



Speech by

Hon. HENRY PALASZCZUK

MEMBER FOR INALA

Hansard 3 December 2002

AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL

Hon. H. PALASZCZUK (Inala—ALP) (Minister for Primary Industries and Rural Communities) (8.38 p.m.), in reply: In reference to this bill, I thank all honourable members for their contributions. However, I will now deal with the specific issues that have been embraced by members. First, I would like to put this bill in the context of the Queensland government's efforts in relation to the use of agricultural and veterinary chemicals. The government, through the Department of Primary Industries, has been committed to supporting the appropriate use of chemicals and the development of non-chemical pest solutions. The department's Agency for Food and Fibre Sciences is regarded as a leader in integrated pest management. Not only does integrated pest management reduce the use of chemicals and enhance our reputation for producing clean and safe food, it also reduces the costs for our primary producers.

The DPI's research work into integrated pest management is largely focused on field crops and horticulture but has also led to chemical reduction in the livestock and forestry industries. The Queensland farming sector has embraced this research. May I say that I have been with some scientists from South Korea with whom I have had a pretty good dinner and we have certainly discussed issues of mutual importance to both South Korea and Queensland. I can announce to the House that we will be exchanging ideas and we will also be exchanging scientists between both countries to further foster some of our very important bilateral relations that we have with South Korea.

I can also report that the number of Queensland producers involved in IPM is increasing each year, and the use of chemicals is certainly reducing. Last financial year, 2000-01, there were 6,000 producers using sustainable methods as a direct result of the Agency for Food and Fibre Sciences. The target for this financial year is up 1,200 producers, and in the first quarter alone there were 1,900 producers involved, so we are well on target to having 7,200 producers involved this financial year.

In the current state budget \$7.4 million has been allocated for DPI research and education to promote smart chemical use that enhances product quality, reduces production costs and also protects the environment. Some of the technologies that the agency is researching as part of integrated pest management for Queensland's food and fibre industries include biopesticides, beneficial insects and natural parasites, exclusion netting, trap crops and pest and disease resistant varieties. The government and industry have shown a strong commitment to responsible chemical use. This bill, I believe, strengthens the requirements on chemical use and I believe it is an important part of our commitment to a sustainable food and fibre sector and also the environment.

Perhaps I could touch on the various issues that have been raised by members. I have tried to ensure that issues raised by the opposition are dealt with. The opposition spokesperson spoke about maximum penalties and promotion of this by overzealous inspectors. Could I inform the House that the proposed penalties reflect the seriousness of the offences. Penalties need to be set at levels that will have a significant deterrent effect because of the potentially high risks to Australia's trade—not only the trade but also the environment and the health and safety of human beings from the misuse of chemicals. Government and industry actively promote responsible chemical use. However, despite this some individuals are still prepared to misuse chemicals.

Existing penalties for breaching the legislation are often significantly less than the potential reward to the individual of engaging in the misuse of chemicals. Breaches of the current and proposed provisions under the act have the potential to result in loss of markets not only to Queensland but also to Australia. Queensland must be in a position to demonstrate to its trading partners that effective chemical controls over the use of agricultural and veterinary chemicals exists.

More than half of the offences under the act attract a maximum penalty of 300 penalty units or less. For more serious offences, a maximum penalty of 600 penalty units applies. Examples relate to, firstly, the use of unregistered chemical products without authorisation and, secondly, failing to observe a withholding period following the treatment of a trade species animal. The highest maximum penalty imposed is 800 penalty units, and that applies only to the three most serious offences. For example, the possession and/or use of a prescribed chemical without permission attracts this high penalty because the detection of these chemicals in animals or animal products would be devastating to our reputation. Organochlorines, such as DDT, are prescribed chemicals and have been banned for use since the mid-1990s.

In the administration of the legislation the department takes a staged approach to the enforcement of the regulatory requirements. Animal and Plant Health Service inspectors are required to administer the legislation in accordance with a regulated and supervised framework when enforcing any of the legislation administered by the department. Enforcement activities are normally in accordance with planned and targeted high-risk activities or offences. The primary response in low-risk situations is education and also persuasion. However, when misuse of chemicals has the potential to cause residual violations, placing at risk Queensland's reputation for safe and ethically produced food and fibre products, it is necessary for inspectors to initiate a regulatory response which could result in prosecution of the offender.

The second issue that has been raised by the honourable member for Hinchinbrook is the full rewrite of legislation, which is a review of all veterinary chemical use legislation. The government is committed to a review of all veterinary chemical use legislation, and that is being progressed in two stages. We are currently in the first stage of implementing the agreed reforms to meet NCP requirements. Could I say that this piece of legislation is based on our government's response to national competition policy concerns. In relation to the full review of the legislation, we are strongly committed to progressing it as quickly as possible. The Department of Primary Industries is conducting a review of all agricultural and veterinary chemicals control of use legislation within its portfolio. This review is expected to result in integration of all control of use issues into one single piece of legislation.

