

FOOD AMENDMENT (SEAFOOD COUNTRY OF ORIGIN LABELLING) BILL 2017*First Reading*

Bill introduced on motion by Mr David Mehan, read a first time and printed.

Second Reading

Mr DAVID MEHAN (The Entrance) (10:46): I move:

That this bill be now read a second time.

In bringing forward the Food Amendment (Seafood Country of Origin Labelling) Bill 2017, I note that most of the seafood consumed in this State is imported. This information will surprise many people who believe that the fish we consume at restaurants and takeaway food shops is locally sourced. Take the barramundi as an example. Australians rate the barramundi as their favourite fish. They believe it to be an Australian fish; "barramundi" is an Aboriginal word meaning "large-scaled fish". Most of us believe the barramundi we consume is Australian, yet over two-thirds of the barramundi we eat is imported from Asia. An assessment of barramundi consumption commissioned in 2009 by the Fisheries Research and Development Corporation indicates that imports made up 68 per cent of about 7,400 tonnes of barramundi fillets consumed in 2008-09.

The Food Amendment (Seafood Country of Origin Labelling) Bill 2017, if enacted by this Parliament, will ensure that when we order barramundi from a restaurant or at our local fish and chip shop, we will do so knowing whether it is imported or sourced from Australian waters. And in so doing, we will be supporting the professional fishing men and women of this State. The New South Wales commercial fishing industry is quite small, but it has great potential. Having a vibrant local fishing industry is part of what it means to have a diverse economy that can support a range of jobs, particularly jobs in regional areas.

Most of those who work in the New South Wales fishing industry do so as self-employed fishers or small family businesses. This bill will support these people at very little cost to business or consumers but with great benefit to this State. It will also satisfy the recommendation of a number of inquiries into food labelling and the fishing industry, including the most recent inquiry conducted by the Legislative Council General Purpose Standing Committee No. 5 into the Government's Commercial Fisheries Business Adjustment Program. The recommendation from that inquiry reads:

That the NSW Government:

complete its consultation on a country of origin labelling scheme for seafood sold for immediate consumption and commence implementation of a labelling scheme with any necessary funding by December 2017

consider the creation of a New South Wales seafood label as part of the planned community awareness program.

In all Australian jurisdictions except the Northern Territory, the food service industry is exempt from the current country of origin labelling requirements. This means that restaurants and takeaway food shops do not have to write on their menus whether their seafood is Australian or imported. Northern Territory laws require that imported seafood prepared for immediate consumption must be labelled as imported but the source country is not required. Australian-sourced seafood in the Northern Territory is not required to be labelled or identified at all. On 1 July 2016, a new country-of-origin food labelling system commenced under the Australian Consumer Law, the Country of Origin Food Labelling Information Standard 2016.

Under the standard, from 1 July 2018 most food offered for retail sale in Australia will be required to carry or display country-of-origin labelling that meets the requirements of the national standard. The standard has detailed specifications and criteria for the labelling, including the use of a

standard kangaroo logo and colour. However, the national standard will continue the exemption currently in place for restaurants, cafes and outlets selling seafood for immediate consumption. The object of this bill, if enacted by the House, is to require persons who sell seafood to the public for immediate consumption, including at restaurants and takeaway food shops, to display information about the country of origin of that seafood.

Clause 1 of the bill sets out the title of the proposed Act. Clause 2 provides for the commencement of the proposed Act to be 1 July 2018. That date was chosen to allow a reasonable time for business and the regulator to adjust to the requirements of the proposed Act and to also coincide with the start date for the new national labelling standard. Clause 3 amends the Food Act 2003 by inserting a new section 20A which sets out the requirements for the labelling of seafood being sold for immediate consumption. The new section 20A would be in three parts. Subsection (1) outlines the requirement for seafood sold for immediate consumption to be accompanied by a statement identifying the source of the seafood. Subsection (2) outlines how the statement is to be displayed, and subsection (3) provides for definition of the terms "seafood" and "sourced from Australia".

