

## SECOND READING SPEECH

### **Poisons Amendment (Poppy Advisory and Control Board Levy)** **Bill 2012**

The Tasmanian opiate alkaloid industry is the world's largest producer of licit narcotic raw material supplying around half of the world's demand for use in pharmaceuticals.

A joint decision of the Federal and State Governments in 1972 restricted the growing of opium poppies to Tasmania for reasons of security. This decision was conditional on the Tasmanian Government establishing the Poppy Advisory and Control Board to

- act as a licensing authority for the industry;
- advise on all matters relating to cultivation and transport of poppies and poppy material and the processing and manufacturing of narcotics;
- collect and collate statistical information and prepare reports;
- liaise with appropriate Australian Government Departments in the matter of Australia's obligations under International Drug Conventions;
- oversee security matters relating to the poppy crop in Tasmania; and
- manage and be responsible for the estimates system required by the Single Convention on Narcotic Drugs 1961.

Opium poppies are "prohibited plants" under the *Poisons Act 1971*. Cultivation, possession or refining of opium poppies are all criminal offences under the *Misuse of Drugs Act* unless the activity (growing and processing) is licensed by the Minister for Health and Human Services. Licences to grow poppies in Tasmania have been issued annually since 1966.

Approximately 1000 licences to grow opium poppies are being issued each year to over 750 poppy-growers to grow some 34,000 hectares of opium poppies on contract for the three licensed pharmaceutical companies – GlaxoSmithKline; Tasmanian Alkaloids Pty Ltd and TPI Enterprises Ltd. Growers' licences are conditional on the grower having a contract with one of the three processors. The three processors provide the seed, assist in the growing process, arrange for harvesting and take the heads for processing. The remnant trash is slashed & burnt on the ground or otherwise disposed as part of the after harvest clean-up obligation imposed on the licensee/farmer.

GlaxoSmithKline undertakes basic processing at Latrobe where poppy straw is compressed into pellets and transported to Victoria for further extraction of

opiates. Tasmanian Alkaloids factory at Westbury processes poppy material and extracts narcotic raw material on site. TPI Enterprises Ltd is based at Cressy and processes poppy straw grown locally and proposes to import material to supplement the amount of poppy straw it obtains locally to make concentrate.

The Poppy Board has an independent chair and a number of Government (State and Commonwealth) representatives. It does not have any industry representatives as members. The annual cost of the operation of the Board most of which is the day to day oversight of the growing of poppies is approximately \$700,000 which is currently funded from the Consolidated Fund through the Department of Justice.

There has been no industry contribution to the operation of the Board since its inception although there have been various proposals for the imposition of some level of cost recovery over the years.

The processing industry now grosses in excess of \$100 million per annum and the farm gate return to growers is estimated at between \$70 and \$90 million each year.

The Poppy Advisory and Control Board (PACB) is a statutory body located in the Department of Justice. There are licensing provisions contained in the *Poisons Act 1971* which allow the Minister for Health and Human Services to issue licences to grow and process poppies.

There is a division of responsibility between the Minister for Justice and the Minister for Health and Human Services in relation to the overall regulation of the industry but the operation and cost of the Board is currently borne by the Department of Justice. Some other costs are borne by the Department of Police and Emergency Management in relation to surveillance and security particularly during the growing period when the poppy heads may be stolen and during harvesting seasons.

Currently, whilst the industry is a very successful and profitable one, it makes only a nominal contribution to the costs of the regulatory structure required to permit it to operate. All costs of licensing and monitoring are borne by the Government - the Department of Justice covers monitoring and general oversight), the Department of Health and Human Services processes the applications for licences to all the growers and the Department of Police and Emergency Management covers surveillance and security during riskier times of year.

Licences for the growing of poppies and the subsequent manufacture of the harvested material are required to:

- restrict the growing of crops in accordance with United Nations requirements;
- restrict the manufacture of drugs to people with the appropriate security and expertise.

- prevent people with a history of drug abuse or criminal activity from being allowed access to drugs of addiction or chemicals used to manufacture drugs; and
- prevent the diversion of licit material to the illicit market;

In the 2011/12 State Budget, the government announced that funding for the Poppy Advisory and Control Board (PACB) would be shifted from the Consolidated Fund to an industry funding model for the 2012-13 financial year.

