




Speech By
Hon. Leeanne Enoch

MEMBER FOR ALGESTER

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GENE TECHNOLOGY (QUEENSLAND) BILL

Second Reading

 **Hon. LM ENOCH** (Algester—ALP) (Minister for Innovation, Science and the Digital Economy and Minister for Small Business) (3.00 pm): I move—

That the bill be now read a second time.

I would like to thank the Education, Tourism, Innovation and Small Business Committee for its careful consideration of the Gene Technology (Queensland) Bill 2016 and its report tabled on 27 September 2016 recommending this bill be passed without amendment. I also acknowledge the work done under the previous government on this issue. This bill will ensure consistency of regulation around gene technology activities. If enacted, it will provide certainty for Queensland state government agencies, higher education institutions and sole traders in relation to the regulation of gene technology activities. Gene technology is the term used for the development and use of genetically modified organisms, or GMOs. Gene technology allows researchers to modify an organism by directly inserting or removing one or more genes so that the organism gains, loses or changes a specific characteristic or set of characteristics. Examples of gene technology include incorporating resistance to pests and diseases in agricultural crops and modifying micro-organisms to produce therapeutic products such as insulin and vaccines.

Currently, gene technology is regulated through an integrated national legislative scheme under the intergovernmental Gene Technology Agreement 2001. The Commonwealth Gene Technology Regulator administers and enforces the regulatory scheme. Australia's gene technology regulatory scheme is recognised internationally for its rigorous, science based risk assessments and open and transparent approach. The scheme focuses on protecting the environment and the health and safety of people while still enabling the development, testing and commercial release of highly productive new crops and life-saving therapeutic products.

Both state and Commonwealth legislation are required for full regulatory coverage of gene technology. Corporations and federal bodies such as the CSIRO are regulated under Commonwealth legislation. State government agencies, higher education institutions and sole traders are regulated under state legislation. Under the intergovernmental Gene Technology Agreement 2001 Queensland has committed to keeping our legislation consistent with the Commonwealth legislation. Presently, Queensland's legislation, the Gene Technology Act 2001 and the Gene Technology Regulation 2002, operates as mirror legislation. In practice, this means that whenever the Commonwealth gene technology legislation is amended, Queensland's legislation must also be amended to ensure that all gene technology activities in Queensland are regulated consistently and that state government agencies, higher education institutions and sole traders are covered.

Queensland's legislation has been amended four times since 2007 to mirror the Commonwealth legislation. This manual amendment process is and can be cumbersome and, of course, can take time and effort. It also usually results in a period of misalignment between the Queensland and Commonwealth legislation which creates uncertainty and potential disadvantages for Queensland entities covered by state legislation. For example, when GMO risk assessments are updated and tightened to require more stringent safety procedures, Queensland researchers who continue operating under earlier unamended legislation may be put at unnecessary risk. Conversely, when regulatory requirements are reduced in response to knowledge and experience gained over long periods of safe use of a GMO, Queensland research programs and organisations that continue operating under unamended more stringent legislation may be disadvantaged and viewed as less appealing for investment.

The Gene Technology (Queensland) Bill 2016 establishes a lock-step opt-out approach for future amendment of Queensland gene technology legislation whereby the Commonwealth gene technology laws are automatically applied as laws of Queensland. To put it simply, the bill expedites the mirroring of Commonwealth amendments by having them applied in Queensland automatically without the need to bring forward a bill every time there is a change to the Commonwealth legislation. The lock-step component of the bill eradicates inconsistencies in gene technology regulation in relation to Queensland state government agencies, higher education institutions and sole traders by providing efficiency as any changes to Commonwealth legislation would be automatically adopted by Queensland at precisely the same time as those changes come into force at a national level. It would provide certainty that the level of regulatory oversight reflects the very latest risk assessments conducted by the Office of the Gene Technology Regulator and that Queensland state government agencies, higher education institutions and sole traders can ensure they have measures in place to comply with regulatory requirements. It will also provide consistency between the regulatory conditions applied to organisations based in Queensland irrespective of whether they are covered by Commonwealth or Queensland legislation and it would provide confidence to allow for planning and investment in genetics research and innovation in our state.

Through our Advance Queensland initiative, the Palaszczuk government is creating an environment in which researchers, innovators and entrepreneurs can attract key investment to take their ideas and turn them into viable commercial and social outcomes. The certainty this bill will provide will allow Queensland research institutions and companies working in the gene technology field to remain competitive both nationally and globally. The bill provides for a copy of any amendments to the Commonwealth legislation to be tabled in the Legislative Assembly within 10 sitting days of commencement to keep the Queensland parliament informed of changes to the gene technology legislation.

