

loading shotgun. Paragraphs (a) and (b) set out exceptions to the general rule.

Clause 19 substitutes section 31a (inserted by the 1988 amendment). The current provision allows retention of a firearm for a specified period after cancellation of a licence or registration of a firearm or refusal to renew a licence in order for the firearm to be disposed of. The amendment extends the provision to cover suspension of a licence, refusal to grant a licence (in the case of applications by residents new to the State who have brought firearms with them) and refusal to grant a permit authorizing purchase of a firearm at auction. The period for which the firearm may be retained is reduced from 2 months to 1 month.

In addition, if a licence is simply suspended provision is made for the former licensee to retain the power of disposition over the firearm if the firearm is stored by a dealer or other authorized person.

Clause 20 amends section 32. The amendment makes it clear that a police officer may seize a firearm if he or she suspects on reasonable grounds that continued possession of the firearm by the person would be likely to result in undue danger to life or property or if the person has failed to comply with a restraining order under section 99 of the Summary Procedure Act 1921.

The amendment also introduces a power for the police to seize a licence in certain circumstances—where the firearm is seized, the licence is suspended or cancelled, the person possesses the licence for an improper purpose or the police officer suspects on reasonable grounds that the holder is not a fit and proper person to have possession of the licence.

Clause 21 inserts a new section 34aa which governs return of a licence seized under section 32. If the licence is not suspended or cancelled and the associated firearm has not been seized, the licence must be returned within 14 days. If the firearm has been seized, the licence must be returned when the firearm is returned.

Clause 22 amends section 34a which gives the court power to order forfeiture of firearms. The amendment requires the court to make an order under the section if a person is convicted of an offence involving a firearm or if the court forms a view that a party to proceedings is not a fit and proper person to have possession of a firearm. The orders that can be made are expanded to include imposition of licence conditions, suspension of licence and disqualification from holding a licence.

Clause 23 amends the evidentiary provision consequential to the amendments contained in the measure.

Clause 24 amends the regulation making power set out in section 39.

The amendment makes it clear that the regulations may provide, or empower the Registrar to determine, requirements for the safe keeping of ammunition.

The amendment also enables the regulations to require recognized paint-ball operators to keep records and furnish information to the Registrar (similarly to recognized firearms clubs).

Clause 25 amends the transitional provision. An unnecessary reference to a special firearms permit is deleted. The second amendment relates to the possession of large detachable magazines for self-loading firearms. New section 29(2) outlaws possession of certain magazines. The transitional provision allows persons in possession of such magazines as at the introduction of the measure to retain possession if they inform the Registrar of that possession together with certain details.

The schedule contains amendments of a statute law revision nature.

Mr S.J. BAKER secured the adjournment of the debate.

CONSTRUCTION INDUSTRY TRAINING FUND BILL

The Hon. S.M. LENEHAN (Minister of Education, Employment and Training) obtained leave and introduced a Bill for an Act to establish a fund to be used to improve the quality of training in the building and construction industry; to establish the Construction Industry Training Board to administer the fund and to

coordinate appropriate training; to provide for the imposition and collection of a levy for the purposes of the fund; and for other purposes. Read a first time.

The Hon. S.M. LENEHAN: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

INTRODUCTION

This is a Bill for an Act to establish a mandatory training levy of 0.25 per cent on the value of building and construction work undertaken in South Australia, which in turn will provide a fund for expenditure on training provision across the building and construction industry in this State.

BACKGROUND

The levy, and its associated fund have been proposed by the employers and unions in the building and construction industry, with the aim of improving the level of skills of new and existing employees in the industry, with a resultant increase in productive efficiency within the industry.

Employer and union bodies in the industry recognize that building and construction activity is cyclical in nature over time, and have expressed concern at the impact this has on the stock of skilled labour available in periods of industry buoyancy, with resultant loss of possible new contracts to the industry in this state.

In addition, the process of Award Restructuring, already well underway in the building and construction industry will bring much greater pressure to bear on the currently limited training resources of the industry. Award restructuring will link remuneration and career progression to levels of skill acquisition, and will broaden the scope of many occupations within the industry, for which additional training will be required.

It is critical for members to note that the drive for the establishment of the levy and associated fund has come from employer and union bodies within the industry. This is not a government-driven initiative. This is a case where the industry has recognized a problem and taken steps to rectify it. The government is consequently responding to a direct approach from the industry for assistance.

