



NSW Legislative Council Hansard

Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 25 May 2005.

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.24 p.m.]: I move:

That this bill be now read a second time.

Before I deal with the content of the Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill, I will give honourable members an overview of the poultry meat industry, which in this State and nationally is thriving and expanding. Australians are eating more poultry meat, per capita, than at any other time in history. In fact the growth rate of this industry has been higher than that of any other meat industry in the past 40 years, and recently chicken meat has overtaken beef and veal as the most consumed meat in Australia.

This go-ahead industry makes a very valuable contribution to the Australian economy. For example, in 2001-02 the Australian chicken meat industry gross food revenue was measured at \$3.2 billion, with a total of 415.6 million chickens grown. Exports of chicken meat that year added a further \$26 million to the Australian economy. The industry in New South Wales accounts for approximately 35 per cent to 40 per cent of the industry nationally: the largest share of any State or Territory. The New South Wales chicken meat industry contributes more than \$150 million every year to the State economy, and the industry underpins a \$1.35 billion retail sales market. In New South Wales there are slightly more than 300 registered growers in the industry, with poultry farms supporting an estimated 3,000 on-farm jobs. A 2001 study estimated that a further 15,000 people are employed in poultry meat processing facilities and up to 26,000 in related services.

All up, this suggests that as many as 44,000 New South Wales jobs are directly or indirectly supported by the poultry meat industry. Participants in this industry may be involved in one or many of the various integrated enterprises, such as hatching chicks, growing those chicks into mature birds, basic processing of whole chickens and further value-added processing. The industry is vertically integrated and highly concentrated both industrially and geographically. In New South Wales there are just six main poultry meat processing companies. Those processors own and operate breeding farms, hatcheries, feed mills, processing plants and some growing farms. Other growing farms are independently owned. The New South Wales industry is characterised by having the majority of birds grown under contract on independent farms.

In contract situations, processors provide the birds—as day-old chicks—with feed, veterinary services, medication and animal husbandry advice, and undertake processing, marketing and distribution. The contract growers receive the day-old chicks and grow the birds to maturity, at which point the processor collects the birds and pays the farmer the agreed per bird grow-out fee. The growers provide animal management, capital inputs such as land, housing and equipment, meet some variable inputs such as bedding, gas and electricity, and are responsible for waste disposal. The relationship between processors and growers is one of strong mutual dependence in meeting the needs of the marketplace and balancing meat demand and bird supply. It is that relationship, particularly as expressed in the grow-out contract and the associated growing fee, that has been regulated in New South Wales since the mid-1970s, most recently under the Poultry Meat Industry Act 1986.

The problem addressed by this legislation and similar legislation in other States is the well-accepted fact that contract growers are in a weak position relative to the market power of processors and that statutory protection is required to prevent market power abuse. This issue was first addressed through the Chicken Meat Industry Act 1977, the forerunner to the current Act. In both 1999 and 2001 reviews of the Poultry Meat Industry Act 1986 were undertaken to fulfil the New South Wales Government's commitments under the competition principles agreement.

The 2001 review found that certain relatively minor changes to the legislation should be adopted to protect jobs in the chicken meat industry. Amendments to the Act were subsequently made to implement these recommended changes. The regulatory arrangements, however, remained fundamentally the same. The New South Wales poultry meat industry has thus operated in a stable and consistent regulatory environment for almost 30 years and, as I have already indicated, has flourished. The evidence is that the legislation has been instrumental in protecting the interests of 300-odd growers, has provided regional employment opportunities, and has made a considerable contribution to the economy of New South Wales. Despite this, the Howard Coalition Government is forcing us to make changes.

I remind honourable members, particularly those opposite, that despite strong representations to the Australian

Government defending the legislation, in 2003-04 the New South Wales Government was hit with a \$12.86 million penalty for keeping the Poultry Meat Industry Act 1986. However, I subsequently met with the President of the National Competition Council and reached a breakthrough agreement under which the council agreed to certain concessions about penalties if a further independent review of the Act was undertaken. In return the council agreed to recommend the suspension of competition payments for 2004-05 rather than another permanent deduction.

