National Competiton Policy Liquor Amendments

(Commonweatlh Financial Penalties) Bill National Competition Policy Health and Other Amendments (Commonwealth Financial Penalties) Bill.

Second Reading

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [9.27 p.m.], on behalf of Mr Bob Carr, in reply: I thank honourable members for their contributions to the debate. I also thank members of the crossbench in the other place for making numerous sensible suggestions to improve the legislation in a number of respects. The Government has taken the opportunity provided by the splitting of the original bill to incorporate many of those suggestions.

The simple purpose of these bills is to enable New South Wales to avoid the imposition of competition payment penalties by the Federal Government on the advice of the National Competition Council [NCC]. The continued threat of a $51 million penalty every year gives New South Wales no choice but to comply with the Commonwealth's demands to change the way we regulate liquor, the health professions and other industries. The amendments made by these bills aim to ensure that penalties are not imposed on New South Wales in future years. They have been carefully drafted to ensure that any detrimental impact on New South Wales families is minimised to the extent possible.

During debate on this legislation Opposition members queried why the Government did not simply overturn the NCC's recommendations by taking the matter back to the Council of Australian Governments [COAG]. The imposition of penalties is entirely within the discretion of the Commonwealth Government. The Council of Australian Governments does not have any power over the Commonwealth Government's expenditure decisions. As members of the House are aware, the New South Wales Government repeatedly appealed to those who ultimately impose the penalties—the Prime Minister and the Commonwealth Treasurer—who declined to depart from the NCC's recommendations.

The Government has nevertheless continued campaigning to meet the concerns raised by the community and honourable members about the impact of this bill. Due to this effort there has been an important achievement. Negotiations between the NCC, the New South Wales Government and the New South Wales Farmers Association have resulted in agreement that the NCC will permit New South Wales to conduct a further independent review of the poultry meat legislation. The NCC has agreed that it will not recommend another permanent penalty for poultry in the financial year 2004-2005. Instead, it will recommend a suspension of payments for poultry until New South Wales implements any changes recommended by the independent review. As a result, the Government will withdraw the poultry amendments in the bill. I acknowledge and thank the New South Wales Farmers Association for its tireless efforts in campaigning on behalf of New South Wales farmers.

This development comes on the heels of the significant progress that was made in relation to the Farm Debt Mediation Act, which was incorporated in the current bill before it was introduced. In addition to making suggestions about particular amendments, members in the other place have asked that they be able to consider the liquor licensing amendments separately from the other amendments. The Government is happy to accommodate this request. As foreshadowed in the motion to suspend standing orders, the bill will effectively be split into two new bills so that the liquor licensing amendments will be contained in a new bill on their own. The proposed new bills will incorporate a few amendments, which I wish to outline briefly now.

I turn first to the proposed National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Bill. Much of the debate on the liquor provisions in the current bill has focused on the great harm that the unrestricted availability of alcohol can have on local communities and the State as a whole. That is why this bill establishes a rigorous process for assessing the social impacts of each and every proposed new liquor outlet and relocated liquor outlet before any licence is approved. Since the introduction of this bill the Government has continued to consult on the social impact assessment process to ensure that it is as robust as possible and that it will protect the community from alcohol-related harm. I thank those people, especially members in the other place, who made valuable suggestions on the practical implementation of these reforms. The Greens made a number of useful suggestions for ensuring that the licensing authority has access to broad-ranging and independent information in undertaking its assessment. I acknowledge also the role of the Council of Social Service of New South Wales in the development of these proposals.

As a result of these consultations, the liquor licensing amendments in the new bill include three additional measures. First, the provisions in the new bill have been amended to permit the social impact assessment and the licence application to be lodged separately. The amendment will allow the social impact assessment process to commence or to be determined prior to an applicant proceeding with its licensing application before the licensing court. Second, an additional requirement for advertising social impact assessments has been inserted. Social impact assessments will have to be advertised in statewide newspapers as well local newspapers. This will assist peak community bodies to

become aware of the lodging of social impact assessments so they can make submissions on them if they so wish.

The third and most important amendment relates to the test the board will apply to examine all social impact assessments, namely, whether the granting of the licence would detrimentally affect the local or the broader community. The amendment will ensure that the board's focus is not limited only to a geographical concept of neighbourhood. Instead, the board will be required to consider matters set out in mandatory guidelines to be issued by the Minister. These guidelines will require the board to look at the particular characteristics of the community living around the premises, including such matters as its socioeconomic status and the proximity of low-income housing.

