Hairdressers Bill.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.13 a.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

The hairdressing trade has been the subject of regulation in New South Wales since 1936, with the current licensing and training framework having been basically set in legislation from 1950 and tied to a definition of "hairdressing" of the same vintage. The present legislation, in the form of part 6 of the Shops and Industries Act 1962, has the following three-fold effect. First, no person shall act as a hairdresser for fee, gain, or reward unless he or she is the holder of a hairdresser's licence. Second, licence eligibility necessitates completion of a prescribed course of training and the passing of prescribed examinations or otherwise being qualified. Third, off-the-job hairdressing training is restricted to persons engaged under the direction, control or supervision of the New South Wales TAFE Commission.

A public consultative review of part 6 of the Shops and Industries Act 1962 was undertaken as part of the New South Wales Government's commitment under National Competition Policy to review all of its legislation which potentially restricts competition. It is the case that the National Competition Principles Agreement, ratified by the Council of Australian Governments in 1995, requires the removal of impediments to markets where they are not in the public interest. This inter-governmental agreement has a guiding principle that legislation should not restrict competition unless it can be duly demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and that the objectives of the legislation can be achieved only by restricting competition.

The Hairdressers Bill reflects the conclusions of a completed National Competition Policy legislation review. The bill aims to remove the current licensing system for hairdressers and to permit training providers other than the New South Wales TAFE Commission to conduct hairdressing courses in this State. The bill will prohibit unqualified persons from acting as hairdressers for fee, gain or reward by statement of the required qualifications for professional practice. So that honourable members may have a clear understanding of the bill's reform purposes, it is necessary that I outline the current background of this State's hairdressing industry.

The hairdressing industry consists of a large and transient workforce. Approximately 15,000 persons are engaged in New South Wales hairdressing salons, with workers moving from salon to salon and across State and Territory boundaries. It is a geographically diverse industry with heavy concentrations in metropolitan areas, regional centres and small country towns. Approximately 99 per cent of hairdressing businesses in New South Wales—being between 4,300 and 5,000 establishments—are classified as small businesses, with approximately 80 per cent employing less than five people. Although it is the administrative responsibility of the Office of Industrial Relations of the Department of Commerce to issue hairdressing licences, it is the function of the Vocational Training Tribunal, as established by the Apprenticeship and Traineeship Act 2001 and administered by the Department of Education and Training, to assess trade skills, issue trade certificates as formal recognition of such skills, and determine whether a hairdresser trade licence test is required for any licence applicant.

In effect, the Department of Commerce issues a hairdresser's licence on the basis of a trade qualification recognition assessed and determined outside that department. If a licence applicant's case is referred by the Department of Commerce—having charged a $75 licence application fee—to the Vocational Training Tribunal for trade recognition purposes, the person is required to pay a fee of $125 to the tribunal for its consideration of the individual's qualifications or experience. If the tribunal's assessment is such that the applicant should undergo a trade test, the completion of that TAFE trade test will entail the further payment of $250 to TAFE. So, a person wishing to lawfully perform hairdressing services in New South Wales may presently be financially penalised at several administrative layers when seeking to have his or her qualifications or experience assessed for licence purposes.

An issued hairdresser's licence does not require periodic renewal. It cannot be a guarantee of service quality over time. Certainly, there is no historical register maintained by the Office of Industrial Relations relating to all licences issued since 1950 and, in any event, such a document would always be an inaccurate representation of New South Wales practitioners in that it would not be reflective of deaths, incapacities or re-locations.

Hairdressing is a recognised trade vocation within the meaning of the Apprenticeship and Traineeship Act, and a vocational training order under that Act is in force in respect of a hairdressing apprenticeship. The hairdressing order directs that training shall be given for a nominal period of four years for a Certificate III outcome or until achievement of the specified competencies. A junior, that is, a person under 21 years of age, is prohibited from being employed in a recognised trade vocation unless he or she is an apprentice or is a qualified tradesperson recognised by the Vocational Training Tribunal.

In Victoria, Queensland, Tasmania, the Australian Capital Territory and the Northern Territory no statutory limitations are placed on a person practising as a hairdresser in terms of the possession of requisite training and qualifications. Rather, the concern in these jurisdictions is restricted to the occupational health and safety practices of hairdressers and the hygiene standards of their premises. Western Australia is currently reviewing its system of hairdresser title registration based upon required training and examinations; whilst South Australia's negative licensing scheme has been maintained after completion of a national competition policy review, but competency standards have been made more flexible and the broadness of the definition of "hairdressing" has been amended to allow certain hair functions—notably, washing and massaging—to be performed without restriction.

Section 111 (b) of the Shops and Industries Act confers a training monopoly on the New South Wales TAFE Commission and so prohibits private institutional training providers from training hairdressers in this State. New graduates from private hairdressing colleges in other States and Territories are considered not to be immediately eligible for a New South Wales hairdressers licence because they are adjudged by the Vocational Training Tribunal to lack sufficient on-the-job trade experience, as compared to four-year indentured apprentices. Thus, these interstate private college graduates, be they under or over the age of 21, must undertake a shortened apprenticeship with an employer in New South Wales or otherwise convince the Vocational Training Tribunal of their experience if they ultimately are to be issued with a hairdressers licence.

