



# Legislative Assembly

## Pastoral And Agricultural Crimes

### Legislation Amendment Bill Hansard

#### Extract

19/06/2002

#### Second Reading

**Mr IEMMA** (Lakemba—Minister for Public Works and Services, Minister for Sport and Recreation, and Minister Assisting the Premier on Citizenship) [7.31 p.m.]: I move:

That this bill be now read a second time.

Pastoral and agricultural industries are particularly vulnerable to criminal activity, in particular theft. A number of factors contribute to this vulnerability, including the size and isolation of farms and the small numbers of people resident on agricultural properties. Of the crimes perpetrated against primary producers the loss of stock is the most prominent and is of greatest concern to rural communities. In 2000 more than \$2.1 million dollars worth of cattle and sheep were reported stolen in New South Wales. This increased to more than \$2.7 million in the 2001 calendar year. In March 2000 the Pastoral and Agricultural Crime Working Party was formed, following a meeting between the former Minister for Police, the Minister for Agriculture and the New South Wales Farmers Association.

While this meeting focused on stock theft, the working party's brief was to consider all crimes against primary producers, such as stock theft, wool theft, chemical theft and trespass for the purpose of hunting. The working party consisted of representatives from the New South Wales Farmers Association, NSW Police, the Ministry for Police and the office of the Minister for Agriculture. The working party considered a range of issues including methods of stock identification, travelling stock statements, police training, legislation and crime prevention. The working party has made recommendations in relation to a range of issues including proposals for legislative change dealing with stock identification and transportation documentation, police powers, training and programming.

The working party examined the legislative provisions relating to pastoral and agricultural crime and found that on the whole the legislative framework is sound. However, the need for legislative reform was identified in some areas. My colleague the former Minister for Police, the Hon. Paul Whelan, announced in October last year the Government's in-principle support for the recommendations contained in the working party's report and the proposed introduction of the necessary legislative amendments stemming from the report's recommendations. On 27 February this year, after further consultations with the New South Wales Farmers Association, the Government was pleased to confirm a range of initiatives that it was in the process of undertaking in order to address rural crime issues.

These include both the legislative changes recommended by the working party and proposed by this bill as well as a number of operational initiatives being pursued by NSW Police, such as the creation of 32 specialist rural crime investigators at non-metropolitan local area commands trained to better investigate the theft of livestock, machinery, pesticides and fuels. The working party also made some recommendations for legislative change to the Wool, Hide and Skin Dealers Act to address the regulation of that industry. A review of that Act has been conducted in line with national competition policy, and legislative change will be pursued early next session. This bill has industry support from the New South Wales Farmers Association and the Livestock Transporters Association of New South Wales, as well as NSW Police and NSW Agriculture.

I will now deal with the substantive matters contained in the bill. Farmers and farming representatives have expressed concern about trespass on their land. These concerns relate to unauthorised hunting of feral animals, and the significant impact on the security and peace of mind of those residing in isolated country areas. Farmers are also concerned about their animals being killed by unauthorised hunters. While the Crimes Act addresses issues relating to trespass with a firearm, and the Firearms Act addresses unauthorised hunting with a firearm, there are no adequate provisions in respect of people who trespass with dogs and weapons other than firearms, such as knives. A charge of trespass alone in these situations is not a sufficient deterrent to unlawful hunting. Specific penalties, along with the ability for police to issue penalty notices, are required.

This bill creates an offence in the Summary Offences Act of hunting on private land without the permission of the owner or occupier. The offence will not apply where there is a specific lawful excuse, such as people permitted under other legislation to destroy feral animals and pests. The bill has also been specifically drafted to ensure that traditional hunting by indigenous people permitted under native title or the Aboriginal Land Rights Act is also a lawful excuse for hunting on the land. This will ensure that traditional cultural practices are not inadvertently interfered with by these amendments. The working party also noted that the Inclosed Lands Protection Act provides that goats that are branded or wearing collars cannot be destroyed under the Act.

Given that contemporary practice is that goats are earmarked or ear tagged, that Act is being amended to state that goats that are earmarked or ear tagged also cannot be destroyed. This will protect goats owned by a person that wander onto another property from being destroyed as if they were feral goats. A consequential

amendment is also being made to the Fines Act and Inclosed Lands Protection Act to enable penalty notices to be issued for trespass offences. This will enable police to effectively deal with these minor offences without the waste of police and court time and resources. This is in line with the Government's policy of introducing penalty notice provisions for a range of other minor criminal offences.

Documentation for the transportation of stock assists in the detection and investigation of stock theft. New South Wales has a transported stock statement system whereby an approved form is required to accompany livestock when they are carried from one place to another, except in cases where the journey involves the movement of stock for short distances on public roads between properties owned by the same farmer, where a stock permit is used. The legislative basis for this system was included in the now repealed Rural Lands Protection Act, and was placed in the Rural Lands Protection (General) Regulation as an interim measure pending the outcome of a determination by the working party of the appropriate legislative vehicle for the carrying of livestock transportation documentation. This part of the regulation is due to expire on 28 September 2002.

