



Speech by

Hon. HENRY PALASZCZUK

MEMBER FOR INALA

Hansard 27 November 2001

AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) AMENDMENT BILL

Hon. H. PALASZCZUK (Inala—ALP) (Minister for Primary Industries and Rural Communities) (12.57 p.m.): I move—

That the bill be now read a second time.

The Agricultural and Veterinary Chemicals (Queensland) Amendment Bill 2001 will ensure the basis of the conferral of functions and powers on Commonwealth authorities and officers as part of the national registration scheme for agricultural and veterinary chemicals is not put at risk due to a recent High Court decision in *Queen v. Hughes*. I seek leave to incorporate the rest of my speech in *Hansard*.

Leave granted.

The National Registration Authority for Registration of Agricultural and Veterinary Chemicals, (known as the NRA) in an inter-governmental legislative scheme with the States and Territories operates a uniform national system for evaluation, registration and regulation of agricultural and veterinary chemicals known as the National Registration Scheme. In Queensland, the Agricultural and Veterinary Chemicals (Queensland) Act 1994 adopts the Schedule to the Agricultural and Veterinary Chemicals Code Act 1994 (Cth) as the Agvet Code of Queensland. Other States and Territories adopt the Agvet Code in a similar manner.

The National Registration Scheme provides for the NRA to control agricultural and veterinary chemicals up to and including the point of sale. To ensure the Agvet Code operates uniformly throughout Australia the adopting legislation of each jurisdiction provides that certain Commonwealth administrative laws and prosecution arrangements apply to the National Registration Scheme.

The decision in the *Hughes* case casts doubt on the ability of Commonwealth authorities and officers to exercise powers and perform functions conferred by State legislation in situations where there is no clear Commonwealth head of power. The decision impacts on the National Registration Scheme by casting doubt on the exercise of power by the NRA, the Commonwealth Director of Public Prosecutions, the Commonwealth Administrative Appeals Tribunal and Commonwealth inspectors and analysts.

The Bill will amend the Agricultural and Veterinary Chemicals (Queensland) Act 1994 making the necessary changes to place the National Registration Scheme on a more secure constitutional footing and close certain gaps in the conferral of duties, function and powers on Commonwealth authorities and officers. The Bill also validates past actions of inspectors and analysts to address gaps in the legislative scheme arising independently of the *Hughes* decision.

The Bill complements the proposed Co-operative Schemes (Administrative Actions) Bill 2001 proposed by the Attorney-General that is also before the Parliament. This other Bill will validate past acts of Commonwealth authorities and officers that were not linked to a Commonwealth head of power under the Commonwealth Constitution. It will also place the National Registration Scheme on a more secure constitutional footing by ensuring that no duty, function or power conferred on a Commonwealth authority or officer is beyond the legislative power of the State.

The Bill is also supported by the Agricultural and Veterinary Chemicals Legislation Amendment Act 2001 (Cth) which was assented to on 11 July 2001. That Act clarified the powers, functions and duties of Commonwealth authorities and officers within the National Registration Scheme and also addressed gaps in the legislative scheme, which arose independently of the *Hughes* decision.

The Agricultural and Veterinary Chemicals (Queensland) Amendment Bill 2001 is required to prevent the threat of legal challenge to actions and decisions by Commonwealth authorities and officers operating under the National Registration Scheme. The Bill signifies the governments continued commitment to an effective uniform national registration system for agricultural and veterinary chemicals.

I commend the Bill to the house.