The current cost of running the board is just under \$700,000 per annum but it is proposed that only \$650,000 will be raised by the levy in the first year with the full amount of the estimated costs of the operation of the Board and the inspectorate being raised through the levy in subsequent years.

Consultation has occurred both face to face and through the circulation of a Discussion Paper with the industry (growers and processors) and other interested bodies including the Tasmanian Farmers and Graziers Association.

Various approaches to the way such a levy might be imposed were canvassed with industry – levies on growers or growers and processors or levies on processors only. It was considered that levying each of the approximately 1000 license holders, whether for all or only part of the costs that are to be recovered, would add an administrative burden to the Government in dealing with every licence holder and recovering the amounts payable from each of the growers.

Assuming the levy was to be imposed on the number of hectares harvested and not the number of hectares cultivated it would also involve, the obtaining of information from all the growers and verifying the numbers in some manner through the processors. Areas cultivated could be obtained from the licence issued by the Health Minister but not the harvested areas. While not imposing a huge burden on the growers it was considered that this was not an appropriate method of raising the necessary amounts.

The splitting the levy collected between the growers and the processors would involve dealing with all the licenced growers and each of the processors. It would have at least the same administrative costs to the collection of the levy from the growers only.

Levying the processors would be the simplest process. The processors contract for the hectares to be grown and then arrange for the harvesting and removal of the poppy crop so they have the necessary details for a levy based on harvested hectares. It would be administratively cheaper to manage than the growers only or the growers/processors approach.

It also has the advantage that the processors can pass the costs of the levy either back to the growers or to their purchasers in their pricing structures they use to either pay their growers or to sell their products. They have the capacity to pass the costs in either direction.

Given the nature of agricultural enterprises the proposed model takes into account the variability in crop production from year to year, as well as the relationship between the growers and the processors. Basing the levy on the area actually harvested takes into account seasonal issues and the variable values of the crop (certain types/products attract differing payments to the growers) and removes risks associated with imposing the levy in other ways, such as on original areas licensed for growing which might subsequently fail.

The funding model is as equitable as possible considering the nature of poppy growing and processing and the proposed collection method would ensure that compliance costs for the industry and administrative costs for the Government are kept to a minimum.

Comments on the position paper were received from the three pharmaceutical companies, the Poppy Growers' Association and the Tasmanian Farmers' and Graziers' Association. As might be expected none of them supported a levy on the industry especially before a review of the operation and structure of the Board was undertaken but only the growers rejected the proposed model for the imposition of the levy. They argued it should not be based on farm area but on the throughput of the processors (which would pick up the import into the State of raw material if that were to occur) and the greater capacity to pay of the processors.

It is proposed that the PACB be funded via a levy calculated to raise \$650,000 imposed on the three licensed processors and based on the number of hectares harvested for each manufacturer. The levy will be payable at the end of the growing season.

As noted above amongst the issues raised in the consultation was the makeup of the Poppy Board and its role. The PACB is an independent Board at arm's length from industry and government and is a key part of the necessary arrangements to comply with international and national obligations to safeguard the community from the spread of opiates.

The current makeup of the Board does not include any industry representation. It comprises an independent chair and nominees from the Departments of Health and Human Services; Primary Industry and Police and Emergency Services and the Commonwealth Department of Health.

In addition to the question of whether the levy should be imposed and if so upon whom the TFGA also raised the issue of transparency and industry involvement in the Board of the PACB. The TFGA proposed that the Board should be expanded to include industry representation and give the industry some capacity to constrain the amounts of the levy while ensuring that the levy was only used to fund the Board's operations.

The submissions sought a review of the Board's operations before the levy is introduced. This would delay the levy for a further twelve months so it is proposed to go ahead with the levy and the Government will undertake a review of the operation of the Board looking at its relevance and efficiency; consultative processes and structure during the next twelve months.

The Bill is itself reasonably simple providing for the total amount of the levy that is being raised being split between the three producers on a hectares harvested basis. In the current financial year the levy will raise \$650,000 and in subsequent years the levy will raise an amount which reflects the estimated operational costs of the Board and the inspectorate for the year. The revenue raised will be separately accounted for and any excess or deficiency will be addressed in the levy for the following year.

If, as expected, the total hectares being sown and harvested in 2012/13 is around 34,000 the rate of the levy will be approximately \$20.00 per hectare which given the estimated value of the crop is a reasonably moderate amount.

I commend the Bill to the House.