

BIOSECURITY AND AGRICULTURE MANAGEMENT BILL 2006

Committee

Resumed from 30 May. The Deputy Chairman of Committees (Hon Ken Travers) in the chair; Hon Kim Chance (Minister for Agriculture and Food) in charge of the bill.

Clause 98: Recovery of unpaid charge amount -

Progress was reported after Hon Kim Chance (Minister for Agriculture and Food) had moved the following amendment -

Page 76, after line 12 - To insert -

- (4) The Director General must not exercise a power of sale in relation to land referred to in this section unless the Director General is satisfied that other reasonable means of recovering the amount charged on the land have been exhausted.
- (5) The existence of a charge or registration of a memorial of a charge on land does not affect the Director General's discretion to proceed for recovery of the unpaid amount in proceedings unrelated to the charge.

Hon GIZ WATSON: At this point I indicate to the chamber that this amendment followed recommendation 23 of the Standing Committee on Legislation's report on the bill. I alert members to the comments that the committee made on clause 98, recovery of unpaid charge amount. Page 67 of the committee's report states -

This clause allows land (whether it is privately or publicly owned) which is charged with the cost of remedial action (known as the 'charge amount') undertaken by the Director General to be sold in order to recover the charge amount if it remains unpaid after the due date. The DAF advised the Committee that:

action by the Director General to force the sale of land to recover an unpaid charge amount would only be taken as a last resort. The Director General would only consider this course of action if the amount unpaid was substantial and all other avenues to recover it had been exhausted.

The committee then made the following comment -

The Committee supported the DAF's proposed approach to the exercise of the power of sale conferred by clause 98. The Committee was of the view that it was necessary for clause 98 to reflect this approach expressly.

This was a unanimous committee recommendation; therefore, the committee was happy that the government had accommodated it. I understand that this is the basis of the amendment that we are currently dealing with at 64/98. The Greens therefore will certainly support this amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 99 put and passed.

Clause 100: Release of land from charge -

Hon KIM CHANCE: I move -

Page 77, lines 4 and 5 - To delete "give a notice of release to the owner of the land to be lodged for registration under section 101" and insert instead -

lodge a withdrawal of memorial with the Registrar of Titles

When the charge amount of a registered charge is paid, the director general needs to give a notice of release to the owner that is to be lodged with the registrar of land titles. The amendment to clause 100 makes this clause consistent with standard Landgate terminology.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 101: Approved form of memorials and notices -

Hon KIM CHANCE: I move -

Page 77, after line 8 - To insert the following -

(1) In this Division -

“land document” means -

- (a) a notification or removal of notification lodged with the Registrar of Titles under Part 3 Division 1; or
- (b) a memorial or withdrawal of memorial lodged with the Registrar of Titles under Part 4 Division 6;

“register”, in relation to a land document, means -

- (a) endorse the particulars of the document on the certificate of title for the land to which the document relates; and
- (b) register or enter the particulars of the document in the Land Titles Register;

Page 77, line 9 - To delete “A memorial or notice lodged with the Registrar of Titles under this Act” and insert instead -

A land document

Page 77, lines 12 and 13 - To delete “memorials and notices lodged with the Registrar under this Act” and insert instead -

land documents

Page 77, line 15 - To delete “form” and insert instead -

land document

Page 77, line 17 - To delete “memorial or notice” and insert instead -

land document

A memorial or notice that is to be lodged with the registrar of titles has to be in a form that is approved by the registrar, who may seek further information from the director general. When a memorial is lodged for registration, the registrar must register it and there is no discretion involved.

Amendment 66/101 is the key amendment. Clause 101 deals with the registration of memorials and notices. It is strictly correct to say that a memorial is registered on the land titles register, whereas a notification is endorsed - that is, endorsed rather than registered - on the certificate of title. Rather than make this distinction in each place necessary, I am seeking the committee’s support for an amendment to define register of land documents in a new subclause (1). As a consequence of the first amendment, amendment 67/101 amends subclause (1), which will become subclause (2) to accord with the new terminology. Amendments 68/101, 69/101 and 70/101 are all the same; that is, they are amendments resulting from the change in terminology. The key issue is amendment 66/101, and the next four amendments are basically a reshuffling to take account of that change.