In August 2000 the National Training Quality Council, representing the Australian National Training Authority, endorsed the Hairdressing Training Package, as developed and reviewed every three years by a representative industry training advisory board. The Hairdressing Training Package addresses the training and career pathway needs of this industry and links the National Hairdressing Industry Competency Standards through assessment processes to qualifications. The outcome is a nationally recognised and consistent basis for trade qualification in the hairdressing industry, being a description of the skills and knowledge needed to perform effectively in the workplace. As recognised in the hairdressing vocational training order relevant to the apprenticeship pathway into the industry, Certificate III in Hairdressing is the nationally accepted standard trade qualification for the industry. Certificate III is structured to enable employees to work flexibly in a range of hairdressing applications.

Through the Australian Quality Training Framework, as agreed to by all Australian jurisdictions in 1997, all registered vocational training providers, including TAFE colleges, community and private commercial training providers under the framework, base their hairdressing industry training and assessment on the Hairdressing Training Package. Being so based, the hairdressing courses offered by New South Wales TAFE and recognised private training providers throughout Australia all lead to a Certificate III outcome. This inter-governmental policy commitment to greater diversification in the training market is retarded by the operation of the section 111 TAFE monopoly provision and the New South Wales hairdressing licence qualification requirements. Bearing in mind that explanation of the industry's regulatory background, the conclusions of the National Competition Policy Hairdressing Review can be succinctly stated in the following terms:

There is sufficient justification for the retention of regulation at the point of entry to the hairdressing services market (based on ensuring competency in the provision of a hairdressing service and meeting possible public health concerns involving skin infection and chemical application hairdressing procedures).

However, there is no continuing justification for the retention of a licensing form of regulation administered by the Office of Industrial Relations, being a scheme which essentially is reliant on the Department of Education and Training's prior assessment of hairdressing skills, qualifications and experience.

The justified and future appropriate form of regulation at the point of market entry is based upon the existence of the national Hairdressing Training Package, which also addresses safety issues, and the functioning of the Vocational Training Tribunal. At present there is no policy justification for the continued existence of the New South Wales TAFE monopoly in the hairdressing training provider market, and private hairdressing training colleges should be lawfully permitted to operate in New South Wales in accordance with an Australiawide governmental commitment to the diversified delivery of vocational training.

I turn now to the provisions of the bill. Clause 3 prohibits an unqualified individual from professionally acting as a hairdresser. Clause 4 importantly then states that a qualified individual is required to have attained a Certificate III in Hairdressing, as recognised in the National Hairdressing Training Package developed by the industry parties and endorsed nationally. A former licence holder is taken to be qualified, as are also hairdressers from interstate or overseas who have their qualifications recognised by the Vocational Training Tribunal. Honourable members will note that clause 5 preserves the current statutory safeguards in ensuring that the prohibition on unqualified individuals acting as hairdressers does not extend to apprentices and health care professionals. Moreover, clause 6 essentially recognises the primacy of section 25 of the Apprenticeship and Traineeship Act 2000 in that the accepted apprenticeship pathway of persons under 21 years of age into the hairdressing trade is safeguarded.

Clause 10 and schedule 1 provide for the repeal of the current industry regulatory provisions of part 6 of the Shops and Industries Act. Apart from the removal of the licensing provisions, this will have the added major effect of abolishing the New South Wales TAFE Commission's monopoly on off-the-job hairdressing training in this State. The remaining provisions of the bill are of a supportive nature and include necessary inspectorial and prosecution powers. The bill accords with the national competition policy review conclusion that the terms "hairdresser" or "hairdressing" should not be defined, as at present, by a listing of work examples. To so provide a broad hairdressing definition would create a

degree of inflexibility in a profession which reacts over time to fashion trends. Moreover, such a drafting technique would serve to create barriers to entry in the conduct of certain hairdressing practices for which there is no public benefit case for having a particular entry qualification, for example, the washing of hair or simple hair trims or cuts.

The creation of less-skilled employment categories and the promotion of competitive innovation would also be hindered by the adoption of an instanced or expansive definition. Certainly the review concluded that the tying of industry entry or practice to the attainment of the qualifications and competencies referred to in the Hairdressing Vocational Training Order, which itself is absent of a practical definition, will suffice. The current bill reflects that view. I particularly emphasise that the industry-developed and nationally recognised training package for the hairdressing industry addresses competency standards and includes reference to public health matters. An individual's attainment of a Certificate III outcome under that package is full and satisfactory evidence to the public that that qualified person is eminently suitable to professionally render hairdressing services.

Further, I point out that the provision of beauty treatment services is a recognised trade vocation and services a market separate from hairdressing and is thereby properly excluded from continuing regulation in relation to the supply of beauty therapy on hairdressing premises. It is definitely the case that specialist beauty therapy establishments have developed since 1950. Their prevalence and use defies any attempted restriction of such services to hairdressing salons. I assure honourable members and hairdressing industry participants that the Government recognises that these reforms will have an incidental impact on the coverage of workers under the Hairdressers (State) Award. Accordingly, the intended Act—insofar as it relates to the abolition of the present licensing system—will not be commenced until industry parties have had time to apply to the New South Wales Industrial Relations Commission for appropriate award adjustment.

The hairdressing industry reforms contained within this bill are timely, realistic, equitable and properly protective of hairdressing customers and public health concerns. Indeed, I remind honourable members that the reforms stem from the application of a standardised cost-benefit analysis of the current regulatory system under agreed national competition policy principles. Moreover, the reforms reflect the hairdressing training competencies developed by the industry parties themselves. I commend the bill to the House.

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