GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL

Bill introduced, read a first time and ordered to be printed.

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries) [11.51 a.m.]: I move:

That this bill be now read a second time.

The Gene Technology (GM Crop Moratorium) Amendment Bill introduces two important changes to the Gene Technology (GM Crop Moratorium) Amendment Act 2003. It brings a small but much-needed modification to the process of giving exemptions to grow genetically modified [GM] crops and it clarifies the types of conditions that can be included in exemptions. The bill is the result of 12 months practical experience with the gene technology legislation, and it will greatly improve that legislation. Before I address the details of this bill, I will say a few words about GM crops, particularly the changes that are taking place, and also the legislation governing this area.

First, the use of genetically modified crops is a worldwide movement. The adoption of gene technology in the international agricultural sector continues to expand as crop varieties with new attributes are developed. For example, one international report shows that the global area planted with such crops increased for a seventh consecutive year in 2003. It increased by some 15 per cent, and stood at 67.7 million hectares last year. Almost one-third of this area was in developing countries, where the uptake of GM crops continues to be strong. GM crops are also gaining greater acceptance in places such as the European Union [EU]. One example is the insect-resistant GM maize, which is known as "Bt11". That maize was approved for use in food in the EU in May this year. A number of other GM crops are currently being assessed for approval by the EU authorities.

We are seeing similar developments in Australia. These developments are not only resulting in better yields, they are also producing benefits for the environment. For example, the introduction of Ingard cotton in Australia in 1996 resulted in a 50 per cent decrease in pesticide application in the cotton industry. This was despite severe restrictions on the area that could be planted to Ingard. We are currently seeing the phasing out of GM Ingard cotton. It is being replaced with the improved Bollgard II varieties. Bollgard II contains two genes for insect resistance and is expected to be grown on a wider acreage. In turn, this is expected to reduce the use of pesticide even more, further contributing to the environmental benefits of GM technology.

Interestingly, the debate about GM rice in China has also moved to centre stage. The decision will surely shape the future of GM crops in the world because it will create a massive market receptive to the development, production, import and export of GM crops. At a recent conference in Brisbane, one of China's leading scientists said that

China had everything to gain from GM commercialisation and little to lose. Notwithstanding that, the use of GM crops in Australia is not occurring unchecked. The release of Bollgard II cotton required the approval of the Gene Technology Regulator. That was in common with all proposed releases of genetically modified material in Australia.

The role of the Gene Technology Regulator was established under the Commonwealth's Gene Technology Act 2000. That Act has been adopted to implement a nationally consistent approach to the regulation of gene technology in this country. The Gene Technology Regulator is currently assessing applications for trials of a number of GM crops that have the potential to address a range of environmental and human health issues. Of particular interest are the recent applications for field trials of GM wheat with increased tolerance of saline conditions or altered starch composition. These are important developments. The adoption of salinity-tolerant crops has the potential to allow the reclamation of productive land from the ongoing threat of dry-land salinity. It could also contribute to production practices that would help address the problem.

In addition, the potential to alter the accumulation of starch in core cereal species represents a significant scientific breakthrough in the area of nutritional enhancement of staple foodstuffs. The GM wheat produced by the CSIRO alters the starch composition of wheat to a form that is thought to provide significant human health benefits. These are developments that could greatly improve agriculture in this State. However, the developments are not occurring without regard for the environment or human health. As I have noted, all GM crops require a licence from the Gene Technology Regulator. The Commonwealth's Gene Technology Act requires the regulator to consider risks to the environment, as well as the health and safety of people, before issuing a licence to grow GM crops. As a result of this legislative requirement, when the Gene Technology Regulator considers an application for commercial release or field trials, it undertakes a scientific evaluation of the possible risks that genetically modified organisms could pose to the Australian environment and the health of Australian people.

However, the regulator does not consider the impact that the release of genetically modified organisms could have on the access of Australian agricultural products to overseas markets or other trade-related issues. This is where the New South Wales Gene Technology (GM Crop Moratorium) Act comes into the picture. That legislation was passed by this Parliament in 2003. It implements the Premier's announcement of 3 March 2003 that the Government would ban the commercial production of certain GM crops in New South Wales for three years. Honourable members might recall that during debate last year I gave an undertaking that I would make an order imposing a moratorium on the commercial cultivation of GM canola. I have honoured that pledge, placing moratoriums on the cultivation of GM InVigor canola on 25 July 2003, and on GM Roundup Ready canola on 24 December 2003.

An important aspect of the New South Wales gene technology legislation is that it allows the Minister responsible to declare exemptions from the moratoria for the purpose of conducting research trials. However, these exemptions can be granted only if certain criteria are met. Importantly, section 8 of the legislation requires the Minister to seek the council's recommendation as to whether the exemption order

should be made. Honourable members will recall that the composition of that council was the result of significant deliberations by this House and include an independent chair and representatives from various stakeholder groups. These include the New South Wales Farmers Association, GrainCorp, the Australian Wheat Board, the CSIRO and the Nature Conservation Council amongst others.

To this date I have sought the recommendations of the advisory council in regard to exemptions to allow the continuation of research trials of InVigor planted under the auspices of the Office of the Gene Technology Regulator. I have also sought the recommendations of the council following applications for exemptions from Bayer CropScience and Monsanto for research trials of GM canola in 2004, as well as the application to conduct a co-existence trial to test segregation protocols in conjunction with the Australian Oilseeds Federation, also to occur in 2004.