Hon BRUCE DONALDSON: For clarification, when a memorial or notice is registered with the registrar, is there any charge to the landowner to register it?

Hon Kim Chance: I am told not, but that is not a matter for this bill; that is a matter for the minister for lands to deal with.

Hon BRUCE DONALDSON: I just wondered. I will not go into it now; I will wait until we deal with clauses 102 and 103.

Hon KEN BASTON: Where will the memorial be registered? Will it go on the title or will it go into the shared land information platform?

Hon KIM CHANCE: It is a double-barrelled answer. A registration goes on the title. A notification goes on the certificate of title.

Amendments put and passed.

Hon KIM CHANCE: I move -

Page 77, lines 18 and 19 - To delete the lines and insert instead -

- (3) The Registrar of Titles may, on the lodging of a land document and payment of any relevant fee, register the document.

This amendment goes more to the issue raised by Hon Bruce Donaldson about the earlier part of this group of amendments. Clause 97(3) is amended as a consequence of an amendment to be made to clause 102 to remove the exemption from fees for registration of a land document. There is a reason for that and I believe that reason

is in our advice from Landgate. Individual fee exemption was provided in this and other legislation initially, but now, because all departments pay those fees in any case, the exemption is no longer needed. Those fees are picked up by the government department that has caused that entry to be made.

Hon MURRAY CRIDDLE: I presume that the fee covers the cost of any work that is done.

Hon KIM CHANCE: That is my understanding.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 102: Exemption from stamp duty and registration fees -

Hon KIM CHANCE: This is a very short pair of amendments, and I believe we can take them together. I move -

Page 77, line 21 - To delete "The registration of a memorial or notice under this Act" and insert instead -

A land document registered under section 101

Page 77, line 22 - To delete "and registration fees".

The clause provides that the registration of a memorial or notice is exempt from stamp duty and registration fees. That is because the government is not required to pay those government charges. Specifically, amendment 72/102 is a terminology change amendment, as we have just dealt with. With respect to amendment 73/102, clause 102 will be amended to remove the exemption from registration fees. As a result, the director general will be required to pay registration fees on documents lodged with the registrar of titles in the same manner that anyone else is required to pay. Landgate does not believe that there is any justification for an exemption that is not available to other government agencies, and it is difficult to argue against that. All government agencies pay those fees, and there is no justification seen for an exemption for the Director General of the Department of Agriculture and Food.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 103: Notice to mortgagees -

Hon KIM CHANCE: I move -

Page 77, line 24 - To delete "or notice in relation to land is registered" and insert instead -
is registered under section 101

When a memorial or a notice is registered, the director general is required to notify all mortgagees who hold registered mortgages. However, failure to do so does not invalidate the registration of that memorial. The amendment in 74/103 imposes a duty to notify mortgagees when a memorial or notice is registered on the land. It is amended by this amendment so that the reference to a notice is removed, as this term is not used with the changes made to the terminology of this part of the bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 104 to 107 put and passed.

Clause 108: Penalties for continuing offences -

Hon KIM CHANCE: I had a moment of indecision, Mr Chairman; I am still working from my version. I move -

Page 79, line 27 - To insert after "section 71" -
in relation to an offence committed under this Act

Page 79, line 29 - To delete "under this Act".

These amendments are to correct a drafting error.

Hon KIM CHANCE: As drafted, the clause refers to "an offence under this Act" - that is, the BAM act - but, technically, although committed in relation to an offence under the BAM act, the separate and further offences in contemplation here are committed under section 71 of the Interpretation Act 1934. It is a matter of getting the terminology of the act right.

Amendments put and passed.

Hon MURRAY CRIDDLE: What sorts of offences does the minister envisage will be covered by this provision?

Hon KIM CHANCE: A continuing offence has its ordinary meaning, but I think the member is asking about what sort of primary offence it would be related to. One good example that I can think of is failure to comply with a control order issued under this act.

Clause, as amended, put and passed.

Clauses 109 to 120 put and passed.

Clause 121: Documentary and signed evidence -

Hon KIM CHANCE: I move -

Page 88, line 24 - To delete "Unless the contrary is proved" and insert instead -

In the absence of evidence to the contrary

Page 88, line 30 - To delete "Unless the contrary is proved" and insert instead -

In the absence of evidence to the contrary

These amendments give effect to the standing committee's recommendation 24?

