NSW Legislative Assembly Hansard Full Day Transcript

Extract from NSW Legislative Assembly Hansard and Papers Thursday, 16 September 2004.

STOCK MEDICINES AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr DAVID CAMPBELL (Keira—Minister for Regional Development, Minister for the Illawarra, and Minister for Small Business) [11.42 a.m.]: I move:

That this bill be now read a second time.

The Stock Medicines Act 1989 is the principal Act that regulates the use of stock medicines in New South Wales. The Act is intended to ensure that animal products consumed by humans are not contaminated with stock medicines. It also aims to make sure that trade in animal products is not affected by residues. The Act is intended to ensure that stock medicines are used appropriately and to best effect. New South Wales is amending this Act for two main reasons. The first is to comply with national competition policy requirements for the adoption of agreed national controls over the use of veterinary chemicals. This covers all the proposed amendments dealing with the use of stock medicines and keeping records, plus the removal of the advertising provisions. The second is to implement recommendations arising from the State review. These are the new objects for the Act and the repeal of obsolete provisions to improve the effectiveness of the legislation. New South Wales is tied to the National Registration Scheme for agricultural and veterinary chemical products. The Agricultural and Veterinary Chemicals (New south Wales) Act 1994 applies the Commonwealth's Agricultural and Veterinary Chemicals Code Act 1995 as a law of New South Wales.

The Commonwealth's law is commonly referred to as the Agvet code. On a point of terminology, although we refer to stock medicines in New South Wales, they are known as veterinary chemicals elsewhere in Australia. In early 1999, the Commonwealth undertook a national competition policy review of the full suite of legislation that makes up the National Registration Scheme, including the enabling State legislation. The review identified a number of issues arising from a lack of uniformity in State legislation controlling the use of agricultural and veterinary chemical products. At the same time, the review acknowledged that the various jurisdictions were already well advanced in several ways, including developing a set of national principles for the control of stock medicines, and developing controls over veterinarians' rights to use stock medicines contrary to the label directions. The review went on to acknowledge that the adoption of these principles into legislation by each jurisdiction would satisfy the issues raised by the review.

In August 1999 the former Standing Committee on Agriculture and Resource Management endorsed a set of national principles for the control of stock medicines. It also endorsed a set of controls over veterinarians' rights to use stock medicines contrary to the label directions, and formally agreed to take steps to have them adopted into State legislation. Adoption of the national principles was also strongly supported by the Joint Expert Technical Advisory Committee on Antibiotics Resistance, which recommended that each jurisdiction pass legislation so that antibiotic use could be controlled adequately under all circumstances. Many of the national principles for the control of stock medicines, and for controlling off-label use or prescription by veterinary surgeons, already are reflected in the existing provisions of the Stock Medicines Act. The amendments contained in this bill will implement the remainder of the agreed national principles. These amendments will ensure that New South Wales legislation remains broadly consistent with controls over stock medicines in other States.

It is important that the House understand that these controls are not being implemented by New South

Wales alone. Rather, they form part of an agreed national framework. All other jurisdictions have agreed to implement complementary controls. They have either done so or they have drafted legislation for this purpose. All States now have legislation in place, except the Northern Territory and Western Australia, which have drafted legislation but are waiting for its introduction into their parliaments. Importantly, the process for developing these nationally consistent controls involved extensive consultation. The veterinary profession was closely consulted through the Australian Veterinary Association. The main livestock industry bodies were also consulted, including the New South Wales Farmers Association.

Similar consultation took place with the former national registration authority, now known as the Australian Pesticides and Veterinary Medicines Authority, to make sure that the proposed controls would effectively integrate with the national risk assessment and registration process for stock medicines. In their comments the Australian Veterinary Association recognised the validity of the basic controls. The association was keen to see the introduction of consistent national controls. They also supported the identification of treated animals and the keeping of records of such treatment. The association raised questions about certain issues during the consultation process, including the wording of proposed controls where such wording may imply that veterinary surgeons were required to authorise uses of certain products. This was addressed in consultation with the association, which is now comfortable with the proposed amendment. Requests by the Australian Pesticides and Veterinary Medicines Authority regarding off-label treatment of food animals and appropriate use of label restraint statements were also addressed in the final proposal.