The Government has agreed with the working party's recommendation that commercial documentation such as consignment notes used by livestock carriers should also be able to be accredited as transported stock statements. Larger transport operators who have a well-established system of consignment notes which they keep for various purposes should not be required to maintain a separate set of documentation that would provide the same particulars. In its consideration of the matter and during significant consultation with producers, farming organisations, NSW Police, NSW Agriculture and livestock transporters, the working party found widespread support for a compulsory system of documentation to accompany transported stock.

It is proposed that a committee comprising representatives from NSW Police, the Livestock Transporters Association of NSW and NSW Agriculture will carry out the accreditation process. The New South Wales Farmers Association will also be invited to attend all meetings. Commercial livestock transporters will benefit as they will need only one form to transport livestock. The working party considered that a nationally accepted system is the best long-term solution to livestock documentation. However, in the short term, the proposed accredited system will work in tandem with the current system of generic transported stock statements for individual producers and transport operators who do not have established documentation.

The form of generic transported stock statements will be approved by the Director-General of NSW Agriculture and be available for purchase through the rural lands protection boards, in the same way that transported stock statements are currently available. This will effectively address the needs of commercial livestock transporters and all others, including farmers who transport their livestock themselves. The long-term aim is to progress the combination of the national vendor declaration form with the transported stock statements, and this Government will be working with industry and other jurisdictions to achieve this.

This bill proposes that all transported stock statements will contain the date the transportation commenced, the address at which the driver loaded the livestock, the type and number of livestock being transported, the name and address of the person who owns the livestock, the name and address of the person on whose behalf the livestock are being transported, the name and address of the person to whom the livestock are being transported, the address to which the driver is transporting the livestock, and other matters that may be required by regulation. It is also proposed that, for the purpose of this legislation, livestock be defined as cattle and sheep, with provision made for other livestock to be included by regulation, if required. From a rural crime perspective, cattle and sheep are significantly the largest herds of animals in New South Wales and are transported around the State in large numbers.

In order to assist with ease of administration and to facilitate auditing, it is considered that documentation must be retained for two years and be produced on demand within that period. This will ensure that the documentation is available if it is considered to be relevant to an investigation of stock theft, which may occur some time after the crime has been committed. Transported stock statements will continue not to be required in instances when stock permits can be used. Stock permits, which have effect only in the district of the rural lands protection board in which they are issued, allow, among other things, for the movement of stock between any two holdings occupied by the same occupier. The Rural Lands Protection (General) Regulation 2001 provides for exemptions from the use of transported stock statements in specific instances, including the transportation of stock for the purpose of treatment by a veterinarian. This bill similarly recognises these exemptions.

Under the current rural lands protection legislation, transported stock statements must be produced by the person in charge of the stock, if requested by a police officer or other prescribed officer. That provision is being retained in this bill. However, the bill strengthens the requirement by providing that a transported stock statement must be carried by the person in charge of the stock and must be produced at the time requested by the officer. The current legislation does not make it explicit that an officer has the power to stop livestock transport vehicles for the purpose of inspecting transported stock statements. However, this is clearly implied in the existing powers of inspection. Accordingly, this bill specifically provides that an officer is empowered to stop a vehicle suspected of transporting farm livestock for the purpose of inspecting the transported stock statement and the livestock on the vehicle. The power is subject to the appropriate constraint that there be a reasonable suspicion that the vehicle is transporting farm livestock.

The driver of a vehicle will be required to comply with any reasonable direction of the officer in relation to the vehicle, to produce the transported stock statement, and to render such reasonable assistance as may be required by the officer to permit the officer to inspect any livestock on the vehicle. It is appropriate that a penalty would be able to be applied to some of the offences that may arise under this proposed legislation, for example, failing to comply with a direction to stop a vehicle, for which a penalty of 50 units or 12 months imprisonment could be applied. It is provided that the maximum penalty be 20 penalty units for other offences, and provision is made for

the issuing of penalty notices. Police must show police identification when exercising their functions under the Rural Lands Protection Act. That Act requires persons exercising powers under the Act to be "authorised officers". Section 185 of the Act enables authorising authorities, including the Director-General of NSW Agriculture, to appoint police officers as authorised officers.

The director-general has advised that police officers will be appointed as authorised officers for the functions under the Act that are relevant to stock identification and stock movements. Section 187 of the Act requires authorised officers to produce identification cards issued by the authorising authority upon request when exercising their functions under the Act. This is unnecessary and administratively burdensome in the case of authorised officers who are police officers, and it is agreed that standard police identification may be used in place of an identification card issued under the Act. This has necessitated a minor amendment to section 187. I commend the bill to the House.