Hon Giz Watson: Yes.

Hon KIM CHANCE: It is always advisable to check! In subclause (1), proof of the contents of a code, or other document adopted by the regulations or a code of practice, or a declaration of a permitted or prohibited organism or declared pest at a particular time may be given by production of a copy of the document certified by the director general as a true copy as at that date. Under subclause (2), signatures of the minister, the director general, an inspector or an approved analyst are presumed to be the signatures of people who held those positions at the time. That in effect is an averment. Under subclause (3), if a delegate signs a document, it is presumed that the person signing was a delegate and was authorised to sign it.

Hon GIZ WATSON: Comments by the Standing Committee on Legislation can be found on page 73 of the committee's report as follows -

Clause 121

2.182 Clauses 121(2) and (3) presume that certain documents have been signed by certain persons, such as the Minister, the Director General or their delegates, unless the contrary is "*proved*". In the Committee's view, proof of these matters would be too onerous for the defence and should properly remain the burden of the prosecution. The Committee would be satisfied if the defence was only required to show some evidence to dispute the presumptions, rather than being required to prove that the presumptions are incorrect.

The committee therefore made the following recommendation -

. . . that clauses 121(2) and (3) of the Biosecurity and Agriculture Management Bill 2006 be amended so that the matters provided for in those clauses are presumed only in the absence of evidence to the contrary.

The minister's amendment that we are dealing with accommodates this recommendation and we will support it.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 122 put and passed

Clause 123: Evidence of ownership or occupancy -

Hon KIM CHANCE: I move -

Page 89, lines 26 to 29 - To delete the lines.

Clause 123(1)(b)(i) makes provision for the registrar of titles or assistant registrar of titles to provide, for the purposes of proceedings under the BAM act, a certificate that a registered proprietor's name appears in the land titles register. Provision already exists under section 239B of the Transfer of Land Act 1893 for documents and printouts setting out matters at a particular point in time to be certified and sealed for use as evidence in court. Consequently, clause 123(1)(b)(i) will be deleted, as it is unnecessary because of those provisions of the Transfer of Land Act.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 90, line 15 - To delete “unless the contrary is proved, evidence” and insert instead -
in the absence of evidence to the contrary, proof

I do not propose to speak to this. It is exactly the same argument as the last amendment we just dealt with to clause 121.

Hon BRUCE DONALDSON: I will put forward a hypothetical situation regarding this clause. As we all know, an executor of a will can do almost anything except sell land or a building or anything else; it must be transferred to the executor who issues a duplicate certificate of title. I wonder how this amendment will relate to an executor who sells a property. That property must be transferred under a duplicate certificate of title to allow the sale to continue because that is the only way that the papers can be signed.

Hon KIM CHANCE: In the circumstances described by Hon Bruce Donaldson, a person would not go to section 123 to determine that question because the question of probity in the circumstances outlined are quite easily established by the processes relating to the dealings with the estate. For example, one knows the identity of the dead person who owned the asset; one has the will that denotes the will of the dead person; one has the statement of probate, which gives probity, if one likes, to that will and the processes of challenge which may have occurred in the meantime, so identifying the owner of said land is quite easily done through those processes. This bill does not have to deal with it; it deals with other circumstances of identifying the owner. It is an interesting question, but I do not think Hon Bruce Donaldson would find the answer in this bill. I do not think he would need to. I think the answers are readily provided, albeit through sometimes complicated means, but they are not a concern for this bill.

Hon BRUCE DONALDSON: I asked that question because I learnt quite a lot just recently selling real estate as an executor of a will. I did not realise until a lawyer and an accountant informed me that a particular residence had to be transferred into my name before I could sell it. I thought that was a bit strange. Who then really became the owner? They did mention that on the duplicate certificate of title there were the words “estate of”, but I had the ownership and signed the necessary papers for transfer. I was quite enlightened because I thought that as executor one had the powers to just do it. It raises the question: am I the owner or the estate? As the minister said, it probably does not come under this bill.

Hon Kim Chance: No, but I think I have bad news for the honourable member.

The DEPUTY CHAIRMAN (Hon Ken Travers): I have not given the Minister for Agriculture and Food the call and I may not if he is going to give bad news and prolong the debate! The minister.