A number of additional amendments are required to give effect to the recommendations from the New South Wales competition policy review of the Act. I will now take the House through each of these amendments. The competition policy review of the Act recommended changes to its primary objectives. That recommendation has been adopted and the primary objects are to appear in the new section 2A. Briefly, these new objects will promote consumer safety by ensuring that humans are not exposed to unsafe chemical residues in food. Another object is to facilitate international trade by ensuring our standards for chemical residues match those of our international markets. Lastly, but just as importantly, the Act aims to protect the animals treated with stock medicines.

The bill also makes changes to the definitions of food producing species under section 3. These are now categorised as either food producing species or major food producing species. Animals to be included in the latter category are cattle, sheep, pigs and chickens. There is provision for other animals to be prescribed in the regulations if their importance as food producing animals increases in future. This change reflects the importance of the major species as food in the Australian market and also their significance to our international trade. The bill also changes the definition of "prescribe" as it relates to a stock medicine. The term "prescribe" will now include any written instruction given by a veterinary surgeon to a person for the supply to that person of the stock medicine or the supply of stock food treated with the stock medicine. This change also specifies that the provisions of the Act covers stock food treated with stock medicine.

In general the Stock Medicines Act requires all users of stock medicines to use the medicine only on those animals included on the label and at the dose rates and by the methods indicated on the label. In particular circumstances under the Act, veterinary surgeons may issue instructions that differ from those on the label. The bill changes some restrictions imposed by the Act but will retain the ban on use of unregistered stock medicines in food producing species. This is to prevent illegal or unsafe residues. Owners of companion animals have used unregistered stock medicines in their animals for many years with no indication of any real risk to the animals or the community. Consequently, the bill will remove the previous restrictions on this use. For example, they will now be able to use human medications, such as aspirin, on their pet or they could use cat worm tablets to treat a dog.

Some additional restrictions are being implemented in accordance with the nationally agreed principles. The first is a prohibition on the use of oral or topical products by injection on the basis that this poses a risk to the animal and could also change the residue profile of the product. This may also cause illegal or unsafe residues in food producing animals. Secondly, all users of stock medicines, including veterinary surgeons, must comply with a new category of restraints set out in this bill. This provision will ensure

that this State's controls, especially in regard to the use of important antibiotic products, properly reflect the risk assessments carried out by the Australian Pesticides and Veterinary Medicine Authority.

The legislation continues to allow veterinary surgeons to use and prescribe products off-label, but not in cases where there are specific restraints. This also reflects the need to prevent important human medicines, such as certain antibiotics, from being used in food producing animals. These restraints will give the community increased confidence that important medicines will not be misused. Thirdly, veterinary surgeons will only be permitted to treat animals of a major food producing species with a product that is already registered for the treatment of another major food producing species. This means that major food producing species will be treated only with products that have been assessed as suitable for use in animals producing food for humans. This amendment clearly states the intent and longstanding interpretation of the original Stock Medicines Act.

I am confident that these restrictions will not impact unduly on professional veterinary practice: They were supported by the veterinary profession during the consultation process. These restrictions are a positive means of ensuring that the risk assessment undertaken for each stock medicine is properly and consistently implemented in all jurisdictions. Despite these restraints, the States and the Commonwealth have determined that some latitude be provided to veterinary surgeons in dealing with individual food producing animals, particularly when an animal is very valuable or when registered treatments may be known to be ineffective.

For this reason the bill will allow veterinary surgeons to use unregistered stock medicines, or to use registered products, to treat an individual animal under their care, in spite of any restraint statement legislation. But this exemption has an important limitation: No other animal from the same property can be treated at or about the same time with the stock medicine. Only very low numbers of animals would fit this situation—for example, a stud bull, a prize milking cow, a top performing boar, or a donor animal used for artificial breeding. This exemption would not permit the more general use of stock medicines, for instance, in feed or water that is accessible to a number of animals, because only a single animal may be treated.

The amendments to the Act also provide some new flexibility in relation to minor or innovative livestock industries. There are few, if any, registered products available to treat unusual animals, such as deer, alpaca or emus. The amendments allow the use of stock medicines registered for other species, provided that they do not increase the label dose. Farmers are also obliged to apply an appropriate withholding period using the label withholding period as a minimum. Generally, this withholding period will be set in consultation with their veterinary surgeon. Once the withholding period has been properly established in this way, farmers will not have to continually seek written approval to use the product. As previously indicated, there is provision for other animals to be prescribed in the regulations once the amendments are implemented, and if their importance as food producing animals increases in future.

