

PESTICIDES AMENDMENT BILL 2014

Bill introduced on motion by the Hon. Rob Stokes, read a first time and printed.

Second Reading

Mr ROB STOKES (Pittwater—Minister for the Environment, Minister for Heritage, Minister for the Central Coast, and Assistant Minister for Planning) [10.25 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Pesticides Amendment Bill 2014. This bill amends the Pesticides Act 1999 to: firstly, improve protection for landholders from pesticide misuse; secondly, transfer the system for licensing pest controllers and aerial pesticide applicators to the EPA; and, thirdly, implement national harmonisation reforms.

The bill also makes a number of necessary amendments to update and improve administrative provisions of the Act. It promotes the protection of, and minimises risk to, human health, the environment, property and trade in relation to the use of pesticides in accordance with the objects of the Act, and reiterates this Government's commitment to promoting ecologically sustainable development.

The appropriate management of pesticides is part of the wider regulatory framework to ensure the proper usage, storage and disposal of chemicals in New South Wales. This bill is the first part of a series of reforms planned by this Government to update and strengthen the ability of the Environment Protection Authority [EPA] to oversee chemical use and prevent adverse impacts on human health and the environment.

If this Government is re-elected in March next year, the next step in our chemicals reform program will be to introduce legislation to modernise the Environmentally Hazardous Chemicals Act 1985 and to achieve more streamlined and effective controls on transport of hazardous waste. These reforms will be subject to consultation with industry and the community.

An important component of the bill before the House is to provide protection for landholders from pesticide misuse.

Two amendments to specific offences will come into effect on 1 July 2015. The first is to extend extant offences for on-premises harm to apply to harm to companion animals. This will better protect animals such as working dogs and household pets from deliberate or negligent pesticide poisoning by contractors and third parties. The second amendment better protects the interests of agricultural landholders by clarifying that "damage" to non-

target crops due to another person's pesticide misuse includes such situations as when a pasture becomes unusable for grazing because of chemical contamination.

Other amendments in relation to offences improve the oversight of the management of suspected pesticide residues in produce and provide for enforceable undertakings as an alternative to court proceedings.

The Pesticides Act 1999 and the Pesticides Regulation 2009 provide an appropriate framework for preventing problems with pesticide residues in produce by mandating that users follow approved pesticide label instructions, avoid off-target harm, keep records of pesticide use and have current training in safe chemical use. The amendments to the Act's existing residue notice and order powers clarify that they may be used to require laboratory analysis of the affected produce by the person growing or supplying it.

A complementary amendment allows for future changes to the regulation to specify consistent approaches for monitoring and analysis of pesticide residues. It is envisaged that this might include amendments for consistency with national residue monitoring programs.

Additional amendments will provide for the making of enforceable undertakings whereby the EPA will be able to quickly and effectively remedy or restrain breaches of the Pesticides Act by entering into an agreement with the person or company responsible for the breach. Enforceable undertakings are well established under other regulatory frameworks for environmental issues. The making of such an undertaking can avoid unnecessary legal proceedings and result in direct restorative benefit to the community that is commensurate or greater than the damage caused by the offence. The amendments in the bill will also allow courts to make orders in relation to any non-compliance with the terms of an enforceable undertaking.

Such undertakings are an Australian invention, and their inclusion in the bill reflects this Government's commitment to ensuring that the independent environmental regulator has a suite of regulatory tools at its disposal to achieve fit-for-purpose results. Professors Richard Johnstone and Christine Parker have described this as "responsive regulatory enforcement" such that regulators have "a framework to react appropriately and effectively, with a mix of 'persuasive', reforming and 'deterrent' sanctions".

Dependent on its assessments of environmental risk and damage the EPA is able to adopt, at the low end of the scale, informal actions to address environmental breaches all the way through to deterrent sanctions, being penalty notices and prosecutions. This Government has acted to make environmental fines the toughest in Australia and continues to increase court-imposed penalties where they have fallen out of step with community expectations and no longer act as a deterrent.

The second tranche of amendments included in the bill will streamline the regulation of pesticide use in New South Wales. Currently, aerial pesticide applicators are licensed by the EPA whilst urban pest management technicians and fumigators are licensed by WorkCover NSW. This is an unnecessary burden on administrative resources.

The bill will make the EPA the single point for licensing pesticide users in New South Wales by transferring the licensing of pest controllers and fumigators from WorkCover NSW to the EPA. In doing so, the term "certificate of competency" in relation to pest management technicians and fumigators will be replaced by the more widely used and understood term "licence". These amendments are consistent with national reforms that my colleague the Minister for Primary Industries agreed to in May 2013 when she and her counterparts in other jurisdictions signed an updated Intergovernmental Agreement on Agricultural and Veterinary Chemicals.

In line with this Government's commitment to transparency and open information, the bill will also require the EPA to keep a public register of all licensees that provide pesticide services. The register will be similar to that managed by the New South Wales office of Fair Trading for licensed building trades. This will replace the current requirement for the details of newly issued aerial licences to be published in the New South Wales *Government Gazette*.

As national harmonisation reforms are progressively implemented by all jurisdictions, the bill allows for future changes to regulations to specify enhanced mutual recognition arrangements that would allow automatic cross-border recognition of licences. The aim is to create a seamless national licensing scheme that will benefit not only licence holders but also the border communities they service. This in turn will promote collaborative and integrated policies in relation to the use of pesticides in accordance with the objects of the Act.

The Commonwealth Government regulates pesticides up to and including the point of sale. The next part of the bill includes relevant updates to the definitions and notices issued by the Australian Pesticides and Veterinary Medicines Authority under the Commonwealth's agricultural and veterinary chemicals legislation. This ensures that the New South Wales Pesticides Act uses common definitions and recognises notices that affect the status of products under the national assessment and registration scheme for pesticides.

Finally, the bill includes miscellaneous amendments to the Pesticides Act. One such amendment is to remove references to the now defunct Pesticides Implementation Committee [PIC]. To ensure informed decision-making, the Minister for the Environment will be able at his or her discretion to convene one or more committees to advise on matters relating to the Act. Other provisions deal with savings and transitional arrangements. These

will ensure the seamless transfer of licensing functions from WorkCover NSW to the EPA.

In conclusion, this bill will make amendments to provide proper protections for property occupiers and more efficient regulation at both a State and national level for those involved in the pesticides industry. I commend the bill to the House.

Debate adjourned on motion by Mr Ron Hoenig and set down as an order of the day for a future day.