CONSULTATION

The Construction Industry Training Council, which this Bill seeks to replace with a new Construction Industry Training Board, has coordinated an extensive consultation with industry members on the proposal. These have included all unions, employer organizations, peak industry bodies, government and statutory authorities with a direct involvement or association with the industry.

It is particularly encouraging that such a large and diverse industry sector has been able to come together to address this important issue, not only for the future benefit of the industry, but the State as a whole.

As the initiative for the levy has come from industry itself, it has been important that the industry partners were directly involved in the drafting of the legislation, to ensure that the individual and broad concerns of industry members are addressed.

THE LEVY

The legislation provides for a levy on all building and construction work valued at over \$5,000 conducted by private sector companies. Government building and construction activity will be exempt from the levy, in recognition of the already high level of training effort by government, and the requirement for the government to remain bound by the provisions of the Training Guarantee Act. With the successful passage of the Bill, the Commonwealth will exempt the private sector building and construction industry from the Training Guarantee Act.

However, all work which is undertaken on behalf of the government by private contractors will attract the levy.

The rate of the levy will be 0.25%, with a capacity for the levy rate to be varied by Regulation up to a maximum of 0.5%. It is anticipated that in a full year, the levy will raise approximately \$6.5 million, although this will be dependent upon

the actual level of activity in the building and construction industry.

The levy will be payable prior to the commencement of work, at the stage of building approval (where required), but will not apply to works in progress at the time of proclamation.

The levy will be paid by the "Project Owner" which in most cases will be the holder of a Builder's Licence, or the principal contractor for engineering construction work. Since the principal contractor will be contributing directly to the fund, it is reasonable to assume that subcontractors will also be meeting a proportion of the levy cost. However, it is important to note that the levy will in any case only be paid once on any given project.

Detailed definitions of work which will attract the levy are given in the Schedules to the Act. It is intended however, that repair and maintenance work which is minor in nature and which is carried out by an employee whose employer is not primarily engaged in building or construction work will not attract the levy.

Collection of the levy will be managed by the Construction Industry Training Board, and payment will be able to be made to any agents, such as the existing Industry Indemnity Schemes or a bank, which may be appointed by the Board. A receipt of payment, properly endorsed, will constitute proof of payment for the purpose of gaining a Building Approval from the local council.

THE CONSTRUCTION INDUSTRY TRAINING BOARD

As noted earlier, the Construction Industry Training Council will be reconstituted as the Construction Industry Training Board, and in addition to administering the levy and training fund, the Board will continue the existing functions of the Council with respect to training coordination and advice to the industry and government.

The Board will have the following membership:

- 5 employer representatives
- 3 union representatives
- 2 nominees of the State Minister
- 1 independent presiding officer, nominated by the State Minister

Furthermore, one nominee of the Commonwealth Minister will have observer status on the Board.

This makeup of membership has been proposed by the industry as the most efficient and workable of a number of options which were considered.

Membership of the Board by employer and union groups will be determined by the industry from the lists in Schedules 2 and 3.

In addition to this central structure, the Board will appoint at least three standing committees, to give advice to the Board on training matters and allocation of funds relevant to each particular sector of the industry. It is anticipated that each committee will comprise such people as the Board sees fit to represent the interests of that sector. In addition, working parties may be formed to address issues that cross all three sectors, such as in the case of specialist services.

The activities of the Board will be formally reviewed after three years, and a report will be tabled in Parliament. In the event of any improper behaviour by Board members, the Governor will have the power to remove and replace any member, or may in an extreme circumstance, cause an administrator to be appointed. Whilst these public safeguards have been put in place, I most certainly think it unlikely that they will have to be enacted, given the commitment of the industry to making the levy a successful and integral component of a modern and vital industry in South Australia.

The Board will have vested in it a number of limited powers of recovery of any due but unpaid levy, and penalties have been set for non-compliance with the provisions of the Act in respect of non-payment of the levy.

EXPENDITURE OF LEVY FUNDS

The Board will be required to prepare an annual training plan, setting out the priorities for employment related training to be funded from the fund. Training will cover the full range of occupations in the industry, and will be directed to both entry level employees, and existing employees within the industry requiring skills upgrading.

Money from the fund will be allocated to the sectors contributing to the fund in approximately the same proportions as the resources of the fund have been contributed by that sector, for the purpose of providing training relevant to that sector. It is

not intended that the Board become a training agent in itself. Rather, the Board will purchase training in accord with the requirements of the training plan from a range of training providers as appropriate. These may include government as well as non-government training providers, or a mix of both.