I understand that the Australian Hotel Association, the Liquor Stores Association and the Police Association are broadly supportive of the legislation, as it will better protect communities from alcohol-related harm; ensure that key stakeholders such as the police, health authorities and local government have a genuine and formal role in whether or not a new licence is granted; and ensure a rigorous social and public interest test is applied to require a hurdle of "no social detriment" before the granting of a new licence. This is one area of competition policy reform that has actually led to a vastly improved set of regulatory arrangements.

I turn now to the proposed National Competition Policy Health and Other Amendments (Commonwealth Financial Penalties) Bill. The provisions in relation to optometrists, dentists and farm debt mediation have not been amended in the proposed new bill. Some additional amendments have been included in relation to pharmacy, and I will outline them briefly. Before I do so I take the opportunity to update members on what has happened in the pharmacy area over the past few weeks. Members will be aware of the Prime Minister's recent strong statements in support of community pharmacy and of the importance, as reflected and enshrined in New South Wales legislation, of pharmacies being owned and operated by qualified pharmacists. Despite this support, echoed by the Federal Minister for Health, the Commonwealth still has not made any concrete commitment to lift the significant penalties it has imposed on New South Wales—estimated to be in the order of up to $10 million from the suspension pool—for not deregulating its pharmacy sector. New South Wales still faces the threat of continuing penalties of this magnitude every year unless we deregulate. They give us no choice but to proceed with this bill.

New South Wales has made numerous submissions to the Commonwealth arguing for the retention of our pharmacy regulations. At the request of the Prime Minister the Government provided a further public interest case on 16 April, which again consolidates the arguments that New South Wales has made on this important issue. The Prime Minister knows that New South Wales has introduced this bill only to avoid financial penalties being imposed in future years. He must put his money where his mouth is, and immediately reverse his Government's decision on penalties. New South Wales will delete the pharmacy provisions in this bill as soon as the Commonwealth reverses its decision on penalties and confirms that it will not penalise New South Wales in the future in relation to pharmacy.

I now turn to the additional pharmacy amendments. As members of this House are aware, the bill proposed to remove from the pharmacy legislation the minimum restrictions required to satisfy the NCC. The Government successfully argued to the NCC that the complete deregulation of pharmacy ownership could raise significant structural adjustment issues for the industry in the short term, and should not be included in the bill. The NCC has advised us that another amendment is required, in addition to the amendments in the original bill, in order for New South Wales to fully comply with its National Competition Policy obligations and avoid further financial penalties. Specifically, the NCC requires New South Wales to remove restrictions on pharmacists entering into commercial arrangements with non-pharmacists. As a result, the proposed new bill removes this restriction. In addition, however, the proposed new bill also contains new measures to oversee those people who have commercial associations with pharmacists. This will ensure that there is no compromise to the health and safety of consumers or to the pharmacist's ultimate control of the pharmacy business arising out of these changes.

Let me be very clear that this amendment will not change the requirement that a pharmacist must be in charge of every pharmacy. Nor will it change the requirement that only a pharmacist may own a pharmacy, whether the pharmacist is an individual owner or part of a corporate structure consisting only of pharmacists. The Pharmacy Guild has today called on the Government to simply "cop the fine". The pharmacy fine is likely to be between $7 million and $10 million at least, each and every year. In the mini-budget there were many cuts to agencies by lesser amounts than $7 million, which nonetheless will prove difficult. Copping the fine for pharmacy would lead quickly to copping the fines for every other affected small business lobby, not just for this year but in every year from here on. The penalty is $51 million this year. Who knows how much the Federal Treasurer will try and deduct next year? The Government will not countenance running a taxpayer-funded protection racket. The only solution to this impasse is for the Federal Government to accept our public interest case and withdraw the fines. Otherwise, we have no choice but to proceed.

I am advised that the Prime Minister's office has contacted the chief executive of the Optometrists Association suggesting that they ask New South Wales to present a further public interest case on their behalf. The Premier has today again forwarded this State's public interest case on optometry to the Prime Minister. As for pharmacy, if the Commonwealth Government withdraws the fines and guarantees no future fines for optometry we will delete the schedule on optometry. The New South Wales Government has also offered the Australian Dental Association the same opportunity for a further public interest case. While the Commonwealth has not indicated its position on dental deregulation, the New South Wales Government would ask the Commonwealth to extend the same consideration to these professionals. I commend these bills to the House.