Hon KIM CHANCE: In respect of the liabilities attaching to land, the question about who is the owner is actually much more readily solved by this bill than it is through the processes of probate and transfer of ownership. The member’s advice that he had to become the owner of the land before he could dispose of it is interesting. In the case of liabilities arising from his control of the land as the executor, we would very quickly identify him as the person on whom notice had to be served in relation to this bill, because he is the executor. The estate is liable.

Hon GIZ WATSON: I appreciate the minister’s comment that this is very similar to the amendment that we just dealt with, but I want to indicate a slight difference by way of the standing committee’s comments on this clause. Subclause (1) provides that certain information is evidence that a person is an owner or occupier of land unless the contrary is proved. The committee said it would be more satisfied with the subclause if the defence was required to only show some evidence to dispute the form of information that was listed rather than being required to prove that the person was not the owner or occupier of certain lands. It is very similar to the amendment to clause 121, but there is a slight variation. We then made recommendation 25, and this amendment reflects that recommendation, so the Greens will support it.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 124 to 128 put and passed.

Clause 129: Meaning of terms used in this Division -

Hon KIM CHANCE: I move -

Page 93, lines 8 to 10 - To delete the lines and insert instead -

“operating account” means an agency special purpose account established and maintained
under the *Financial Management Act 2006* section 16;

This clause contains definitions for the purposes of the rating division - division 1. This amendment takes account of the fact that the Financial Administration and Audit Act 1985 has been replaced by the Financial Management Act 2006, which refers to “agency special purpose accounts”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 130 to 133 put and passed.

Clause 134: Multiple rating -

Hon KIM CHANCE: I move -

Page 95, line 21 - To delete “that”.

This amendment removes the reference to “that” in relation to the land. The amendment is designed to enable the clause to have a broader meaning, because “that” land means that it is specific to that land, and that was not the intention. It was intended to have a broader meaning.

Hon BRUCE DONALDSON: Will that particular amendment mean that the clause is still grammatically correct? That is the sort of question Hon Derrick Tomlinson would have asked!

Hon KIM CHANCE: Yes! To test whether that is true, we will work our way through it, with that offending word removed! The paragraph would then read -

(a) under the *Mining Act 1978* or a Government agreement a person holds in respect of land . . .

Perhaps there should be a comma after land.

Hon Bruce Donaldson: Yes. Something is wrong with that.

Hon KIM CHANCE: I will try it again -

(a) under the *Mining Act 1978* or a Government agreement a person holds in respect of land a mining tenement within the meaning given to that term by that Act or agreement; or

It does work, because it is preceded by the word “if”, which covers paragraphs (a), (b) and (c). My attempt to read it at this time of the night would have sounded a lot better had I put the word “if” in front of it! It is intended to have the broader meaning.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 135 to 138 put and passed.

Clause 139: Appropriations against the Consolidated Fund -

Hon KIM CHANCE: I move -

Page 99, line 9 - To delete “Fund” and insert instead -

Account

Page 99, line 18 - To delete “Fund” and insert instead -

Account

This is the same amendment that we have dealt with on a number of occasions. It deals with a change of name from the Financial Administration and Audit Act to the Financial Management Act.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 140 put and passed.

Clause 141: Establishment of accounts, management committees and schemes -

Hon KIM CHANCE: I move -

Page 99, lines 29 and 30 - To delete “a sector of agricultural activity specified in the regulations” and insert instead -

a prescribed sector of agricultural activity

This is an amendment that puts in place recommendation 6 of the Standing Committee on Legislation report. It does no more than change the word “specified” or “specify” where they occur with the words “prescribed” or “prescribe” respectively, as recommended by the committee.

Amendment put and passed.

Hon KIM CHANCE: I move -

Page 100, line 6 - To delete "management" and insert instead -
activity

This amendment simply corrects a drafting error.

Amendment put and passed.

Hon MURRAY CRIDDLE: Subclause (2) states that the regulations may relate to an agricultural activity. Obviously, the regulations are not yet available to us. How does the minister envisage those regulations coming forward? Obviously, we are flying blind to a certain extent on this one, but could the minister give us an update?

