Speech by

Hon. HENRY PALASZCZUK

MEMBER FOR INALA

Hansard 25 May 1999

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL

Hon. H. PALASZCZUK (Inala—ALP) (Minister for Primary Industries) (3.24 p.m.): I move—

"That the Bill be now read a second time."

The objective of this Bill is to amend a number of primary industry statutes, and more specifically to—

(a) remove spent or dormant legislative provisions;

(b) implement the agreed outcomes of a number of legislative reviews;

(c) implement an agreed national docketing and monitoring arrangement in the fishing industry;

(d) retrospectively validate certain arrangements in place under a fruit industry levy regulation;

(e) overcome deficiencies and clarify the process of appeals to the Meat Industry Tribunal;

(f) allow greater flexibility in the internal structure of the statutory producer representative bodies in the cane and fruit and vegetable industries;

(g) correct a minor error in an Act; and

(h) first amend, and then provide for a two-stage repeal of the City of Brisbane Market Act 1960 as a consequence of the corporatisation of the Brisbane Market Authority.

In all, this Bill amends eight pieces of legislation within the Primary Industries portfolio, and I will deal with each of these in turn in the order in which they appear in the Bill.

Agricultural Standards Act 1994.

Amendments to this Act last year included a new section 14A which dealt with "false or misleading representations about stock". However, certain superfluous words were inadvertently inserted into section 14A(1) and it is proposed to delete them.

Chicken Meat Industry Committee Act 1976

Agreement has been reached with representatives of the two industry sectors, namely growers and processors, in regard to an acceptable outcome of a recent review of the Act for the purposes of the National Competition Policy—NCP. Essentially, this involves the retention of a legislative arrangement, central to which is the ability of growers to undertake negotiations directly, both collectively and independently, with individual processors, and to be able to negotiate actual contract conditions based on content guidelines provided by the Chicken Meat Industry Committee. There will also be a clear dispute resolution process.

In the absence of an exemption, conduct under the Act by the committee and by growers and processors may contravene some aspects of the Commonwealth's Trade Practices Act 1974, or TPA. Exemption from the provisions of the TPA is currently granted, on a temporary basis, by a regulation that expires on 30 June 1999. An explicit TPA exemption that authorises the conduct in question is to now be inserted into the Chicken Meat Industry Committee Act to provide continued exemption from the provisions of the TPA.

A further amendment, requested by both grower and processor representatives on the committee, changes the role of the chairperson of the committee. The chairperson is no longer to have a voting role on matters to be decided by the committee but will have an enhanced role in reporting to the Minister on the operations of the committee, together with a role in administering the new dispute resolution provisions.

City of Brisbane Market Act 1960, or the market Act

This statute is to be amended in the first instance and later repealed to facilitate the corporatisation of the Brisbane Market Authority, or BMA. As agreed by the Queensland Government in October 1998, the authority is to be corporatised as a Government owned corporation, or GOC, under the provisions of the Government Owned Corporations Act 1993, or the GOC Act. This will occur on, or soon after, 1 July 1999 when the BMA will be renamed as the Brisbane Market Corporation—BMC.

The BMC is to be a "company GOC", under the GOC Act as the necessary processes and procedures for incorporation are currently available. To facilitate this, the market Act is to be repealed in order to avoid duplication or inconsistency with the GOC Act. For technical reasons, this will be done in two stages. However, an amendment to the Act is first necessary to allow some of the by-laws of the BMA which deal with the orderly conduct of the market to be written into the lease arrangements between the BMC and its wholesaler-tenants.

Fisheries Act 1994

The principal amendments proposed for this Act are to implement Queensland participation in agreed national fisheries management and interstate marketing arrangements so as to provide more effective enforcement of fish selling provisions, and to make certain other minor amendments to the Act.