CONCLUSION

The government is of the firm belief that this initiative will serve to significantly improve the level and quality of training within the building and construction industry in South Australia. It will assist in the provision of training to a much broader cross section of the industry than is presently the case, and it will help to alleviate the skill shortages which in times of economic growth and recovery are major impediments to the industry, and the whole economy.

A highly skilled workforce is essential for the attraction of investors to our State, and for the task we face in making South Australia truly a leading competitor in the world markets.

The government wishes finally to congratulate the industry on bringing this important initiative to this point, and considers that it sets a fine example to other industry sectors of how they may go about improving the skill profile of their workforce, and gain the unequivocal support of both government and opposition members in rebuilding our State's economy.

I commend the Bill to the House.

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 sets out various definitions that are required for the purposes of the measure. In particular, "building or construction work" will be taken to include building or construction work set out in schedule 1, subject to any alteration by regulation, and "project owner" will be taken to be the person or body engaged to carry out the relevant building or construction work or, if there is no such person, the person or body for whose direct benefit building or construction work exists upon its completion. In addition, subclause (2) provides for the constitution of various sectors of the building and construction industry, as defined by regulation.

Clause 4 provides for the reconstitution of the Construction Industry Training Council (S.A.) Incorporated as the Construction Industry Training Board. The Board will not form part of the Crown, nor constitute an agency or instrumentality of the Crown.

Clause 5 provides for the composition of the Board, one being an "independent" chair, two persons nominated by the Minister on the basis of their experience in vocational education or training, five persons nominated in accordance with the regulations by specified employer associations, and three persons nominated in accordance with the regulations by specified employee associations.

Clause 6 provides that a member of the Board incurs no personal liability for honest acts undertaken with reasonable care and diligence. A liability that would otherwise attach to the member will attach instead to the Board.

Clause 7 relates to the procedures of the Board. Six members will constitute a quorum of the Board. Subclause (3) will require that any decision of the Board will need to be supported by members of each group appointed under clause 5. A person appointed by the Commonwealth Minister for Employment, Education and Training will be entitled to attend Board meetings and to participate in Board proceedings, but will not have a right to vote.

Clause 8 will require a member to disclose any direct or indirect private interest in a matter before the Board. The member will not be permitted to take part in any deliberations or decisions of the Board in relation to the matter.

Clause 9 sets out various duties that a member of the Board must observe in relation to the performance of his or her functions.

Clause 10 provides that a member of the Board is entitled to receive allowances and expenses not exceeding amounts determined by the Minister after consultation with the Commissioner for Public Employment.

Clause 11 sets out the functions of the Board.

Clause 12 provides that subject to the provisions of the Act, the Board has all the powers of a natural person.

Clause 13 empowers the Board to establish committees to assist the Board in the performance of its functions. In addition, the Board will be required to establish a committee in relation to each sector of the building and construction industry to represent

the interests of that sector in the management of the Fund, to advise the Board on appropriate allocations from the Fund, and otherwise to act in relation to its particular sector.

Clause 14 will allow the Board to delegate any function or power to a committee of the Board, or to an individual. A delegation may be made subject to conditions and will be revocable at will. The Board will be required to include a list of delegations made during each financial year in its annual report.

Clause 15 relates to the execution of documents by the Board. The common seal of the Board will only be used to give effect to a decision of the Board and any affixation of the seal will need to be attested by the signatures of two members of the Board.

Clause 16 will require the Board to keep proper accounts and to carry out an annual audit.

Clause 17 will require the Board to prepare an annual report, a copy of which will be sent to the Minister and then laid before both Houses of Parliament.

Clause 18 provides that the staff of the Board are not public service employees.

Clause 19 provides for the appointment of collection agencies by the Board. A collection agency will be entitled to receive a fee agreed between the Board and the agency for carrying out its functions under the Act.

Clause 20 provides that a levy is imposed in respect of the value of building or construction work which commences after the commencement of the legislation. However, the levy will not be payable in respect of work approved before the commencement of the Act, or for which written offers or tenders have been made before that commencement.

Clause 21 provides that the rate of levy will be 0.25 per cent of the estimated value of the work. A regulation may, on the recommendation of the Board, alter the rate, but the rate will not be able to exceed 0.5 per cent in any event.

Clause 22 provides that the estimated value of work will be calculated in a manner determined by the regulations.

Clause 23 provides that the levy is not payable in respect of work where the estimated value does not exceed \$5 000. Work carried out by a government authority will also be exempt.

Clause 24 provides that the project owner is liable to pay the levy. The levy will be payable before building approval is obtained or, if no such approval is required, before the work commences.