The bill will require veterinary surgeons to keep good records when prescribing or supplying unregistered stock medicines, or using any off-label registered medicines, or retaining prescription-only stock medicines. Of course, the keeping of such records is good veterinary practice, and the majority of veterinary surgeons would already be keeping these records. This ensures that veterinary surgeons are accountable for any residues that may arise in circumstances where the veterinarian is responsible for determining the treatment administered to an animal. This also ensures that any residues arising from treatments to food producing animals can be traced, if necessary. Additionally, the bill requires buyers of stock, which have been treated and have an outstanding withholding period, to be informed. This requirement to inform also extends to those in charge of stock that have been treated.

Those who treat stock of a major food producing species on behalf of another person are obliged to identify the treated animals and pass on any related use instructions to the owner or person in charge. These requirements will cover situations when, for example, a veterinary surgeon or a contractor treats large numbers of animals with a stock medicine supplied by the vet or contractor rather than the owner. In this situation, it is essential that the veterinary surgeon or contractor provide written details, such as withholding periods. This will prevent stock being slaughtered before the withholding period expires and

will avoid those handling the stock being unnecessarily exposed to the chemical.

The Act currently gives rights and responsibilities to veterinary surgeons. These rights are not available to the public and are given only on the basis of the professional knowledge and ability of the veterinary surgeon. The bill provides that veterinary surgeons can be held responsible where their treatment instructions result in residues that contravene the Food Standards Code. Specifically, this means that veterinary surgeons can be prosecuted. The change provides a strong incentive for veterinary surgeons to provide advice of the highest quality. Obviously, veterinary surgeons would not be responsible if the residues occurred because the instructions they provided were not followed—for example, if they specified a withholding period of 28 days but the owner sold the stock after only 14 days.

These are the major changes made in relation to the national competition policy review of the agricultural and veterinary chemical legislation. The other major change relates to the New South Wales Competition Policy Review of the Stock Medicines Act, namely to repeal the restrictions on advertising of certain classes of stock medicines. The repeal is to occur on a date to be proclaimed. The advertising of stock medicines included in schedules 2, 3 and 4 of the New South Wales Poisons List under the Poisons and Therapeutic Goods Act 1966 is restricted by the stock medicines legislation to publications circulating normally to veterinary surgeons only. This is in accordance with equivalent legislation in all other jurisdictions.

The National Competition Council has singled out the legislation in New South Wales, even though a national review of poisons legislation recommended against the blanket removal of such provisions. The decision was taken by Cabinet at its meeting on 8 March 2004 to accept the proposal of the Minister for Primary Industries to remove these provisions, but to give them effect only when there is appropriate national legislation to replace them. This will be in line with the national review of poisons legislation, which recommended the introduction of suitable national legislation to replace State controls. In July 2004, the Australian Health Ministers' Conference recommended to the Council of Australian Governments that all controls on the advertising of agricultural and veterinary products be included in the Agricultural and Veterinary Chemicals Code Act, which is administered by the Australian Pesticides and Veterinary Medicines Authority. The New South Wales advertising provisions can be repealed once the Federal legislation commences.

Finally, a number of further amendments are being made to improve the operation of the legislation. These include a change to the grounds under which the director-general may make an order controlling supply and use of stock medicines. These grounds have been extended to cover the control or eradication of diseases or pests and the impact of particular local climatic or soil conditions. The second is the removal of the requirement to prove a wilful breach of such an order made by the director-general. At present, a person must be shown to have intended to break the law and this can be impossible to prove. Instead it is proposed that they be expected to comply with it simply because they know about its existence.
The third is the inclusion of a provision for the use of penalty notices for minor offences. This mirrors the use of such notices in similar legislation administered by the Minister's department. Minor offences, or offences where little damage has been caused or anticipated, can be dealt with by the issue of an infringement notice. This saves major costs for all involved while still allowing a defendant to proceed to a court hearing if he or she wishes. In summary, I believe the bill introduces a number of significant reforms that will further protect domestic and export trade in animal products and ensure that public confidence in the use of stock medicines on food-producing animals is maintained and strengthened. I commend the bill to the House.