Prior to the development of a national docketing system, there were different docket keeping requirements applying to the handlers of seafood in each State/Territory and at the Commonwealth level. All States, with the exception of Western Australia and Queensland, now have the necessary legislation in place to enable the NDS to work. A considerable volume of illegally taken abalone from interstate is believed to be processed and sold in Queensland, but there is currently little which can be done because the product is illegally taken elsewhere and there is no method of auditing product through the distribution chain. The current absence of an NDS requirement in this State makes a coordinated enforcement thrust virtually impossible.

To facilitate time management of the House, I seek leave to table the rest of my speech and have it incorporated in Hansard.

Leave granted.

The core requirement for the NDS is that all jurisdictions have compatible measures. More specifically, the NDS will:

(a) provide for validating documentation of fish and fish products in the hands of all handlers of seafood product within Australia;

(b) make the recording of all commercial transactions involving fish and fish products mandatory;

(c) provide legal access for fisheries officers to normal commercial business records generated by businesses who deal in fish and fish products; and

(d) accept source documentation from any jurisdiction.

NDS requirements for the majority of fish species are already accommodated by existing Queensland fisheries. However, to extend NDS coverage to certain high risk species, amendments to the Fisheries Act are required.

The high risk species which are those that are:

(a) of high commercial value and high conservation status; and

(b) significantly at risk through illegal harvesting that is likely to result in either stock depletion or the undermining of legitimate markets or fishing rights.

At the present time, abalone is the only fish species agreed by all States and the Commonwealth to be in the high risk category and therefore the amendments now being proposed only deal with abalone. Specifically, they extend the current docket keeping requirements in the Act to wholesale sellers, buyers and processors of abalone, regardless of its origin.

Additionally, the amendments create an offence where a person unlawfully possesses fish in Queensland knowing the fish have been taken in contravention of fisheries legislation of another State. The documentation will provide the means of tracing the abalone to its source to determine whether it has been lawfully taken.

To enable effective monitoring and enforcement of these NDS provisions the amendments also provide for inspectors to obtain what is termed a "monitoring warrant" from a Magistrate to gain access to places other than dwelling houses for a period of up to two months to monitor compliance with the Act.

A number of safeguards will apply to ensure sufficient control over the issue and content of the warrant. The Magistrate will have discretion to place conditions on the powers to be exercised under the warrant and to impose other restrictions on the use of the warrant.

Finally, it is also proposed to amend the Fisheries Act to provide better protection for mangroves and other marine plants and to increase penalties in this area.

Fruit Marketing Organisation Act 1923 (the "FMO Act"). It is proposed to make a number of amendments to this statute. Most notably, the dormant and unused marketing provisions in the Act are to be repealed.

Of the other proposed amendments, the most important is to allow greater flexibility in regard to the internal structural arrangements of Queensland Fruit and Vegetable Growers' (QFVG), the recognised producer representative body for the horticulture industry which is constituted under the FMO Act. All of these amendments are supported by QFVG.

At present, the Act has to be amended every time there is a change in QFVGs internal structure of commodity-based sectional group committees (SGCs). The proposed amendment will allow new SGCs to be elected in future following the making of a regulation.

A raft of other amendments are proposed, the most notable being to:

(a) change the short and long titles of the Act to better reflect its current purpose of dealing with representative rather than marketing functions;

(b) remove various spent or unused provisions;

(c) formally change the statutory name of the organisation to "Queensland Fruit and Vegetable Growers" (currently only the registered business name of the old" Committee of Direction of Fruit Marketing"); and

(d) allow greater flexibility in the incorporation of local producer associations (the "base" tier of the QFVG organisation).

It is also necessary to retrospectively validate certain actions done in accordance with the Fruit Marketing (Committee of Direction Levies) Amendment Regulation 1998 (the "Levy Regulation") which have now been found to be deficient due to some inadvertent errors in the Regulation.

At the request of industry, levy collections commenced last year for some additional fruits and these are now being collected on a daily basis. It now appears that, because of administrative error, these fruits were not properly declared in accordance with the procedure laid down in the FMO Act.

Furthermore, levies are currently being collected for several other fruits which were in fact properly declared under the Act many years ago, but where the declarations have been found to have lapsed on 30 June 1998.

