Primary Industries Legislation Amendment Bill 2012

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PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 2012

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Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.28 a.m.]: I move:

That this bill be now read a second time.

The Hon. DUNCAN GAY: New South Wales has diverse and highly productive agricultural and fishery sectors. Our agriculture and fishing industries are major contributors to our State economy. Because we produce such a wide range of products we have legislation to address many and varied aspects of these industries. For example, New South Wales legislation regulates biosecurity, animal welfare, licensing, industry services and management of fisheries. The bill proposes a number of minor but necessary amendments that will improve the operation of five of these Acts.

Amendments to the Stock Foods Act 1940 and the Apiaries Act 1985 will improve the Government's responsiveness in controlling animal and human disease and pest outbreaks. Other amendments to the Apiaries Act 1985 will update and simplify the registration process for beekeepers. Amendments to the Stock Medicines Act 1940 and consequential amendments to the Pesticides Act 1999 will increase flexibility for vets in treating animals. They will also clarify issues relating to the use of stock medicines. Amendments to the Fisheries Management Act 1994 will improve enforcement of the Act by clarifying requirements concerning records of commercial fishing activities and fish receivers, and by amending certain requirements regarding the power to require information.

I turn first to the amendments to the Apiaries Act 1985. The bill seeks to make a number of amendments to that Act. The first proposed set of amendments will update, streamline and simplify part 3 of the Act, which makes provision for the registration of beekeepers. Unnecessary and overly prescriptive provisions are being removed from the Act, and the necessary detail will instead be prescribed in the regulations or included as a condition of registration. It is proposed to commence these provisions when a new regulation is made as part of the Government's staged repeal program. This is expected to occur by September 2013. As always, full public consultation will take place on the proposed regulation.

The second proposed amendment to the Apiaries Act 1985 will provide greater flexibility in the setting of registration and renewal fees, and will allow a fee to be charged for permit applications. Currently the wording of the Act does not allow different fees to be charged in different classes of registration. The bill provides for different classes of registration to be prescribed and will allow for different fees to apply to each class. For example, the regulation may make provision for commercial, recreational and pensioner beekeepers, and for different fees to apply to each class. This means that pensioners or persons keeping bees as a hobby may be charged a lower fee for registration than commercial beekeepers. It is also proposed to provide for an online class of registration with a lower registration fee for this class. This should encourage online applications, resulting in administrative savings for government and a simpler, cost-effective method of registration for beekeepers.

The third proposed amendment will allow inspectors under the Act to issue permits for the movement or keeping of bees, beehives, apiary products and appliances that would otherwise contravene the provisions of the Act. Currently the Act empowers the Minister to make certain orders to regulate the manner in which bees, beehives, apiary products and appliances can be brought into the State or into a specified part of the State. The Governor is also empowered to make certain orders prohibiting or regulating the keeping of bees in some areas of the State. These orders are made to prevent the introduction or spread of a notifiable bee disease. They often contain detailed and complex conditions which do not allow the flexibility to provide for specific circumstances or individual cases.

Disease outbreaks are dynamic and the legislation needs to allow a quick response to changing circumstances. The bill therefore includes provisions that will allow inspectors to issue permits to authorise the movement and keeping of bees, beehives, apiary products and appliances that would otherwise contravene a provision of the Act. These provisions will provide the necessary flexibility for managing, keeping or restricting movement in a disease outbreak situation. Similar permit provisions are a feature of other biosecurity-related legislation such as the Plant Diseases Act 1924 and the Stock Diseases Act 1923.

The final amendments to the Apiaries Act 1985 will improve the director general's power to prohibit or restrict beekeeping on some premises. Currently the director general has the power to direct a beekeeper to remove some or all of the beehives on their property where, for example, the keeping of bees on those premises is a public nuisance or a danger to public health or safety. For instance, if a person is keeping bees on premises that are posing a risk to public health or safety the director general can issue an order that the beekeeper remove some or all of the beehives on the property. Under the current arrangements, if a person fails to comply with a direction to remove all the beehives on the premises the director general can direct an inspector to remove those beehives. However, where the order is to reduce the number of hives to a specified number there is no corresponding power for the director general to direct an inspector to remove the excess hives if the beekeeper has not complied with the order. Removing this anomaly will help to address problem or nuisance bees.

The next set of amendments I wish to address relate to the Fisheries Management Act 1994. The bill proposes two minor amendments to certain compliance provisions in that Act. The first proposed amendment corrects some anomalies regarding requirements to produce certain information and records relating to commercial fishing activities and fish receivers, and to answer questions with respect to those matters. Currently when a fisheries officer makes a requirement under section 256 of the Act that includes a requirement to answer questions the inspector can only specify when a person must comply with a request to answer a question but not where this should happen.

This can make the provision difficult to enforce because a fisheries officer cannot specify the location at which a person is required to provide the requested information. The corresponding provision in the Act relating to the production of records allows an officer to specify both when and where the records must be produced. It is proposed to rectify the anomaly between the two requirements by allowing a fisheries officer also to specify where questions are to be answered. For completeness, the bill will also provide that the fisheries officer may require the answers to be given orally or in writing. The bill also makes some other minor amendments to section 256 of the Act to ensure that fisheries officers can tailor the request to suit the particular matter being investigated.

The second proposed amendment concerns some new provisions that commenced in 2010. One of these new provisions, section 258A, introduced a special power to require information with respect to aquatic habitats and threatened species conservation. This power is a strong one, designed for situations where information is required urgently to protect or minimise damage to aquatic habitats and/or threatened species. Given the nature of this new power, the 2010 amendments also included a further provision, section 258B, concerning the issuing of warnings and the protection against self-incrimination. This further provision was only ever intended to apply to the new information requirement that was inserted in 2010.