Hon KIM CHANCE: A number of the schemes that are currently established under different forms of legislation are a bit out of date. Hon Murray Criddle may recall discussion during question time after a question asked by Hon Vince Catania dealing with the banana industry in Carnarvon. That is one example, even though that was an issue that arose out of the Agricultural Produce Commission Act, which is the most recent of the acts. A number of the other pieces of legislation are quite old. One that Hon Murray Criddle and I know very well relates to the use of the skeleton weed levy, which derives its power from an act of, I think, around the 1970s. That was the Plant Pests and Diseases (Eradication Funds) Act. That very important funding scheme, the skeleton weed levy, has always bothered a lot of people in the grain industry who have always questioned whether it was legal. It seemed awfully like an excise to me. However, nobody ever raised that difficult question, so we never had to answer it. We are trying to get all these schemes that have been modified from their original construction as a result of a High Court ruling back in the late 1980s. They have all been modified at different times and, quite frankly, although they are still useful mechanisms, they are a bit of a mess. Should anyone decide to challenge any of them in the High Court, they would probably be found to be unconstitutional or illegal, or both. It therefore really is time to sort out these issues, get these generally very useful and popular funding mechanisms into a form that can work better, be cognisant of recent legal opinions and decisions and try to get a degree of equality between them. The important thing in relation to the whole spirit of the BAM bill is that there will be much more consultation with the people who will be levied as a result of the broader empowerment under the heads of this legislation than we have ever had in the past. In keeping with that, we will be very soon releasing a discussion paper right through the industry setting out some of the options for the regulations. As the member knows, we have been in consultation with a number of regulation working groups for years now, working through how the regulations are expected to be constructed, but generally speaking the legislation provides that, for any industry fund, there must be clear evidence that the industry has approached the government and sought this fund, of its purpose, and how the money will be collected for the fund. Clear evidence must be provided. It is different from the Agriculture Protection Board legislation, which requires a poll. However, governments will be well and truly politically accountable every time they seek to introduce a levy for this purpose.

Clause, as amended, put and passed.

Clauses 142 to 144 put and passed.

Clause 145: Application of prescribed account -

Hon KIM CHANCE: I move -

Page 102, line 21 - To delete "specified" and insert instead -
prescribed

Page 102, line 27 - To delete "specified" and insert instead -
prescribed

Page 103, line 6 - To delete "Fund" and insert instead -
Account

Page 103, line 6 - To delete "specified" and insert instead -
prescribed

Page 103, line 21 - To delete "Fund" and insert instead -
Account

Page 103, line 31 - To delete "specified" and insert instead -
prescribed

These amendments are all pursuant to recommendation 6 of the Standing Committee on Legislation, with the exception of the third and the fifth, which are amendments required because of the change of name of the

Financial Administration and Audit Act to the Financial Management Act. They are issues that we have dealt with before. The first, second, fourth and sixth amendments are all recommendation 6 amendments, and we have already had that debate, and the debate on the change of name of the Financial Administration and Audit Act to the Financial Management Act and what that means for this legislation.

Hon BRUCE DONALDSON: This clause describes what the prescribed account may be applied for. Some of the purposes for which a prescribed account may be applied are listed in the explanatory memorandum -

- Refunds of contributions in prescribed circumstances - e.g. where a producer elects to opt out of a scheme.
- Payment of amounts required to be paid under section 146(3), that is, repayment of moneys advanced by the Treasurer to make up a deficiency in an account (also interest on this).
- The repayment of an amount charged to the Consolidated Fund and used for a purpose specified by the relevant regulations.
- The costs and expenses of administering an account.

I was a bit curious about some of these purposes when looking at the cost and expenses of administering an account. I would like some clarification on the repayment of an amount charged to the consolidated fund and, more importantly, the payment of amounts required to be paid as repayment of moneys advanced by the Treasurer to make up a deficiency in an account, plus interest. I could turn to some of the producer sections, where at the moment there is a dollar-for-dollar arrangement and the money that is collected for the funds comes from consolidated revenue.

Hon Kim Chance: That is in rating provisions. These schemes are not dollar for dollar.

Hon BRUCE DONALDSON: Are they self-funded?

Hon Kim Chance: Yes, it is like the cattle industry compensation fund.

Hon BRUCE DONALDSON: They would possibly have to kick in.