Legal advice is that a retrospective declaration of the subject fruits from 1 July 1998 is necessary to correct these deficiencies.

Grain Industry (Restructuring) Act 1991. Agreement has also been reached with the grain industry organisations in regard to certain amendments to this statute to implement the agreed outcome of an NCP review of the powers of Grainco Ltd, notably its powers of vesting (or compulsory acquisition) in respect of certain grains.

On the one hand, this involves the partial deregulation of the grains industry so that all domestic trading of grain in Queensland is freed from regulatory control. This has wide industry support and reflects the commercial maturity developing in this important industry as it moves further away from the old marketing board mentality.

However, as strongly advocated by Grainco and the Queensland Graingrowers' Association, the statutory "single desk selling" of export barley will be extended from the current "sunset" date of 30 June 1999 for a further 3 years until 30 June 2002.

This will ensure that all barley for export sale will continue to vest in Grainco until we see what happens in the other States in regard to export barley marketing arrangements. I intend to closely monitor this situation, but I am convinced that, for the moment at least, the current arrangements are justifiable.

Furthermore, State-based regulation of export wheat is to be preserved as inactive legislation subject to the outcome of the forthcoming review of the Commonwealth's Wheat Marketing Act 1989.

Let me stress Mr Speaker, that with both wheat and barley, we will not be "throwing the baby out with the bath water" in the sense of removing sensible regulation, which confers a net benefit on the State, for the sake of economic rationalism.

A number of amendments are being made to the statutory accountability provisions of the Grain Act following a review of the current requirements.

Essentially, these will retain the application to Grainco of some statutes, such as the Criminal Justice Act 1992, but these will be limited to the exercise of Grainco's residual statutory powers.

In addition, the amendments will terminate the application of the Financial Administration and Audit Act 1977 to Grainco because, as a properly incorporated company, it is already subject to the full audit and reporting arrangements of the Corporations Law.

Meat Industry Act 1993. Amendments will be made that clarify the appeal process for appeals made to the Meat Industry Tribunal. As a result of the amendments it will be clear that the Tribunal will be empowered to

charge fees for an appeal made to it. This will bring it into line with the arrangements for other primary industry tribunals.

At this point Mr Speaker, I should flag that additional amendments to this Act may be required later in 1999 depending on Government's consideration of the Report of the Review Team currently involved with a comprehensive review of the Act.

Primary Producers' Organisation and Marketing Act 1926. Currently this Act provides for two types of statutory producer body, namely commodity marketing boards and producer representative organisations. There are no longer any marketing boards in existence, the last having converted into a co-operative in 1996.

The last time a marketing board was set up was back in 1971 and I consider it unlikely that another one would ever be constituted in the future, at least not in the way and in the form envisaged by this statute. Accordingly, repeal of all of the unused marketing provisions is proposed.

It is also proposed to make certain amendments to the provisions of the Act relevant to the operation of Canegrowers, the producer representative body in the sugar industry.

These amendments have arisen in the context of a review of the Regulation relating to the internal organisational arrangements of the 3 tier structure comprising the Queensland Cane Growers' Council, district cane growers' executives and mill suppliers' committees.

The principal amendments, all of which have the support of Canegrowers', will facilitate a rewrite of the Regulation, and will:

(a) allow a broader category of authorised representatives to be nominated for election by corporate growers;

(b) amend the definition of "grower" to allow a regulation to be made to define the canegrowers who can vote at elections for each of the tier bodies;

(c) allow the Council to appoint persons to any of the tier bodies where insufficient nominations have been received to require an election; and

(d) allow a district canegrower executive to be elected by the region's mill supplier committees rather than directly by growers, where this is in accord with the wishes of the growers.

Mr Speaker, all of the amendments I have outlined in this Speech have the wide support of the respective producer organisations and the statutory agencies that are affected by the amendments in question. In my view, it is more sensible to deal with them all in one Bill, rather than to take up the valuable time of this House with 8 separate Bills.

I commend the Bill to the House.