappointed the council.

**MRS DUNNE:** Yes, everyone has been reappointed. That term extends until? It says here 31 July 2010.

**Ms Centenera:** Yes, that is correct.

**MRS DUNNE:** Everyone turns into a pumpkin at the same time?

**Ms Centenera:** Yes.

**MRS DUNNE:** It is very unusual. It seems to create problems with continuity if everyone—

**Mr Hargreaves:** I have not had the possibility of that issue brought to my attention but I do take it that it is not the only council that we have that apply to. The ministerial council that we have advising on Muslim matters does exactly the same thing. They all come to a conclusion on the same day. There are a number of them like that. But with respect to the possibility that this may create an issue, I am quite happy to take it on board and give it some thought.

**MRS DUNNE:** I think it is something that should be looked at.

**Mr Hargreaves:** I thank you for the suggestion. I had not given it any thought but I will do.

**Ms Centenera:** The council was reappointed in 2008. I suppose many members of the previous council were reappointed. Some chose not to re-nominate. We still have some membership spaces that are open that the minister is considering.

**Mr Hargreaves:** Again, the intention of course was to roll them all over on exactly the same date but I am happy to look at that again. Particularly given that we have got a couple of vacancies, we might actually make them do a bit of an overlap for the sake of continuity.

**MRS DUNNE:** The expectation is that the Occupational Health and Safety Council will continue beyond 31 July, 2010.

**Mr Hargreaves:** Yes.

**MRS DUNNE:** So it seems, from an administrative, a continuity and a corporate memory point of view, it would be foolish to throw everybody out and start afresh with a whole new council at that time.

**Mr Hargreaves:** It may very well be that, with the appointments that we have now and with the ones that are vacant that we do actually appoint, we can talk about a different time frame; and, for those renewals that we make in 2010 when the council continues on, we may introduce a staggered relationship at that point. But I will take that one on board and give it a lot of thought.

**THE CHAIR:** Any more questions in relation to that council?

**MRS DUNNE:** A lot of my other questions have been covered in the discussion of the codes of practice.

**THE CHAIR:** We will move back to the list we had, which gives us the ACT Cleaning Industry Long Service Leave Board as the next item. Any opening statements?

**Mr Hargreaves:** No, thank you.

**MR SMYTH:** Can I say I think it is one of the better reports that we have seen. It is actually well presented, it is very clear, it is very easy to read and the statistics are presented in a very accessible way. I noticed, on page 6, the number of deregistered employees in 2006 was 1,697.

**Mr Hargreaves:** Hang on just a tick. Can I get an expert come to the table? You refer to specific pages, specific bits, and I do not wish to interrupt you but I would like to ask Phil Collins to address the issues for you because he is an expert on it.

**MR SMYTH:** Mr Collins, I see on page 6, in figure 1, registration stats, in 2006, there were 1,600 deregistered employees; in 2007, there were 1,600; in 2008, it jumped to 2,888. Is there a reason for that, and what does that mean for the fund?

**Mr Collins:** Those deregistration statistics reflect a backlog of people that have not had any recorded service for quite some time. They were still on the books. They had not had the service; therefore, in accordance with the legislation, if there was either a four-year gap in service or they had indicated to the authority that they were no longer in the industry, they were deregistered. To be fair, that was a catch-up activity that was done in that time.

**MR SMYTH:** What is the process there, though? If they have been in the industry but have now left it, what happens to their payments? What happens to their contribution?

**Mr Collins:** If they have less than five years of service and then they have a four-year break in service—in other words, there is no service recorded by an employer for them for a period of four years—the authority writes to the employee and advises

them that, in accordance with the legislation, unless they make contact with us they will be deregistered.

If they have less than five years of service, there is no liability recorded against the authority for those employees. If they have more than five years of service, a liability is recorded and it is up to the individual to make a claim against the authority if they have left the industry, they do not intend to return and they want to take their money or get their money. Until the scheme achieves its 10 years, they are not entitled to a 10-year claim, but if they leave the industry after that period they can make a pro rata claim.

**MR SMYTH:** What happens to the money if they are there for less than five years? What happens to the contribution on their behalf?