Hon Kim Chance: That is already in the existing legislation. Can we deal with that when we get to clause 146? Also, can we deal with the first part that you raised when we get to amendment 85/145 because we are dealing with a different set of amendments?

Amendments put and passed.

Hon KIM CHANCE: I move -

Page 102, line 27 - to insert after "control of" -

, or for the advancement and improvement of control measures for,

This amendment broadens the purposes for which a prescribed account may be used. This is getting to the crux of the issue that Hon Bruce Donaldson just raised. It may be that a sector of the agricultural industry regards research into and development of new technologies for the control of relevant declared pests as services for which the industry's prescribed account may be used. For example, this is allowed under the cattle industry compensation fund, which in due course will be replaced by a prescribed account. That capacity needs to be provided for in the bill; otherwise, the fund that will replace the cattle industry compensation fund in the absence of that legislative provision will not be as good a mechanism as we currently have for the cattle industry compensation fund because the CICF can make special provision for research and development. For example, if we wanted to fund some particular research into bovine Johne's disease out of the cattle industry compensation fund, we can do that. Unless we have this amendment, we cannot do it out of the fund that would replace the cattle industry compensation fund. It does not mean that it has to apply to each industry fund but it can apply to an industry fund; that is, the research and development provision, for example.

Hon BRUCE DONALDSON: Some of the purposes for which a prescribed account may be applied include the purchase of capital assets, also the cost and expenses of administering an account. Can the minister give us a ballpark figure or a percentage? It is a bit like money coming from the federal government and the state administering it. It takes about 12.5 per cent to 18 per cent off the top as administration fees. I was just curious. I am sure the producers would be very interested to find out as well.

Hon KIM CHANCE: It is very difficult to answer that question. Every fund has an administrative cost, and that cost is highly variable. With, for example, the skeleton weed fund, I would hesitate to identify an actual figure, but my feeling is that it is a very low administrative cost because the data is drawn mostly from a central source, the Australian Wheat Board. The growers then are charged relative to their deliveries, including their deliveries to the domestic market, such as to Milne Feeds or some body like that. Milne Feeds is also bound by law to notify and transmit the levy whatever it might be in that particular year. The work is basically all done for

the fund because there is only a narrow multiplicity of people dealing in that commodity. When one gets into livestock, it gets more difficult. If it were all in saleyards or all in abattoirs, it would be relatively easy because there is still a narrow multiplicity of agents. However, when we get into grower-to-grower sales or into country saleyards, it would mean that there would be significantly higher operational costs. I can give another example of funding under the existing funding mechanisms under the Agricultural Produce Commission Act. The administrative cost of operating those funds, even within that act, is widely variable because it depends on the fund, on the number of contributors and on what it is that people want to do with the money from that fund. Specifically, the administrative cost is always transparent. Growers become aware very quickly if the administrative cost is excessive relative to the outcome. My view is that integrity is the natural outcome of transparency. If the lights are on, the children do not misbehave. I think that is a pretty good way of describing how integrity can be achieved. If everybody sees what people are doing, those people are generally going to do the right thing.

Hon Bruce Donaldson: What about the old saying that the lights are on but nobody is home?

Hon KIM CHANCE: That would be a case with a very unsuccessful industry levy. Any industry levy when there is a drought would be another good example of that. Ask the Grains Research and Development Corporation about that. To the other question -

Hon Bruce Donaldson: The purchase of capital assets.

Hon KIM CHANCE: Why capital assets? One example of that is the R&D work and the capital application work being done by the Skeleton Weed Committee in respect of funding the development of the identify-and-destroy automated technology.

Hon BRUCE DONALDSON: For further clarification of the compensation aspect of it all, the regulations will probably prescribe the compensation that is available. It states in the bill that apart from compensation for the purpose of which the prescribed account may be used, under paragraph (a)(ii), are the costs and expenses of destroying things under this act because they are infected or infested with a declared pest or as a result of other actions or measures taken under the act to control the declared pest. However, this means that in any particular scheme, compensation can be limited to loss of crops or animals if this is what is agreed. I guess that is agreed in the first place, so that is going to be set by regulations under the agreement. Is that correct?