In the case of seafood wholly sourced from Australia—which under the proposed subsection (3) means seafood taken from the waters within the Australian fishing zone, that is within the meaning of the Fisheries Management Act 1991 of the Commonwealth, or waters within the limits of the State of New South Wales, or another State or Territory of the Commonwealth. The statement accompanying that seafood is required to read "this seafood is sourced from Australia", or similar words identifying Australia or a specified State or locality in Australia as the source of the seafood. This provision provides a great deal of flexibility to business in the way Australian-sourced seafood is identified as such.

For example, Tasmania salmon, which is a popular menu item, is often identified as such on menus at present and would continue to comply with the proposed Act, if passed by this Parliament. The term "Hawkesbury River school prawns", from my own region on the Central Coast, would also comply as the Australian source locality is provided and complies with the Act. Oysters sourced from the waters of Coffin Bay in South Australia, which are widely known and of high repute, described on a menu as "Coffin Bay oysters" would also comply with the proposed Act. In the case of seafood that is not sourced from Australia, the statement accompanying the seafood is required to read "this seafood is imported".

The term "imported" was carefully chosen after much consultation with business and industry to provide a degree of flexibility to businesses which source their seafood from multiple countries. This is often the case with large clubs which will source frozen seafood from a number of, usually, overseas countries and sources and store that product for use as required. The provision under the proposed Act allows one menu statement to cover most, if not all, seafood sourced and used in that way by clubs and other businesses. In the case of a product containing seafood sourced from both Australia and other countries, the statement accompanying the seafood is required to read "this seafood may include seafood sourced from Australia and imported seafood". It can also include other words identifying the countries from which the seafood is sourced.

This provision allows menu items, which may include both Australian and imported seafood in them. Seafood marinara and seafood marketed as marinara mix are an example which comes to mind of a food product or a menu item that may contain both Australian and imported seafood. The definition provided under the proposed Act is flexible enough to allow for variations in the proportions of Australian and imported seafood in the menu item or product to change over time, ensuring that only one menu statement can cover products sourced from a variety of locations.

The provisions of subsection (1) of new section 20A also allow the actual countries of origin of the imported product to be advertised or displayed if that is the preference of the business. Under subsection (2) of the bill, the statement must be displayed with the seafood where the

seafood is displayed for sale or on the menu or display used to describe the seafood for sale. The definition of "seafood" contained in subsection (3) is based on the standard definition but includes provision that would allow the Government to prescribe certain seafood or a class of seafood and in doing so remove the labelling obligation for that seafood or seafood class by way of regulation. In this way, for example, so-called "kids meals", often served at clubs and hotels, could be prescribed by regulation where these contain seafood if the Government considered doing so would ease the regulatory burden on businesses in those circumstances.

In terms of penalties, the bill has none specifically linked to the obligations set up underneath it. However, I note that clause 45 of the Food Regulation 2015 imposes an automatic statutory condition that a licensee must comply with the provisions of the Act, which would also include the new origin labelling requirement if this bill were enacted by the Parliament. Accordingly, the labelling required would become a licensing condition for business. The Northern Territory—having been the only jurisdiction to enact seafood labelling at the point of immediate consumption—is important for the purposes of this debate. I will address the Northern Territory experience as part of my speech today.

The Northern Territory Government in 2008 introduced legislation requiring licensed fish retailers, including eating establishments such as restaurants and takeaway outlets, to label seafood as imported if it was not harvested in Australia. No labelling is required for Australian-harvested seafood. In 2011, a Fisheries Research and Development Corporation funded assessment of the impact of these laws was undertaken by industry consultants under the supervision of a steering committee comprising industry representatives and a Northern Territory government representative. The assessment used face-to-face interviews with food service establishments and consumers in Darwin over a period of time to gauge the development of opinion and the impact of the laws on consumers and business in the Northern Territory.

The cost to food service businesses of implementing and complying with the labelling legislation was found to be "generally not significant". The survey indicated that consumers are willing to pay a premium for food labelled as local. Consumers indicated a strong preference to purchase Australian seafood, with a willingness to pay up to 25 per cent for Australian product over imported or unlabelled seafood. The Fisheries Research and Development Corporation report also found that fish wholesalers reduced imported product and began to source more local product. The survey results also showed that 90 per cent of licensed fish retailers in the Northern Territory had complied with the requirements of the labelling laws within three months of their introduction. Of these, 55 per cent reported that they had complied with the law within one month of the introduction of the legislation and another 35 per cent had complied within three months. Of course, cost is an important issue for business. Businesses appeared to adjust quickly and the vast majority were in a position to comply with the legislation within a month of its implementation.

