Agreement in Principle

Ms SONIA HORNERY (Wallsend—Parliamentary Secretary) [10.19 a.m.]: I move:

That this bill be now agreed to in principle.

The Animal Welfare Legislation Amendment Bill 2009 incorporates amendments to three Acts of Parliament. These amendments will improve animal welfare outcomes in New South Wales and reduce red tape for the Australian bee industry. Firstly, the bill amends the Prevention of Cruelty to Animals Act 1979 to give the New South Wales Minister for Primary Industries the power to recognise interstate court orders that prohibit certain persons from keeping animals. This means that these interstate orders will also be enforceable in New South Wales and will therefore reduce the risk of a person who is subject to such an order in another State simply moving to New South Wales and possibly reoffending.

The second group of amendments will provide guidance and transparency in licensing matters and refine the appeal mechanisms in the Exhibited Animals Protection Act 1986. Finally, the bill proposes to amend the Apiaries Act 1985 to allow exemptions from registration for beekeepers. This amendment will enable a regulation to be made to allow interstate beekeepers who are registered in another State to operate in New South Wales for short periods without needing to be registered in New South Wales. These straightforward administrative reforms are the result of extensive consultation with industry and stakeholders. Once implemented, they will improve animal welfare, reduce costs and cut red tape.

I turn first to the proposed amendment to the Prevention of Cruelty to Animals Act. The Victorian and Tasmanian legislation allows the responsible Ministers in these jurisdictions to recognise interstate court orders that prohibit individuals from keeping animals. The provisions in this bill provide the New South Wales Minister for Primary Industries with similar powers. The Minister will be able to recognise an interstate court order that prohibits a person from buying or possessing an animal. Once such an order is recognised by the Minister it can be enforced in this State under the Prevention of Cruelty to Animals Act. This additional power will minimise the potential for people who commit acts of animal cruelty interstate and who are subject to an interstate court order to cross into New South Wales, keep an animal and possibly reoffend.

The costs associated with investigating incidents of animal cruelty are borne largely by the enforcement agencies under the Act. These agencies are the Royal Society for the Prevention of Cruelty to Animals and the Animal Welfare League. Both of these agencies operate through donations from the public and from grants from State and Federal governments. Both agencies support this critical amendment. During the 2007-08 financial year the RSPCA investigated more than 13,000 complaints of animal cruelty in New South Wales, with over 800 charges being laid. Pursuing animal cruelty offenders through the courts is expensive and creates another burden for our court system. This legislation will allow the New South Wales Government to be proactive in recognising interstate offenders and preventing them from owning animals in New South Wales.

The prevention of interstate offenders from owning or possessing animals in New South Wales may reduce the number of instances of animal cruelty, therefore reducing the costs for the RSPCA, the Animal Welfare League and the New South Wales Government. Let me give a specific example. In Lara, Victoria there was a case where 11 malnourished horses had to be removed from a property. The owner of the horses was charged with 32 animal cruelty offences relating to the poor treatment of the animals. This person was sentenced to six months imprisonment—suspended for two years—fined $6,000 and disqualified from having custody of any animals for five years. The amendments proposed in this bill will clearly and proactively provide the Minister with the power to prevent this person from owning or keeping animals in New South Wales while they are banned from doing so in another Australian State or Territory.

The next group of amendments are to the Exhibited Animals Protection Act 1986 and they will also contribute to improving animal welfare outcomes in New South Wales. The first amendment to the Exhibited Animals Protection Act 1986 aims to provide guidance to the Director General of Industry and Investment New South Wales in considering applications for authorities. Authorities are licences, approvals or permits to exhibit or supervise the exhibition of animals in zoos, marine parks, circuses and other establishments that exhibit animals to the public in New South Wales.