**Mr Collins:** The authority retains that money.

**MR SMYTH:** So there is no attempt to return it to the employer?

**Mr Collins:** The only other possibility is that, under the 1976 act, if they have done 10 years with the same employer and part of that time has been since the scheme started, they are entitled to claim from the employer for that 10 years in accordance with the 1976 act. The employer then contacts the authority and we will reimburse them or refund them the money during the time the person was in the scheme. In other words, if they joined the scheme when it started in 2000 and they had a year's service or two years service before then with the same company, the company would pay them and then we would reimburse them for that eight or nine years, whatever it was.

**MS BURCH:** I have a question on community portability and long service leave, but that is to another minister.

**MRS DUNNE:** On page 8, you refer to the redevelopment of the authority's risk management plan. Could you, Mr Collins—or the minister might like to do this—expand on what that entailed and what changes in practice have eventuated as a result of the change to the risk management plan?

**Mr Collins:** It was more of a documentation of the plan. There were procedures in place; it is probably fair to say that they were not documented as well as they could have been. We had another look at our overall risk management strategies; we documented that in a plan that went to the board, and the board endorsed that plan. Essentially, our risk management strategies revolve around the stewardship of the finances, the claims processing, the recording and confirming of service for employees and ensuring that all eligible employers are registered with the authority, making the quarterly returns, and paying the appropriate levy associated with their employees.

**MRS DUNNE:** I have another completely unrelated question, if I could. What was the cost of the new logo or the implementation of the new logo?

**Mr Collins:** It was before my time, but I think the cost for the design of the logo, business cards and that type of thing was approximately \$5,000. We have not

implemented the logo across all our stationery yet as we have not exhausted earlier supplies. I felt that there was no good reason to waste money or throw out paper.

**MRS DUNNE:** Very commendable, Mr Collins.

**Mr Collins:** All our stationery, apart from business cards and that sort of thing, still have the old logo.

**Mr Hargreaves:** Can I ask the committee in its report to congratulate Mr Collins on such a fantastic initiative. I look forward to reading that paragraph.

**MRS DUNNE:** Mr Collins was very frugal.

**MR SMYTH:** Given that frugality, on page 10, under “Financial Performance” the last paragraph says:

In general terms, the scheme is still in a reasonably healthy position with overall assets of \$3.774m against long term liabilities of \$3.751m.

What would happen if the liabilities exceeded the assets?

**Mr Hargreaves:** It would not be very healthy at all, would it?

**MR SMYTH:** It would not, but there would still have to be an outcome for that year. What would happen in that case?

**Mr Collins:** It can occur, and it has occurred in a number of other jurisdictions with the construction industry. Obviously a lot of funds have been very badly affected by the international financial crisis. For the cleaning industry, the financial management strategy was more conservative and therefore the scheme has not been faced with losses due to equity market decreases.

The reason for the increase in liability was the actuarial determination of the liability for that particular year. That was an abnormally high figure. In further discussions with the actuary—his estimates for the liability over the next few years will be much lower than that. The board is comfortable that we are in a healthy position and there is no immediate issue associated with the liability of the authority.

If the liability does exceed the assets, the authorities can continue trading. Issues such as the rate of the levy and the level of entitlements then must be reviewed and examined by the board, in conjunction with the actuary and Treasury.

**MR SMYTH:** Is there an ability to make a call on the government for a cash injection, a capital injection?

**Mr Collins:** I am not sure whether there is that ability. There is nothing explicit in the legislation. The balancing of assets against liabilities would, in the first instance, be addressed through attempting to increase the revenue, as I said, in terms of the levy paid by the employers and possibly reduce the benefits available to the employees.

**Ms Centenera:** Can I just add to that. To increase the levy, the board has to make a recommendation to the minister. The minister cannot do it of his own accord. In terms of the entitlements, though, they are all legislatively enshrined; that would require a change to primary legislation, so that would come before the Assembly as a bill.

**Mr Collins:** Yes. The levy can be changed by the minister, but legislative entitlements have to go through the Assembly.

**THE CHAIR:** Just one more question; we have only two minutes to go.

**MR SMYTH:** On page 15, section 6, “Conclusion”, the third line says:

... total equity has increased from \$0.417min—

I assume that “min” is—

**Mr Collins:** There should be a space there.

**MR SMYTH:** Minimum in 2007—

**Mr Collins:** Million in 2007.

**MR SMYTH:** I assume it is million.

**Mr Collins:** Yes.

**MR SMYTH:** It says:

... to \$0.058 for 30 June 2008.