The bill applies the Commonwealth Acts Interpretation Act 1901 and Commonwealth criminal and administrative laws. To operate effectively as national scheme legislation, interpretation provisions need to be consistent with the Commonwealth. The application of Commonwealth criminal and administrative laws is a practical necessity of taking part in national scheme legislation to achieve uniformity. The bill also applies officer functions and powers under the Commonwealth gene technology laws in Queensland. The bill provides safeguards for Queensland's autonomy through a provision to opt out of particular amendments by regulation in instances where it is not in Queensland's interests to adopt Commonwealth amendments. It is expected that this opt-out provision would be used very, very rarely. This is mainly due to the fact that changes are made to the Commonwealth legislation only after detailed consultation with the states and territories. Any proposed change to the Commonwealth legislation must be approved by the Legislative and Governance Forum on Gene Technology, of which I am a member, by special majority. Changes are also placed before the Gene Technology Standing Committee prior to consideration by the forum. The Director-General of the Department of Science, Information Technology and Innovation is the Queensland representative on the standing committee.

Therefore, there is considerable opportunity for Queensland to raise issues and seek to resolve any matters of concern regarding proposed Commonwealth amendments prior to any legislative change coming into effect. The bill provides that any opt-out regulation be tabled, which would be subject to disallowance by the Legislative Assembly. Comprehensive transitional provisions have also been included to ensure a smooth changeover from the existing Queensland gene technology legislation to the new legislation. As part of its inquiry, the Education, Tourism, Innovation and Small Business Committee examined the application of fundamental legislative principles to the bill. In relation to the rights and liberties of individuals, clauses 8 to 12, 15 and 16 of the bill allow for the application of Commonwealth laws over state laws, which the committee considers to be appropriate.

In relation to national scheme legislation, the committee notes that the former Scrutiny of Legislation Committee considered the use of Henry VIII clauses is appropriate to facilitate the application of national scheme legislation, which is the approach of clause 7 of the bill. The committee considers that sufficient regard has been given to the institution of parliament in relation to clauses 7, 21 and 22 of the bill, which along with clause 6 provide for the application of a lock-step opt-out approach to gene technology legislation in Queensland.

As the bill will automatically adopt Commonwealth amendments, the bill will effectively introduce the latest Commonwealth amendments, which came into force on 11 March 2016. Those minor and technical amendments were recommended in the 2011 review of the Commonwealth Gene Technology Act 2000 and were agreed by all governments in 2013. Specifically, the amendments included: one, removing a restriction on licence variations to broaden the circumstances in which the Gene Technology Regulator can vary licences, rather than require new licence applications, giving greater flexibility to the Gene Technology Regulator and licence holders, but not at the risk of public health and safety; two, updating the matters the Gene Technology Regulator must consider before a GMO dealing can be declared a notifiable low-risk dealing in the Commonwealth Gene Technology Regulations 2001; three, discontinuing quarterly reporting to the Commonwealth minister on activities under the Commonwealth act, however, annual reporting will continue; four, clarifying activities allowed under an inadvertent dealings licence to ensure reasonable activities are explicitly authorised; five, changing newspaper advertising requirements for notifying the public of consultations on licence application assessments, giving greater flexibility for the Gene Technology Regulator to select publications that are most likely to reach people in the area where a release is proposed to occur; six, removing the requirement for the Gene Technology Regulator to include genetically modified products authorised by other agencies on the public record of GMO approvals, essentially removing duplicate information with the information held by the relevant agency; and seven, improving alignment with other Commonwealth legislation through minor administrative changes.

The Gene Technology (Queensland) Bill 2016 will improve clarity, consistency and certainty for Queensland state government agencies, higher education institutions and sole traders, which will allow them to operate and invest with confidence and to benefit, in a timely way, from the latest nationally developed risk assessments and regulatory improvements. It will also result in administrative efficiencies for the Queensland government and parliament, whilst providing safeguards for Queensland's autonomy. Queensland has been strongly supportive of the national scheme since its introduction to ensure gene technology takes place within a robust ethical and scientific regulatory framework that is focused on the protection of human health, safety and the environment. This bill is about ensuring that the arrangements regulating Queensland state government agencies, higher education institutions and sole traders align with the Commonwealth arrangements in the most efficient manner possible, ensuring that they are not disadvantaged compared to corporations and federal bodies operating under the Commonwealth gene technology legislation.

The McKinsey Global Institute has identified next-generation genomics as one of the 12 technologies with the greatest potential to drive economic change and disruption by 2015. Its report suggests that advances in genetic science, coupled with advanced computing, could have profound impacts on medicine, agriculture and the production of high-value substances such as biofuels. Needless to say, those are sectors that will be at the heart of Queensland's future prosperity and quality of life. If we want Queensland to grow exports and jobs and be an innovation leader in the Asia-Pacific region, we need an environment that provides certainty and enables investment. This bill provides the certainty needed by our researchers, businesses and potential investors. This is essential if we are to build on our potential as a research and development powerhouse and will be a significant boost in our journey to be a global hub for agriculture, life sciences and industrial biotechnology. I commend the bill to the House.