Clause 25 imposed various penalties if a levy is not paid in accordance with the requirements of the legislation.

Clause 26 will require the project owner to notify the Board if the actual value of the work exceeds by \$25 000 (or such other amount as may be prescribed) the estimated value of the work.

Clause 27 provides for an adjustment of the levy if the actual value of the work on completion exceeds \$25 000 (or such other amount as may be prescribed).

Clause 28 provides for a refund of levy if any work is not carried out after the levy is paid.

Clause 29 empowers the Board to recover amounts due to the Board in any court of competent jurisdiction.

Clause 30 makes it an offence for a project owner to provide false or misleading information regarding work or its cost.

Clause 31 provides for the creation of the Fund and empowers the Board to invest money not immediately required for its purposes.

Clause 32 requires the Board to prepare a training plan on an annual basis for the purpose of improving the quality of training, and skill levels, in the building and construction industry. A plan must set out priorities for funding. A plan must be prepared on the basis that money will be allocated to training for each sector in approximately the same proportions as the resources of the Fund have been contributed by the particular sector. The plan must be submitted to the Minister for his or her approval. The Board will be required to ensure that funds are only allocated to properly organized training programmes relevant to the building and construction industry in the State.

Clause 33 relates to the appointment of authorized officers.

Clause 34 sets out the powers of authorized officers.

Clause 35 will render void, as against the Board, any agreement or arrangement to defeat, evade or avoid the payment of levy under the Act.

Clause 36 relates to proceedings for offences against the Act.

Clause 37 relates to the regulations that can be made under the Act.

Clause 38 provides that the Minister must, as soon as practicable after the third anniversary of the commencement of the Act, appoint an independent person to carry out a review of the legislation and provide a report to the Minister, to be laid before both Houses of Parliament.

Schedule 1 sets out various activities that are to constitute building or construction work for the purposes of the Act. Routine maintenance or repair work of a minor nature will not be relevant if carried out by an employee for an employer who is not primarily involved in the building or construction industry.

Schedule 2 sets out the employer associations that are recognized by the Act for the purposes of clause 5.

Schedule 3 sets out the employee associations that are recognized by the Act for the purposes of clause 5.

Schedule 4 sets out various provisions that will empower the Minister to take action if the Board fails to comply with the Act or fails to implement a training plan. The Governor will be empowered, in a case of serious default, to appoint an administrator of the Board for a period not exceeding one year.

Mr S.J. BAKER secured the adjournment of the debate.

FRUIT AND PLANT PROTECTION BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 6, line 12 (clause 11)—Leave out 'Division 6 fine' and insert 'Division 4 fine'.

No. 2. Page 8, (clause 14)—After line 6 insert the following subclause—

'(3) A person who contravenes or fails to comply with a notice under this section is guilty of an offence.

Penalty: Division 4 fine.'

No. 3. Page 9, line 26 (clause 18)—Leave out 'Division 7 fine' and insert 'Division 4 fine'.

No. 4. Page 10, line 2 (clause 20)—Leave out 'Division 7 fine' and insert 'Division 4 fine'.

The Hon. T.R. GROOM: I move:

That the Legislative Council's amendments be agreed to.

The four amendments of the Legislative Council simply increase penalties. Amendment No. 1 deals with reporting fruit or plants affected by a disease and increases the division 6 penalty of one year imprisonment or \$4 000 maximum fine to a division 4 penalty of four years or \$15 000 maximum fine. Amendment No. 2 is designed simply to avoid any suggestion of ambiguity. Clause 17 should actually apply, but there appears to be some doubt about whether 'a notice' and 'an order' are the same thing, so I readily agree to the insertion of a division 4 fine (page 8, clause 14, after line 6) to ensure that there is no confusion that an offence has been committed.

Amendment No. 3 is designed also to increase a division 7 penalty of six months imprisonment or \$2 000 maximum fine to a division 4 penalty of four years or \$15 000 maximum fine. I have no difficulty with that amendment, because people could put cartons of diseased materials in with an accredited endorsement, and that would seriously damage our industry. So, I have no difficulty with increasing the penalty in that regard. Similarly, amendment No. 4 deals with the prohibition on sale of fruit or plants affected by a disease. I have no difficulty with increasing the division 7 penalty of six months or a \$2 000 fine to a division 4 penalty of four years or \$15 000 in recognition of the seriousness of breaches of this legislation.

Mr D.S. BAKER: The Opposition agrees. It is fitting that stiff penalties be imposed for bringing animal