But if you refer to the table below, in 2008 it says that the equity is only \$0.023 million. That is page 15. Are they the same equity or is there a difference that I am not aware of here?

**Mr Collins:** I will have to take that on notice. I will have to check that. It could be a misprint.

**MRS DUNNE:** Can I ask a question about—

**THE CHAIR:** You will have to be very quick. We are seriously running out of time.

**MRS DUNNE:** A very quick one.

**Mr Hargreaves:** In the interests of time, we will take that on notice.

**THE CHAIR:** We will take that one on notice then.

**Mr Collins:** I think it should be “the total equity at the end of the financial year was \$23 million”.

**MR SMYTH:** \$0.023 million?

**Mr Collins:** Sorry, yes, 0.023. That did represent a fall, so I figure it is a misprint; it should be a decrease.

**Mr Hargreaves:** We will verify that and get back to you.

**MRS DUNNE:** Mr Collins, can you account for the \$394,000 operating deficit in—

**Mr Collins:** How do I account for it?

**MRS DUNNE:** Yes.

**Mr Collins:** Essentially it is related to the actuarial provision for the accrued entitlements. If you look at the operating statement, the accrued long service leave expense is a huge increase from the previous year, from 2007. That is not a cash figure; that is an accrued liability determined by the actuary. As I indicated previously, in further discussions with the actuary, he believes that is a one-off due to some legislative changes and some changes within the scheme itself—the pattern of days accrued. He does not see a repetition of that going to the future. If you exclude that one-off accrual figure, all the operating costs and other expenses associated with the scheme are pretty well consistent.

**THE CHAIR:** Have we finished questions on the two long service authorities?

**MR SMYTH:** I have some on construction.

**THE CHAIR:** I was confused; I thought you had started on construction already.

**MR SMYTH:** No; I have only cleaned up at this stage. On construction, on page 21—

**Mr Collins:** This is cleaning?

**MR SMYTH:** No, construction.

**THE CHAIR:** I got slightly confused; I thought we had moved to construction already.

**MR SMYTH:** I see that total equity has dropped from almost \$30 million to just over \$18 million. Can you explain what brought that about?

**Mr Collins:** Essentially that is the impact of the international financial crisis on equity markets. For 20 years the authority has had funds invested in the equity markets. For most of that 20-year period, it has been very positive, but obviously in the 2007-08 financial year it was pretty terrible for all equity funds and the authority suffered.

**THE CHAIR:** You do not need to say more on that.

**MR SMYTH:** So that will be reviewed now? What strategies will you put in place to make up for those losses?

**Mr Collins:** What the authority—

**Mr Hargreaves:** Can I just interrupt for a second, Madam Chair. This is an examination of the annual report just gone. Mr Smyth is asking what we are going to do. In the interests of time, I would rather take that piece of the question on notice and get you a response. It may elicit further questions—I am happy to field them, and if you want to pass over other questions I am only too pleased to answer them for you—but it will take a while.

**THE CHAIR:** Given the time, that seems fair enough.

**MRS DUNNE:** I have a very quick question. The vacancies created by the departure of Mr Haskins and Mr O'Reilly—they have been filled?

**Mr Collins:** Not Mr O'Reilly. Mr Haskins has been replaced by Mr Peter Middleton. We do not have an alternative member representing the employees; we have a full member in Ms Kim Sattler, who represents the employees, but there is no alternative at the moment.

**MRS DUNNE:** Mr O'Reilly was an alternative member?

**Mr Collins:** Yes, he was.

**MRS DUNNE:** So he was not a full board member?

**Mr Collins:** He was initially; then he was reappointed as an alternative and then he resigned.

**THE CHAIR:** Are there any other very quick questions?

**MS BURCH:** I am happy to put them on notice.

**THE CHAIR:** Thank you very much; we will put the questions on notice. When will we be able to get the replies—end of next week?

**Mr Hargreaves:** There is a normal period that we will more than happily comply with. Madam Chair, before you conclude and close the meeting, can I formally, for the sake of Hansard, express my appreciation to Mr Cappie-Wood and his department, the Office of Industrial Relations, Ms Centenera, Robert Gotts and Mr Collins for the work that they have done in the preparation of these annual reports. It has been fabulous.

**THE CHAIR:** Thank you. I am sure we would agree with your views. On behalf of the committee, I thank all the witnesses for attending today and declare this hearing formally closed.

**The committee adjourned at 12.02 pm.**