

# DRAFT SECOND READING SPEECH

HON. MICHAEL FERGUSON MP

## *Poisons Amendment (Poppy Industry Reform) Act 2016*

*\*check Hansard for delivery\**

Madam Speaker

The poppy industry is a pillar of the Tasmanian agricultural sector. Tasmania supplies about fifty per cent of the world's licit raw narcotic material and has a global reputation for best-practice.

For well over 40 years, the Tasmanian poppy industry has earned an enviable reputation as a safe and secure global supplier. The purpose of this Bill is to streamline the regulation of the industry and ensure we have a contemporary regulatory system maintains our industry's global reputation and competitive edge.

Under Australia's international obligations, legislative control and coordination of both drug manufacture and poppy cultivation is required. This ensures that excessive stockpiles of narcotic products are not generated.

The *Poisons Act 1971* regulates the Tasmanian poppy industry along the whole supply chain from cultivation through to manufacture and sale, overseen by the Poppy Advisory and Control Board and the Minister for Health.

This enables effective law enforcement and safeguards public health. It also ensures compliance with our international obligations.

Our regulation needs to be efficient, promote industry development and build on Tasmania's global reputation for best practice in regulation.

In March 2016, the Tasmanian Government announced reforms to simplify regulation of the poppy industry and strengthen the regulatory framework for manufacturing and wholesale chemists.

The reforms support the continued role of the Poppy Advisory and Control Board (the Board) and modernise regulation. The key reforms are:

1. The Board will be aligned with industry expertise by transferring it to the Primary Industries and Water Portfolio;
2. The role of the Board will be strengthened by independent membership;
3. The Board will retain its name and advisory functions to build on its international reputation;
4. The Board will be directly empowered to regulate commercial poppy growers; and
5. Enforcement of manufacturing and wholesale chemist licences will be strengthened to prevent diversion and modernise the Act.

The reforms take into account John Ramsay and Associates' "Review of the Tasmanian Poppy Industry Regulation" of 2013, the current operating environment and further industry consultation.

As a first step, responsibility for the Board transferred from the Attorney-General to the Minister for Primary Industries and Water in March 2016.

The legislation will directly empower the Board to issue grower licences, which is currently a responsibility of the Minister for Health.

The regulation of narcotic drug manufacture, research and imports will remain the responsibility of the Minister for Health.

Directly empowering the Board to issue grower licences reduces the number of regulators involved. Placing responsibility for the Board in the primary industry portfolio will align poppy cultivation with the Agency responsible for other commercial crops and industry expertise.

I will get to the detail of the licensing regime shortly, but first deal with administrative arrangements of the Board.

To coordinate operations of the Board and government policy – without compromising the Board's independence – the Bill provides a mechanism to define the roles of the Board and the Minister. The Minister will provide a statement of expectation to specify the Minister's objectives for the Board. The Board will be required to provide the Minister with a statement of intent respond to the Minister's expectations. This clarifies objectives, roles and responsibilities regarding regulation of Tasmania's poppy industry.

The Board will be able to issue practical guidelines to inform poppy growers about site suitability and other safety and security matters, to support a new simplified licence process and encourage compliance.

To ensure that the Board has the appropriate range of skills to promote industry development, the Bill expands the Board's membership to provide that the Board will consist of two independent members, one of whom is the Chair.

The independent persons are to have skills and qualifications relevant to the poppy industry but must not be engaged in poppy growing or processing for the duration of their appointment.

I will now address the detail of the licensing regime. The Bill clarifies the types of licence that can be issued to grow poppies - a poppy grower's licence and a poppy research licence.

The amendments do not introduce any significant requirements on industry. Rather, they clarify existing statutory obligations. This will provide certainty for industry and reinforce our reputation for best practice.

The Board will issue the poppy grower's licence and the term of the licence is extended to five years rather than an annual licence as currently applies. This will cut unnecessary red tape for industry.

To protect the integrity of the poppy industry, an applicant's criminal history must be considered. This is not a new requirement. Police checks are required under the current licensing scheme as a means of ensuring that only suitable individuals are involved in the poppy industry, and ensuring compliance with our international obligations.

A grower will still need to obtain a contract with a manufacturing company and provide crop information, such as location and size, to the Board for assessment on an annual basis to ensure that adequate compliance activity can be undertaken but this should be of minimal disruption to industry.

Appeal provisions relating to grower licences will be improved. Where growers are aggrieved by a decision of the Board they will now have a right of review without the need to lodge a Court appeal.

The Bill allows the Minister for Primary Industry to undertake an internal review of a decision to provide applicants with a more timely resolution of disputes.

Licensees will still have a further right of direct appeal to the Administrative Division of the Magistrates Court.

The Bill modernises the existing regulation of manufacturing and wholesale chemists by increasing penalties for bodies corporate to reflect the current operating environment and ensure that penalties are a sufficient deterrent for illicit activity.

The Bill also broadens the responsibilities and offence provisions for the "responsible officer" appointed in respect of a manufacturing or wholesale chemist from the workplace to include any conduct which is prohibited under licence or the Act and corresponding regulations. These provisions will now apply to all licences issued under the Act to provide a clear contact point in relation to licences held by bodies corporate.

The Bill introduces general licensing obligations across the supply chain to deal with suitability requirements, including a fit and proper person test, conditions of a licence, suspension, revocation and renewal.

The fit and proper person requirements for both a natural person and a director of a company have largely been taken from the recently amended Commonwealth Narcotic Drugs Act 1967 to promote consistent regulation in the sector.

Manufacturing of poppies creates a risk of diversion, and any diversion creates significant risks for the community. The high level of scrutiny of applications for manufacturing licences are commensurate with this risk. In comparison, given the lower risk of criminal diversion from poppy growing and research, these activities do not face the same level of requirements, but would still be subject to police checks as is currently the case.

The Bill introduces new general provisions to allow the immediate suspension of a licence where there is a high risk of diversion for illicit purposes or there is a risk of immediate harm to the community if a licence were to remain in force.

There is also provision to deal with a poppy crop or scheduled substances where a licence has been suspended or cancelled to ensure that they are dealt with securely

The Bill introduces improvement notices, infringement offences for prescribed offences, or for where an improvement notice has not been complied with, to allow for a reasonable and proportional approach to non-compliance.

The Bill also contains a number of minor consequential amendments required to enable operation of the new provisions in the Act.

The Bill is the result of consultation with the Poppy Growers Tasmania Inc., the Tasmanian Farmers and Graziers Association and Tasmania's poppy processors.

Industry supports modernising regulation of the sector in a way that supports industry development, competitiveness and ongoing law enforcement.

This Bill provides a modern regulatory environment for the poppy industry to continue to be a world leader.

I commend the Bill to the House.