However, the applications for trials of GM canola in 2004 have identified a problem with the process for gaining advice from the council. This brings me to the first of the amendments contained in the bill. At present the legislation imposes a drawn-out, excessively bureaucratic process for getting a recommendation from the council. Under a strict interpretation of section 8, and as a matter of practice, the Minister responsible must go backwards and forwards to the council with applications for exemptions, draft orders, amendments to draft orders and recommendations. In the case of the GM canola applications this year, that process was as follows: the application for an exemption being referred to the advisory council; the advisory council making a written recommendation to approve the trials and issue an exemption order; returning a draft exemption order to the advisory council for its consideration; the advisory council proposing amendments to the draft exemption order; referring the amended draft exemption order back to the advisory council for its consideration; the advisory council formally agreeing to the amended draft exemption order; and, finally, making the exemption order.

This process took three months, is overly bureaucratic, and is not what was intended in the drafting of the bill. It was also very costly, occupying both the department's and the council's time. The intent of the legislation has always been that the Minister responsible would refer any application for an exemption to the advisory council, and seek its recommendation on whether an exemption should be given and, if so, under what conditions. After receiving this recommendation the Minister would decide whether to grant an exemption and, if so, under what conditions. This bill amends section 8 to remove the current, overly bureaucratic process, and to replace it with one that reflects the original intention. Under the amendment the Minister responsible would not be able to make an exemption without giving the council a copy of either the exemption application or details of the proposal to make an exemption order. The Minister would also be required to ask for the council's recommendation on whether the exemption should be given. These changes will greatly streamline the process by cutting out the toing-and-froing that currently goes on.

However, before I go further, I must point out that this amendment does not in any way diminish the role of the council. As I have said, it does not remove the requirement to obtain a recommendation from the advisory council before making an exemption, nor does it remove the requirement that the Minister must provide written reasons for not following the council's advice in cases where the council recommends

against an exemption. Rather, the amendment simply streamlines the process. Indeed, knowing the inherent controversy that surrounds this area, I have made a point of contacting the chairman of the advisory council to consult with him on the proposed changes and he has indicated his strong support for them. I can also assure the House that I will always refer any application for an exemption order to the advisory council for consideration.

Another aspect of the current legislation that requires clarification concerns the post-harvest handling of GM product from a trial and the subsequent use of the trial site. This brings me to the second amendment in the bill. Members might recall that on 18 March this year I stated my clear intent that an exemption order would be made only with strict conditions that were to guide the post-harvest handling of GM product.

Pursuant to sessional orders business interrupted.

Debate resumed from an earlier hour.

The Hon. IAN MACDONALD (Minister for Primary Industries) [5.07 p.m.]: Earlier I was outlining the reasons for the two amendments. As I said, members might recall that on 18 March I stated my clear intent that an extension order would only be made with strict conditions that were to guide the post-harvest handling of the genetically modified [GM] product. Indeed, I specifically reviewed the handling protocols that had been put forward by Graincorp to ensure the integrity of the supply chain was maintained. I also made it very clear that I would not be issuing an exemption order unless I was satisfied that all the relevant issues raised had been appropriately dealt with.

However, as anyone who is willing to read *Hansard* can readily see, several members of this House steadfastly insisted that a responsible exemption order could not be made. While I am not necessarily in agreement with the views that a number of members have voiced in this debate, I have certainly listened to what they had to say. I listened to the Deputy Leader of the Opposition when he said that he "wanted rigid and proper guidelines, with transparency and within regulatory frameworks for pre-farm, on-farm and post-farm control, liability and contingency". While I believe that such a system was well and truly in place, it had also become quite clear that those who were implacably opposed to genetic modification of any sort would exploit the well-intentioned concerns that others harboured.

No objective assessment of GM crops was ever going to be possible in this environment. The Government is not prepared to allow this issue to be used to detract from the objective consideration of more important issues associated with GM crops. The amendments proposed today have been drafted quite specifically to overcome the doubt in some people's minds. This bill introduces changes to section 8 of the Act to provide a clear definition of the conditions that can be included in an exemption order. Specifically, the amendment makes it clear that the Minister responsible can impose conditions that relate to the handling, storage, transport or other use of any GM product from a trial. The change also provides clarification that the Minister can impose conditions in an exemption order relating to the post-harvest use of a site on which a trial has been conducted.

The proposed changes provide clarity to the imposition of conditions relating to post-harvest handling of GM product from a trial or post-harvest use of a trial site. However, the changes do not extend to regulating the use or transport of GM material that is grown interstate or overseas. Related to this amendment is a further change to section 8, which the bill will amend to make provision for penalties if post-harvest conditions are breached. The penalties are the same as those already in place under the current moratorium legislation. They are significant amounts: for a corporation the maximum penalty is $137,500; for an individual it is $55,000. An individual can also face a prison term of up to two years. These sizeable penalties should act as a deterrent to anyone thinking about breaching conditions.

The amendments to the New South Wales Gene Technology (GM Crop Moratorium) Amendment Act presented in this bill make practical changes to the consultation process and ensure that important post-harvest conditions can be imposed. The amendments will significantly improve the operation of the legislation and dispel some of the doubts that my colleagues in this place may have held. Indeed, I have listened to many of the concerns raised by members of this House on this issue and through these amendments I hope to address them. I commend the bill to the House.