Following a competitive tender process a consultant was appointed to conduct a review in 2004. During the course of the review consultations were held with growers, processors and other industry stakeholders, including the New South Wales Farmers Association, to ensure that the views of all sectors of the industry were represented. This review assessed whether the Act continues to provide net public benefits and whether the identified net public benefits could be achieved in alternative ways that minimise restrictions on competition. Consideration was also given to regulatory best practice issues. The bill I have presented to Parliament reflects the findings of the 2004 review and maps out what I believe to be a sustainable future for both the growing and processing sectors.

It is important to appreciate, however, that the Howard Government has an axe hanging over our heads on this matter. It has applied a further \$13 million competition payment suspension to New South Wales this year, which will turn into another deduction if it does not agree with our response to the review. That means another \$13 million next year, bringing the payment suspension to a total of \$39 million. The Poultry Meat Industry Act 1986 currently requires that grow-out contracts and the price paid to growers for mature birds must be approved by the Poultry Meat Industry Committee established under the Act. Unfortunately, under the extreme interpretation of competition policy rules that the Australian Government has chosen to adopt the National Competition Council will not support retention of this degree of intervention in the New South Wales poultry meat industry.

The centralised price-setting function of the Poultry Meat Industry Committee and the fact that it allows not only growers but also processors to bargain collectively are key concerns of the council. A further concern of processors is that the committee price-setting process forces them to share commercially sensitive information. It is apparent that a regulatory system with these features will not pass council scrutiny. Critically, however, the 2004 review categorically concludes that there are strong grounds for continued intervention to protect growers through less-restrictive arrangements that provide oversight of collective bargaining between processors and growers.

As I will outline in a moment, the Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill seeks to retain as much in the way of grower protection as possible whilst also avoiding further financial penalties. The proposed amendments to the legislation are entirely consistent with the findings of the independent review. Let me again make it clear that this Government would prefer to retain the legislative arrangements as they currently stand, but regrettably the Australian Government is forcing us to change a proven success story for the New South Wales economy. The object of this bill is to amend the Poultry Meat Industry Act 1986 so as to replace the existing system with modified regulatory arrangements, which provide safeguards against anti-competitive behaviour by processors whilst avoiding the use of centralised, compulsory price-fixing and contract approval mechanisms.

At this point it should be noted that even processors have not sought the total removal of the New South Wales legislative arrangements but have supported change whereby the legislation facilitates individual processors negotiating privately with their group of contract growers. A key feature of the new regulatory system is that it continues to provide statutory authority for collective bargaining by poultry growers in their negotiations with poultry processors. However, rather than being channelled and approved through the Poultry Meat Industry Committee, as is currently the case, collective bargaining will now happen at the level of individual processors and their respective cohort of contract growers. Importantly, growers will be able to choose whether they wish to participate in collective bargaining with their peers or whether they would prefer to negotiate privately with their processor.

To assist in ensuring that this process results in fair outcomes for all parties, the Poultry Meat Industry Committee will have four functions. First, it will identify issues that in the opinion of the committee it would be desirable for grow-out contracts to cover. It is anticipated that this would include much of the content of the current guidelines for agreements already approved by the existing Poultry Meat Industry Committee. A subsequent function of the committee is to identify a more limited set of issues that it is not only considered desirable that grow-out contracts cover, but it is recommended that there be a statutory requirement for contracts to cover. In this regard the committee will have the role of making recommendations on default contract provisions to be applied by regulation unless otherwise agreed by the contracting parties.

The committee will also have the task of developing, and promoting to the industry, a voluntary code of practice for contract negotiations. The intent of this is to promote co-operative and orderly negotiating procedures between growers and processors. Finally, the committee will have a role in relation to resolving contract-related disputes between growers and processors. The parties in dispute over the terms of a proposed or existing

contract will be able to call upon members of the committee to act as mediators and, in certain circumstances, arbitrators. To assist and advise the committee in these tasks the bill provides for the constitution of an industry-based Poultry Meat Advisory Group. The bill also provides for processors to be required to notify the Department of Primary Industries within a month of entering into a contract with a grower.

This important provision is directly linked to disease control. Poultry in modern production facilities is highly susceptible to outbreaks of disease that can decimate flocks not only on individual farms but also across the industry if not controlled. Moreover, outbreaks of certain diseases, such as Newcastle disease, have trade implications. This provision will ensure that the Department of Primary Industries always has an up-to-date record of poultry farms and is thus well positioned to respond rapidly and effectively to disease incidents when they occur. I am confident that the Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill represents the most fair and balanced approach that can be achieved, given the constraints the Federal Government has placed on us. I commend the bill to the House.