The third issue that was raised by the honourable member for Hinchinbrook is practical examples of how notices relating to faulty and defective equipment apply to aerial contractors. Seventy-five per cent of aerial contractors are members of the Aerial Agriculture Association of Australia—the 4As. An initiative of the 4As is Operation Spray Safe that recognises the need for continuous improvement and professionalism in the application of agricultural chemicals by aircraft. Operation Spray Safe, as the code of practice for the industry, has been responsible for the promotion of a positive and responsible image for this industry.

However, accidents do occur and some irresponsible operators do not always comply with industry guidelines in maintaining application equipment. These people will be dealt with. For example, operators have continued to operate with cut-off valves malfunctioning or individual nozzles working ineffectively. A malfunction with a cut-off valve can result in the discharge of the chemical on non-target areas, including residential premises. Ineffective distribution of the chemical may result in failure of the chemical treatment controlling the pest or disease. It is important that inspectors are empowered to take action to ensure that operators take action to rectify these problems.

The fourth issue that was raised by the honourable member for Hinchinbrook related to endosulfan and licensing. Use of the pesticide endosulfan has been of concern to the primary industry sector for a number of years. Reviews of this chemical by the NRA have concluded that it is essential that users of this product must have a high level of skill to ensure that adequate precautions are taken to minimise the risks of spray drift and potential contamination of fodder crops. The National Registration Authority for agricultural chemicals—which of course we all know as the NRA—determined that persons using endosulfan would be required to hold either a spray operator licence or a valid farm care chemical user certificate.

In Queensland this means that a person holding a commercial operator's licence or a pilot chemical rating licence under the ACDC Act can use endosulfan. Alternatively, the holder of a ChemCert accreditation is also able to use endosulfan. There is already scope within the ACDC Act for an accreditation to be accepted as an alternative qualification for a licence in lieu of the existing examination. For example, the ACDC control board is in the process of approving the holding of spray safe agricultural pilot accreditation as an alternative qualification for a pilot chemical rating licence. It is likely that chemical user accreditations based on endorsed national competency—

Honourable members interjected.

Mr PALASZCZUK: I beg your pardon?

Honourable members interjected.

Mr PALASZCZUK: What are members talking about? It is likely that chemical user accreditations based on endorsed national competency standards will be approved as an alternative qualification to the examination for the chemical operator's licence. That word certainly rolls off the tongue very easily.

Mr Rowell: They're having a shot at you, Henry.

Mr PALASZCZUK: No, they are not. At least they are listening. That is the main point. Another minor issue is the removal of approval of aerial and ground equipment. This requirement to approve individual equipment for the distribution of agricultural chemicals has been removed. However, operators have an obligation to ensure that equipment used is not expected to cause damage and inspectors are able to give directions preventing the continued use of faulty or defective equipment.

The fifth issue the honourable member raised is use of unregistered chemical products by veterinary surgeons and clarification on who issues the permit. The NRA is responsible for the approval and registration of agricultural and veterinary chemical products. The NRA also bears responsibility for the issue of permits to enable the use of unregistered chemical products. The state chemical use legislation only regulates the use of chemical products. Veterinary surgeons are not permitted to use, prescribe, supply or recommend any unregistered veterinary chemical for use to treat an animal unless authorised by a permit obtained by the NRA or prescribed under a regulation. These controls are required as unregistered products have not been subjected to the rigorous evaluation required by the NRA. As part of the process of registration, the NRA evaluates the effectiveness and safety of a product and then ensures that approved labels contain adequate instructions about the use of a product. Before the NRA issues permits, there is an evaluation of the proposed use to ensure that adequate use instructions are established under the conditions of the permit. However, veterinary surgeons may still treat a single trade species animal and animals other than trade species with unregistered veterinary chemicals without the need to obtain an NRA permit.

The sixth issue raised by the honourable member is why there is a two-year record-keeping requirement for veterinary surgeons. Veterinary surgeons will only be required to keep records only when they treat trade species animals and when they use any of the following types of chemicals: registered veterinary chemical products used contrary to label instructions; prescription animal remedies—that is, chemicals scheduled as S4 poisons; unregistered veterinary chemical products; or products they make up themselves which of course are compounded veterinary chemical products. All of the controls over veterinary surgeons that are being introduced are drawn from the recommended control principles governing the use of veterinary chemicals which were developed in line with NCP review recommendations.