Under the bill, when determining whether to issue an authority, the director general may consider a person's past actions and capacity to care for animals. For example, the director general may consider whether the applicant has been convicted or found guilty of an offence against New South Wales animal welfare legislation, being the Exhibited Animals Protection Act 1986, the Prevention of Cruelty to Animals Act 1979, the Animal Research Act 1985, the National Parks and Wildlife Act 1974 and any instruments made under these Acts; whether the applicant has been convicted or found guilty of an offence under any law of another State or Territory or the Commonwealth relating to the keeping or protection of animals; whether the applicant has previously failed to comply with any term or condition of an authority; whether the applicant has previously held an authority that has

been cancelled or suspended by the director general; the capacity of the applicant to comply with this Act and any prescribed standards; the capacity of the applicant to care for the animals; whether the applicant has provided false or misleading information; and whether the applicant is a fit and proper person to hold such an authority. This improved approach will provide more certainty and transparency in the decision-making process.

The second amendment to the Exhibited Animals Protection Act 1986 will give the director general the discretion to disqualify a person from holding an authority under this Act for a period of up to five years where that person has previously had an authority cancelled on misconduct grounds. This administrative reform will remove unnecessary administrative costs incurred by the New South Wales Government in processing applications from people who have shown they are not responsible in their care for animals. The third amendment to the Exhibited Animals Protection Act 1986 proposes that the Administrative Decisions Tribunal consider cases where a person is aggrieved because an authority to exhibit an animal has been refused or cancelled, or conditions have been imposed or modified.

Currently such appeals can be heard either by the New South Wales Minister for Primary Industries or by the Local Court. This amendment will result in a single appeal pathway to the tribunal. This will enable appeals to be dealt with by members of the tribunal with appropriate expertise in administrative law. This is consistent with existing appeal mechanisms in other New South Wales animal licensing legislation. For example, the tribunal currently considers appeals under the Non-Indigenous Animals Act. Having two avenues for appeal results in administrative inefficiencies and excessive costs for Industry and Investment New South Wales and the judicial system. The proposed single right of appeal to the Administrative Decisions Tribunal will reduce duplication and costs. These essential reforms to the Exhibited Protection of Animals Act are supported by the New South Wales Exhibited Animals Advisory Committee and the New South Wales Fauna and Marine Parks Association.

The final Act being amended by this bill is the Apiaries Act 1986. The amendment proposes administrative reform for the beekeeping industry. Beekeeping is a unique primary industry, depending on native flora for about 80 per cent of its production. Nectar and pollen production is seasonal and varies between locations. This means beekeepers must regularly move their hives significant distances to maintain production. Currently the Apiaries Act requires a person who keeps bees or who is a beekeeper in New South Wales to be registered in this State. The Act does not provide for exemptions from registration. This requirement is very different from laws in Victoria and Queensland, which allow New South Wales beekeepers to keep bees for a limited time in those States without having to be registered there.

This bill proposes to amend the Apiaries Act 1985 to provide for regulations to be made to allow interstate beekeepers operating in New South Wales for short periods to be exempt from registration in New South Wales. The intention is to allow beekeepers registered in other States to operate in New South Wales for a three-month period without New South Wales registration. This approach to interstate registration is consistent with the principles of mutual recognition. It will also reduce the regulatory burden on industry by making it easier for registered beekeepers to conduct their businesses. They will be able to follow seasonal sources of nectar and pollen without having to comply with unnecessary administrative requirements.

The New South Wales Apiarists Association and the Australian Crop Pollination Association support the proposed amendments. These proposed amendments are not considered significant and are consistent with the principles of mutual recognition. They will reduce the costs of compliance for business and the community, and reduce administrative costs for government. Farmers requiring bees for pollination will benefit directly from reduced obstacles to the delivery of cross-border beekeeping services. Beekeepers will benefit from reduced market barriers and increased mobility. Finally, animal industries and exhibitors of animals, and ultimately the community in New South Wales, will benefit from these animal welfare reforms. All of these proposals are sensible and useful amendments, and I commend the bill to the House.