Major concerns expressed by the sector related to updating and changing menus and specials boards because of local product supply issues and the need to undertake ongoing staff training. The food service sector in Darwin has a considerable staff turnover. As a result, knowledge of labelling laws was frequently lost, which necessitated ongoing and proactive education programs. Survey results indicated that the initial cost was noticeable, with 35 per cent of respondents claiming that they had spent more than \$500 to accommodate the new requirements. This can be balanced against 60 per cent reporting costs of less than \$500. However, after the fifth survey towards the end of the process that led to this report on the Northern Territory experience, 70 per cent of businesses reported nil ongoing compliance expenditure, and the remainder reported expenditure of less than \$500.

The Restaurant and Catering Industry Association of Australia claimed recently that the cost to the food service sector of implementing country-of-origin labelling would be \$300 million annually. The chief executive officer of the association, John Hart, gave evidence to an Australian

parliamentary inquiry that the cost each time a menu is updated would be \$8,000 to \$10,000 per restaurant. He did that without presenting any evidence to justify the claim. Claims by the association about the high cost of changing menus to accommodate country-of-origin labelling for seafood have not been supported by any of the evidence so far. The report on the implementation of legislation in the Northern Territory indicates that there is robust evidence that the cost of labelling is "not significant". In fact, the study found that the Northern Territory experience and changes to labelling were supported by fishers, seafood retailers and consumers alike, and that they were pleased with the result.

The report also found that labelling does influence consumer choice. Consumers are willing to pay a premium for local product, and businesses adjust quickly to the new regulations. I appreciate that the Government is working towards a voluntary labelling arrangement. My view is that this bill is the only way to deal with the broad, and in some cases irreconcilable, claims made by stakeholders and participants interested in this issue. At one extreme we have Greenpeace, which initiated a useful and interesting "Label My Fish" campaign. The Greenpeace claim is that seafood sold for immediate consumption should be accompanied by information on the species of the fish, where it was caught, and the method used to catch it. My bill does not go that far. I note that the national standard also does not go as far as requiring the official fish species name to be used, let alone labelling for immediate consumption. At the other extreme, the Restaurant and Catering Industry Association believes nothing should be done. It is hard to imagine obtaining a voluntary agreement with that broad range of views without the Parliament enacting some sort of regulation to force the issue.

I wish to thank a number of people who assisted in the preparation of this bill. I thank the professional fishers in my local area and on the Central Coast more widely for helping me to understand their work and the need for this bill to support their livelihood. I particularly thank Allan Reed and his family, who have welcomed me into their home and showed me what it is like to be a fisherman on Tuggerah Lake. I thank Mary Howard and Dane Van der Neut of the Wild Caught Fishers Coalition for their dedicated defence of their colleagues, their pursuit of the interests of fishermen across New South Wales, and their support for this bill. I thank Tricia Beatty, the executive officer and leader of the Professional Fishermen's Association, for her support and advocacy. I thank my Labor colleagues and shadow Minister Mick Veitch for their support and for allowing me to introduce this private member's bill. I also thank parliamentary staff, particularly Chris Angus of the Parliamentary Research Service, who provided valuable information, and Nigel Hill and Daniel Gray of the Parliamentary Counsel's Office for their assistance in drafting the bill.

Finally, I acknowledge and thank Clubs NSW and the Australian Hotels Association, who engaged in the drafting of this bill. I particularly thank Josh Landis and Chris Gaffield for their positive approach to this ongoing process. Their desire to help the fishing industry should be commended. That cooperative effort has resulted in a piece of legislation with which they are comfortable. When we consume seafood at a restaurant, a takeaway shop or a fish and chip shop in this State we should do so knowing its origins; we should not have to ask. This bill achieves that aim with the least possible impost on business. Above all, it offers valuable support to the fishing men and women of this State. I commend the bill to the House.

Debate adjourned.