

**PESTICIDES AMENDMENT BILL 2015**

**Bill introduced on motion by Mr Mark Speakman, read a first time and printed.**

**Second Reading**

**Mr MARK SPEAKMAN** (Cronulla—Minister for the Environment, Minister for Heritage, and Assistant Minister for Planning) [11.15 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Pesticides Amendment Bill 2015. This bill was debated and passed unanimously by the Legislative Assembly on 12 November 2014. As there was insufficient time for it to be considered by the Legislative Council before the end of the last Parliament, it needs to be reintroduced to this House. The bill remains the same as the 2014 bill except that the commencement of schedules 1.3 and 2.1, which relate to administration and enforcement, will now occur later this year. Particularly for the benefit of members who are new to this House, I will outline the key features of the bill and its place in the Government's ongoing program to improve New South Wales' environment protection legislation.

Chemical use is an essential part of modern life, so it is also essential that we have legislation that ensures proper chemical usage, storage and disposal. This bill is the first part of a series of reforms to be introduced by this Government to update and strengthen the specialised legislation that the Environment Protection Authority [EPA] uses to manage and prevent adverse impacts from chemical use on human health and the environment. The bill focuses on making amendments to the Pesticides Act 1999 to transfer the system for licensing pest controllers and aerial pesticide applicators, to implement national harmonisation reforms and to improve protection for landholders from pesticide misuse. The bill also makes a number of necessary amendments to update and improve administrative provisions of the Act.

This is a first step. As a next step in this new reform program, in this Parliament the Liberal-Nationals Government will bring forward a bill to thoroughly modernise and update the Environmentally Hazardous Chemicals Act and to achieve more streamlined and effective controls on transport of hazardous waste. That reform proposal will be subject to consultation with industry and the interested community during 2015. I return to the Pesticides Amendment Bill 2015. Currently in New South Wales aerial pesticide applicators are licensed by the EPA and urban pest management technicians and fumigators are licensed by WorkCover NSW. The first part of the bill deals with consolidating the administration of these licences at a single point by transferring the licensing of pest controllers and fumigators from WorkCover NSW to the EPA. By creating a single system for the licensing of these occupations, all pesticide licensing will be administered by the EPA.

This change is in line with national reforms which New South Wales agreed to in May 2013 when all jurisdictions signed an updated Intergovernmental Agreement on Agricultural and Veterinary Chemicals. It is also required because harmonised national work health and safety laws do not cover

the licensing of pesticide users. The bill will also improve the public's access to information about businesses that provide these pesticide services. It will require the EPA to keep a register of all licensees, and to make it available to the public, in a way broadly similar to that already done by the NSW Office of Fair Trading for licensed building trades.

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This will replace the current requirement for the details of newly issued aerial licences to be published in the New South Wales *Government Gazette*. For pest management technicians and fumigators, the currently used term "certificate of competency" will be replaced by the more generally understood term "licence". As national harmonisation reforms are progressively implemented by all jurisdictions, the bill allows for future regulation changes 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 these occupations and the border communities they serve.

The Commonwealth Government regulates pesticides up until and including the point of sale. The second part of the bill provides amendments to update links to the Commonwealth's agricultural and veterinary chemicals legislation regarding definitions and notices issued by the Australian Pesticides and Veterinary Medicines Authority. These changes ensure the New South Wales Pesticides Act maintains precise alignment of common definitions and recognises notices that affect the status of products under the national assessment and registration scheme for pesticides.

The third part of the bill includes amendments that will improve protection for landholders from pesticide misuse by other persons. The first of these changes will improve existing protection for agricultural landholders where there is evidence of damage to non-target crops due to another person's pesticide misuse that is proven to be wilful, negligent or a result of lack of due diligence. It will clarify that "damage" can include a situation where, for example, a pasture becomes unusable for grazing because of chemical contamination. The second of these amendments extends existing offence provisions regarding on-premises harm to companion animals. This will better protect working dogs and household pets from deliberate or negligent pesticide poisoning by contractors and third parties. These amendments will come into effect later this year so the Environment Protection Authority can first conduct an information campaign to ensure people are familiar with the changes.

Other amendments in the third part of the bill make improvements to tools that can be used for dealing with suspected pesticide residues in produce and provide for enforceable undertakings as an alternative to court proceedings. The New South Wales Pesticides Act and its regulation provide a well-developed 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 simply clarify that these may be used to require laboratory analysis by the person growing or supplying the affected produce. A complimentary amendment allows for future regulation changes to specify consistent approaches for monitoring and analysis of pesticide residues, for example, to coordinate with national residue monitoring programs.

Turning to the amendment to introduce enforceable undertakings into the Pesticide Act, this change

will provide an alternative to court action that has been well proven in other environmental legislation. The Environment Protection Authority will be able to enter into an agreement with a person to remedy or restrain breaches of the Pesticides Act. The negotiation of an enforceable undertaking with a person who has breached the Act can avoid unnecessary legal proceedings and result in direct restorative benefit to the community, commensurate or greater than the damage caused by the offence. When necessary, the court may make orders in response to any noncompliance with the terms of the agreement.

The fourth and final part of the bill makes a few miscellaneous amendments. One amendment is to remove references to the Pesticides Implementation Committee [PIC] which completed its work back in 2004, but the Minister will still be able 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 seamless transfer and continuity of licensing functions between WorkCover NSW and the Environment Protection Authority. In conclusion, this bill will provide an improved single point of contact for managing and licensing pesticide-using occupations and allow implementation of agreed national harmonisation reforms. It will also provide improved protections to property occupiers from pesticide misuse and make a number of necessary updates to the administration of the Pesticides Act. I commend the bill to the House.

**Debate adjourned on motion by Ms Jodi McKay and set down as an order of the day for a future day.**