All states and territories agreed via the then Standing Committee on Agriculture and Resource Management in 1999 to implement those control principles in order to harmonise the controls over veterinary surgeons across Australia. Veterinary surgeons are required to keep records for two years due to the higher risks posed by the use of the types of products mentioned earlier. Maintaining adequate records of treatment is necessary to enable the trace back and investigation of problems that may occur relating to unacceptable residues in food and fibre products. Our international trading partners, in particular the European Union, insist that effective record-keeping and trace-back systems are maintained under export protocols applicable to Australia. The record-keeping requirements do not apply to the treatment of non-trade species animals.

The seventh issue raised by the honourable member for Hinchinbrook is what is the impact of revised licensing procedures when new legislation is enacted. The amendments to the licensing requirements provided for in this bill ensure the uniformity of licensing provisions for the use of agricultural chemicals by commercial applicators and businesses with other states and territories. These changes are in accordance with the reforms recommended by the NCP review. Consequently, when the provisions of the ACDC Act and the chemical usage act are integrated into a single chemical control of use legislative instrument, the core licensing provisions will continue to reflect the agreed national principles. Therefore, there should be absolutely no negative impact on existing licence holders.

I now turn to the issues raised by the member for Toowoomba North, and of course he raised the issue of consultation with the Queensland Law Society and the Bar Association of Queensland. Key stakeholders were identified and consulted with during the development stage of cabinet submissions. Where there are issues that may impact on an individual's legal rights, the Department of Justice and Attorney-General would be consulted as it is the lead agency responsible for these issues. Where the Queensland Law Society and Bar Association of Queensland are identified as stakeholders, then these agencies would also continue to be consulted. During the drafting stage of the bill, departments also consider any advice provided by the Office of Parliamentary Counsel in relation to matters that may impact on an individual's legal rights and fundamental legal principles generally. Consultation with the Queensland Law Society and Bar Association of Queensland is not required on drafting issues.

Another issue raised by the honourable member for Toowoomba North related to why schools were consulted, and that is a relevant issue. Schools were consulted because they are considered important stakeholders and there are a large number of educational institutions throughout the state. School ground staff who are responsible for ground maintenance on ovals where children play may use herbicides as part of their job. Accordingly, these persons may be subject to the licensing requirements of the ACDC Act.

The honourable member for Keppel raised another issue—that is, in sections 16(1) and (2) what is meant by a 'reasonable excuse'? The only change to this section has been the increase in penalty units. The term 'reasonable excuse' is a commonly used and well accepted drafting term that gives the court discretion to deem a range of legitimate possible reasons to justify why an offence has occurred. What constitutes a reasonable excuse is not determined by the person who contravened the notice or the inspector, director-general or minister. It is really a matter for the court to determine objectively what is a reasonable excuse circumstance.

The honourable member for Tablelands asked an interesting question in her contribution—that is, why does Australia have higher standards of chemical control than other countries? Our economy is export oriented and Queensland is one of the biggest export earners within that economy. Accordingly, we must be able to demonstrate that our export food products are fit for consumer use and consumption. Likewise, this legislation gives our own domestic consumers protection and confidence in the safety of the food they eat and of course the fibres they use.

Australia's trading partners seek continued reassurance on the safe and ethical production of food and fibre commodities. The amendments to the legislation will demonstrate to our trading partners, particularly the European Union, that effective controls over the use of veterinary chemicals, particularly antibiotics, are in place to address concerns about residues in food and fibre producing animals. Maintaining records of treatment for trade species animals is an essential part of the traceability of animals and treatments administered to these animals. This enables effective audits to be undertaken of food and fibre production systems and gives Australian producers a competitive advantage in continued market access and the consumer demands in European and Asian markets.

Another issue raised by the honourable member for Tablelands was the increased administrative burden on vets and pharmacists. Veterinary surgeons and pharmacists are already required to keep substantial records in relation to veterinary chemicals prescribed or issued to clients. There is expected to be only a minimal increase in the administrative burden imposed on veterinary surgeons or pharmacists compared to existing legislative and professional obligations.

Finally, the honourable member for Nicklin asked about the safety of imported foods. From 1 July this year Food Standards Australia and New Zealand was established to develop new food standards that will apply to both domestic and imported foods equally. Queensland is therefore working actively with other states and the Commonwealth to enhance the food safety of both domestic and imported foods.

I recognise the valuable contribution of all other members to this debate. I thank them all for their participation. I do not have the time to go through the contributions of all honourable members, as I would like to have done. However, I appreciate the fact that the opposition is supporting the legislation. That is very, very good news. It is always good when one brings in legislation such as this on which there is bipartisan support.

Motion agreed to.