Hon KIM CHANCE: Yes, regulations are consistent with these heads of power. The member will note that in this division, which deals with these industry funding schemes, the legislation is rather more full and more prescriptive than in other parts of the legislation. In a sense, it is a hybrid between the new and the old form of legislation. There is a reason for that, and that is that in this particular area, we want the heads of power to be quite precise about what can be gazetted as a regulation, because it is anticipated that this will be an area in which a lot of questions will be asked. In designing the legislation, we had a very clear vision of what will work in industry schemes of this nature, and that requires a little more prescription in the wording of the primary legislation. Certainly, the regulations will still be important. However, there is a way of doing this that will work. It is very easy to imagine how it could be done in a way that would not work. We can have a very narrow vision of the schemes that we think will come out of this legislation, but if we deviate a bit to the left or to the right of it, it could go haywire, literally. I can see why industry people, not just the architects of the bill, have been particularly careful about the way that the part of the legislation that can be responsible for these schemes will be established.

The key principles are simple enough. The key principles are all based around the concept that if there is a problem out there, we want to know about that problem and we want to know about it now while we can do something about it, quarantine the problem into that area and not let it become a problem for everyone else. That is the principle we have here. We learnt a great deal from the changes that we made in the skeleton weed methodology. We learnt that if farmers have control of the process, they will do a lot more than if an industry regulator is in control of it. That process has worked. We hoped it would. It was a bit of a leap of faith, but it did work. Similarly, when there is a serious new exotic animal problem - ovine Johne's disease is one example of that - it can either be handled well or become a major problem. If a farmer thinks he has an animal with OJD, and he knows from the experience of somebody else who had one that it destroyed his life - as it did to many Victorian farmers; a lot of farmers ended in bankruptcy and in suicide and it was horrible - he will not report it straightaway. He will try to cover up his concerns. He will destroy the animal and bury it. The problem is that the OJD will still be there if, indeed, it was OJD. That farmer will live with decades of worry about what he did and all his neighbours will be at risk. We must have a scheme whereby a farmer can say that he has a problem, and we can say that there is no reason for him to make it a problem for the whole state and so let us deal with it. It is about cooperation. It is about removing the fear of consequences for individuals within the industry. Similarly, from the industry's point of view, it is about removing a collective fear of things hanging around that might cause problems five, 10 or 20 years down the track. This is an important concept. It takes a bit of getting

right. Who knows, we may be back in this place amending this legislation in a couple of years. I hope not. I hope we have got it right now. However, it is important that we all share the same vision, and I think we do share the same vision; it is just a matter of whether we have properly articulated that vision in this legislation. I think we have, and that is why we have gone into some additional detail in this part of the bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 146 put and passed.

Clause 147: Review of regulations -

Hon KIM CHANCE: I move -

Page 104, line 25 - To delete “specified” and insert instead -
prescribed

Page 104, line 28 - To delete “specified” and insert instead -
prescribed

This is a matter that has been dealt with before.

Hon BRUCE DONALDSON: This is a very interesting clause - the review of regulations. This clause requires a review of regulations establishing a prescribed account every five years, or a shorter period if prescribed. This will ensure that a scheme cannot continue in operation longer than is necessary. I can understand the reason for that. It seems interesting that the minister is prepared to look at the necessity for this after five years. We have been very happy to leave the act itself hanging around for 10 years, or up to a maximum of 10. It was quite interesting to see the difference between what was normal, and I raised this matter during the second reading debate. I still find it very difficult to understand why it could wait for up to 10 years. I know that governments sometimes get a bit behind. During my time in Parliament, and across all governments, I have seen bills suddenly rushed in when governments realise that they are running out of time for a review. I can understand the need to do this where a scheme cannot continue as long as necessary. However, I wonder why the minister is separating the two.

Hon KIM CHANCE: I think in my rather overlong explanation of the last amendment I may have pre-empted Hon Bruce Donaldson’s question, because the answer to this question lies principally in the issues that lay behind my last comments in relation to regulations for schemes of this nature. It is important that we get them right. I do not suggest for a moment that we have not, even potentially, made any mistakes in the way these prescribed schemes will be established. I think it is necessary, in relation to the regulations that put the flesh around these schemes, that we examine them earlier in their operation than we examine the act itself.

Amendments put and passed.

Clause, as amended, put and passed.

Progress reported and leave granted to sit again, pursuant to standing orders.