



Pesticides Amendment Bill 2015

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PESTICIDES AMENDMENT BILL 2015

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Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [12.33 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate my second reading speech in *Hansard*.

Leave granted.

I am pleased to introduce the Pesticides Amendment Bill 2015 to this place.

The bill focuses on amending the Pesticides Act 1999 to: firstly, improve protection for landholders from pesticide misuse; secondly, transfer the system for licensing pest controllers and aerial pesticide applicators to the Environment Protection Authority [EPA]; and, thirdly, implement national harmonisation reforms. The bill also makes a number of necessary amendments to update and improve administrative provisions of the Act.

The amendments will promote the protection of and minimise risks to human health, the environment, property and trade in relation to the use of pesticides in accordance with the objects of the Act. Also consistent with the objects of the Act, the bill will promote collaborative and integrated policies in relation to the use of pesticides.

The bill reiterates this Government's commitment to promoting ecologically sustainable development. It will ensure sound management of pesticides as part of the broader regulatory framework to ensure the proper usage, storage and disposal of chemicals in New South Wales.

This bill is the first part of a series of reforms planned by this Government to update and strengthen the ability of the EPA to oversee chemical use and prevent adverse impacts on human health and the environment. During this Parliament, the next step in our chemicals reform program will be to introduce legislation to modernise the Environmentally Hazardous Chemicals Act 1985 and to achieve more streamlined and effective controls on transport of hazardous waste. These reforms will be subject to consultation with industry and the community during 2015.

Improved protection for landholders

An important component of the bill before the Legislative Council is to provide protection for landholders from pesticide misuse.

It will extend existing offences for on-premises harm to apply to harm to companion animals.

This amendment will better protect animals such as working dogs and household pets from deliberate or negligent pesticide poisoning by contractors and third parties. The bill will also better protect the interests of agricultural landholders by clarifying that "damage" to non-target crops due to another person's pesticide misuse includes such situations as when a pasture becomes unusable for grazing because of chemical contamination.

The amendments to these two specific offences will come into effect later on this year so the EPA can first conduct an information campaign to ensure the community is familiar with the changes.

Other amendments in relation to offences

Other amendments in relation to offences improve the oversight of the management of suspected pesticide residues in produce and provide for enforceable undertakings as an alternative to court proceedings.

An appropriate framework for preventing problems with pesticide residues in produce is provided by the Pesticides Act 1999 and the Pesticides Regulation 2009, which mandate 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 clarify that they may be used to require laboratory analysis of the affected produce by the person growing or supplying it.

A complementary amendment allows for future changes to the regulation to specify consistent approaches for monitoring and analysis of pesticide residues. It is envisaged that this might include regulation provisions for consistency with national residue monitoring programs.

Enforceable undertakings are now well established under other regulatory frameworks for environmental issues. Amendments in this bill will provide for the making of enforceable undertakings under the Pesticides Act, whereby the EPA will be able to quickly and effectively remedy or restrain breaches of the Act by entering into an agreement with the person or company responsible for the breach. The making of such an undertaking can avoid unnecessary legal proceedings and result in direct restorative benefit to the community that is commensurate or greater than the damage caused by the offence. The amendments in the bill will also allow courts to make orders in relation to any non-compliance with the terms of an enforceable undertaking.

The inclusion of enforceable undertakings in the bill reflects this Government's commitment to ensuring that the independent environmental regulator has a full suite of regulatory tools at its disposal. Where a breach has occurred, dependent on its assessments of environmental risk and damage, the EPA is able to adopt the most fitting regulatory response. This can range from informal actions to address environmental breaches, through directive notices, all the way to deterrent sanctions through penalty notices and prosecutions at the top end of the scale. This Government has acted to make environmental fines the toughest in Australia and continues to increase court-imposed penalties where they have fallen out of step with community expectations and no longer act as a deterrent.

Streamlined licensing

Currently, aerial pesticide applicators are licensed by the EPA whilst urban pest management technicians and fumigators are licensed by WorkCover NSW. This is an unnecessary burden on administrative resources. The second set of amendments included in the bill will streamline this aspect of the regulation of pesticide use in New South Wales. The bill will make the EPA the single point for licensing pesticide users in New South Wales by transferring the licensing of pest controllers and fumigators from WorkCover NSW to the EPA.

In doing so, consumers will benefit from a system that is clearer and provides improved public

access to information. The term "certificate of competency" in relation to pest management technicians and fumigators will be replaced by the more widely used and understood term "licence". The bill will also require the EPA to keep a public register of all licensees that provide pesticide services, along the lines of that managed by the New South Wales Office of Fair Trading for licensed building trades. The current requirement for the details of newly issued aerial licences to be published in the *NSW Government Gazette* will no longer be necessary.

These amendments are consistent with national reforms that New South Wales agreed to in May 2013 when all jurisdictions signed an updated InterGovernmental Agreement on Agricultural and Veterinary Chemicals. It will also assist New South Wales to maintain its commitment to harmonised national work health and safety laws, as the model laws do not cover licensing of pesticide users.

National harmonisation reforms are being progressively implemented by all jurisdictions. As arrangements become finalised, the bill allows for future changes to regulations 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 not only licence holders but also the border communities they service.

Other amendments

The Commonwealth Government regulates pesticides up to and including the point of sale. The next part of the bill includes relevant updates to the definitions and notices issued by the Australian Pesticides and Veterinary Medicines Authority under the Commonwealth's agricultural and veterinary chemicals legislation. This ensures that the New South Wales Pesticides Act uses common definitions and recognises notices that affect the status of products under the national assessment and registration scheme for pesticides.

Finally, the bill includes miscellaneous amendments to the Pesticides Act. One such amendment is to remove references to the now defunct Pesticides Implementation Committee [PIC]. To ensure informed decision-making, the Minister for the Environment will be able, at his or her discretion, 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 the seamless transfer of licensing functions from WorkCover NSW to the EPA.

Conclusion

In conclusion, this bill will make amendments to provide proper protections for property occupiers, to deliver more efficient regulation at both a State and national level for those involved in the pesticides industry and to ensure necessary updates are made to the Pesticides Act 1999.

I commend the bill to this House.