However, it currently applies more broadly by including requests for information under the longstanding section 258 of the Act. Section 258 contains a more general power to require certain limited information and has, historically, never been subject to requirements such as those in section 258B of the Act. Imposing the requirements of section 258B on fisheries officers has been a hindrance in the investigation of general matters. The proposed amendment will therefore rectify this issue by limiting the application of section 258B to information requirements under section 258A only.

I now turn to the proposed amendments to the Stock Foods Act 1940. The first proposed amendment to this Act relates to the labelling of stock foods. Currently the Act contains an exemption that allows bagged stock food to be sold unlabelled where the contents have been repackaged but not altered or added to. The stock food most commonly supplied in this way is poultry feed, and poultry feed generally contains meat and bone. These ingredients may not be fed to ruminant animals such as cattle and sheep because of the risk of bovine spongiform encephalopathy [BSE], more commonly known as mad cow disease. The current exemption means that there is a risk that rebagged, unlabelled poultry feed could be fed to calves or lambs. This is extremely dangerous because calves and lambs are most at risk of contracting and spreading bovine spongiform encephalopathy. The amendment will remove the existing exemption and will avoid this risk. This will bring the Act into line with current best practice and national recommendations for animal disease prevention.

The second proposed amendment will allow the director general to delegate the authorisation of inspectors and analysts appointed under the Stock Foods Act 1940. Currently the Act does not allow the director general to delegate the power to authorised inspectors. This has resulted in an inefficient administrative process that is inconsistent with other biosecurity-related legislation administered by the department—for example, the Stock Diseases Act 1923 and the Noxious Weeds Act 1983.

I now turn to the final set of amendments proposed in the bill which are amendments to the Stock Medicines Act 1989. The two main amendments both relate to the definition of stock medicine. The first proposed amendment will allow certain low-risk animal pesticide products such as flea collars and spot-on flea control products to be classified as stock medicines. Currently these low-risk products are classified as pesticides under the Pesticide Act 1999, along with far more toxic products such as cattle and sheep dips, lice pour-ons and back liners.

The Stock Medicines Act 1985 allows vets to use stock medicines off label; that is, contrary to the instructions on the label in certain circumstances. This is not possible for products classified as pesticides. It is not appropriate for low-risk products used for the treating of small animals to be classified as pesticides. The amendment will provide greater flexibility for vets in the use of these products and will broaden the range of treatment options available to control animal parasites. It will mean that a treatment such as a canine spot-on flea control product could be used to treat guinea pigs afflicted by fleas. The change will bring New South Wales into line with classifications used by the Australian Pesticides and Veterinary Medicines Authority. These classifications have already been adopted by other Australian jurisdictions. The amendment to the Stock Medicines Act 1985 will require a corresponding amendment to the definition of pesticides in the Pesticides Act 1999. I would like to reassure the House that products such as cattle and sheep dips will continue to be classified as pesticides. This is appropriate in view of the environmental and health issues associated with these products.

The second proposed amendment to the definition of a "stock medicine" in the Stock Medicines Act 1985 will clarify the use by vets of certain unregistered stock medicines on major food-producing animals. The Act currently prohibits the use of unregistered stock medicines on food-producing animals. However, medicines compounded by a vet or prepared by a pharmacist on instructions from a vet are not currently captured by this prohibition. This is because a compounded medicine is not a "stock medicine" for the purposes of the Act. This situation is potentially dangerous because it allows food-producing animals to be treated with compounded products that may not have been tested and are not registered.

A compounded product may be prepared by or for a veterinarian to suit individual circumstances where registered medicines are not appropriate or not available. The bill seeks to address this issue by amending the definition of "stock medicine" to include compounded substances that are prepared by vets or by pharmacists on instructions from a vet. This will mean that these compounded substances cannot be given to animals that are a food-producing species. This will reduce the risk of unsafe or illegal residues occurring in our meat and livestock products and will help to maintain our access to domestic and export markets.

Two additional minor amendments are proposed to the Stock Medicines Act 1989. The first will amend record-keeping requirements on the use of registered stock medicines on major food-producing species of stock by veterinarians. In doing so the amendment will clarify the application of section 39E of the Stock Medicines Act 1989. Section 39E provides that a veterinarian must keep records of the prescription or supply of any restricted substances for use on stock of a major food-producing species. The amendment will clarify that restricted substances are themselves a registered stock medicine and therefore the requirement to keep records under section 39E will refer "any registered stock medicine that is a restricted substance". This requirement will not impose a burden on veterinarians, who are already required to keep these records under the Act. The amendment will clarify the current requirements.

The second amendment will remove unnecessary requirements for certain matters to be prescribed in regulations. Those provisions relate to: the power of an inspector to take samples of a stock medicine for analysis and examination; the manner in which notices are to be advertised by the director general in respect of the proposed forfeiture of property to the Crown; and the content or form of a certificate issued by an analyst for the purposes of the Act. There is no need for further detail to be specified in the regulation about how these actions should be done and this unnecessary reference will be removed.

The amendments I have outlined will improve the effectiveness and efficiency of our existing agriculture and fisheries legislation. At the same time they will not impose any additional burden on stakeholders. In some cases the amendments will reduce the current regulatory burden. The amendments will also clarify existing provisions and remove anomalies that impact on the effectiveness of compliance and enforcement operations. The NSW Farmers Association supports the agriculture amendments. Although the amendments are not significant, they are all sensible and necessary. They provide ongoing incremental improvement to our legislation to ensure it is relevant and streamlined. Most importantly, they will improve the operation of the relevant Acts and benefit our agricultural and fisheries industries. I commend the bill to the House.