Legislative Assembly

21/09/2001

Gene Technology (New South Wales)

Bill Hansard

Extract

Second Reading

Mr KNOWLES (Macquarie Fields—Minister for Health) [11.48 a.m.]: I move:

That this bill be now read a second time.

Gene technology is a powerful new technology which is developing at a rapid rate. Gene technology involves the modification of living organisms by incorporating or deleting one or more genes to introduce or modify specific characteristics of the organism. Potential benefits from the use of the technology may include improved health, a safer and more secure food supply and a more sustainable environment. However, the ability to introduce genes from one species to a difference species can raise concerns about unintended effects on human health and safety and the environment. There are also broad ethical concerns about manipulating genes, the building blocks of life.

While the development and use of some genetically modified organisms and genetically modified products have been regulated by a variety of Commonwealth, State and Territory laws and administrative bodies, there have been gaps in the regulatory scheme. The Genetic Manipulation Advisory Committee and the interim gene technology regulator set up by the Commonwealth has previously considered proposals for such a development involving gene technology. However, because of weaknesses and gaps in these arrangements, the States, Territories and the Commonwealth have been working together over a number of years to establish a co-operative and nationally consistent regulatory scheme for gene technology that is not already regulated.

The new regulatory scheme is a national scheme, not a Commonwealth scheme. It involves the adoption and application of the Commonwealth gene technology laws by the States and the Territories. The Commonwealth Gene Technology Act 2000 and the Gene Technology (Licence Charges) Act 2000 commenced on 21 June this year. The bill before the House provides the New South Wales component of the new nationally consistent regulatory scheme. It applies the Commonwealth gene technology laws as laws of New South Wales but with a singular exception that I will later come to. The passage of the bill will ensure that the national regulator of gene technology established by the Commonwealth Gene Technology Act 2000 has the power to act in the State wherever gene technology is used.

The new regulatory scheme is designed to protect the public health and safety of people and to protect the environment from risks associated with gene technology. It also takes into account ethics considerations. It provides a clear path to market for producers of those types of gene technology products that fall outside the mandate of existing regulators. The scheme provides for independent, legally enforceable auditing and monitoring of compliance, and provides for community consultation and transparency in decision-making.

The Gene Technology Ministerial Council will be established. It will consist of Ministers from the Commonwealth and each participating State and Territory. The council will oversee the operation of the gene technology regulator and issue policy principles, policy guidelines and codes of practice. Policy principles may be issued by the ministerial council to deal with ethical issues, to recognise areas for genetically modified crops or non-genetically modified crops being areas designated under State laws for marketing purposes, and for other purposes that may be specified by regulation.

The legislation uses a range of regulatory tools to control activities with genetically modified organisms based on the level of risk posed by the proposed activity. All activity with genetically modified organisms are prohibited unless the activity is an exempt dealing, a notifiable low-risk dealing, licensed by the regulator, or entered on the register of genetically modified organisms. The Commonwealth gene technology laws provide for the establishment of the Gene Technology Regulator. This is a statutory position, the holder of which reports directly to Commonwealth Parliament. The Gene Technology Regulator is an independent decision maker on licence applications. Nevertheless, the Gene Technology Regulator may not issue a genetically modified organism licence where this would be inconsistent with a policy principle issued by the ministerial council.

In considering licence applications, the Gene Technology Regulator will undertake scientific risk assessment and consultation with the statutory advisory committees, governments and the public. All applications for genetically modified organisms to be released into the environment will be made available to anyone who wishes to see them. They will also be forwarded to each State and Territory government for advice. The regulator may also undertake or commission research on risks posed by genetically modified organisms. The Gene Technology Regulator is also responsible for monitoring activities involving genetically modified organisms. The regulator is responsible for enforcement activities involving genetically modified organisms. The regulator has a broad range of enforcement powers, including the ability to issue directions, cancel or suspend licences and seek injunctions. Stringent penalties are provided for breaches of the legislation.

The regulator maintains a GMO record for the assistance of the public. This is a centralised database recording all licences of genetically modified organisms and genetically modified products approved in Australia. The regulator also reports annually to Federal Parliament, with copies of reports provided to the States and Territories for reporting to their parliaments. The gene technology legislation establishes three tree advisory groups to assist the ministerial council on gene technology and the regulator. The principal functions of these committees are as follows. The Gene Technology Technical Advisory Committee will provide scientific and technical advice to the Gene Technology Regulator on each licence application. The Gene Technology Community Consultative Committee will provide community views. The Gene Technology Ethics Committee will provide advice on the ethics of gene technology, appropriate ethics guidelines and many necessary prohibitions.

When the Commonwealth bill was introduced in Federal Parliament in June 2000 it included no provisions relating to human cloning or to human animal cell experimentation. However, the Commonwealth legislation includes bans on the cloning of human beings and certain human animal cell experimentation. These prohibitions were included as a result of amendments made in the Senate to the Commonwealth Gene Technology Act. The Commonwealth Government has clarified that these prohibitions were included as an interim measure until all States and Territories have nationally consistent legislation in place to comprehensively ban the cloning of human beings. The provisions relating to human cloning and human animal cell experimentation in the Commonwealth Gene Technology Act 2000, namely, sections 192B to 192D, are not adopted in this bill as the New South Wales Government will be introducing separate legislation on these issues immediately after the cessation of this second reading speech.

Tasmania has already passed legislation for its participation in the national scheme. Western Australia and Victoria recently introduced some legislation. The Government believes that the proposed national scheme has significant advantages over each State and Territory establishing its own regulatory system. The New South Wales bill will ensure that New South Wales is a part of the co-operative and national regulatory scheme. It will provide greater consistency in decision-making across Australia, resulting in increased protection of public health and safety and the environment. I commend the bill to the House.