**MEAT HYGIENE BILL 1994**

**LEGISLATIVE COUNCIL, 3 MAY 1994, PAGE 679**

**Second Reading**

Received from the House of Assembly and read a first time.

**The Hon. DIANA LAIDLAW (Minister for Transport):** I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansardwithout my reading it.

Leave granted.

Introduction

The Government is pleased to introduce the Meat Hygiene Bill 1994. The Bill results from twelve months of intensive negotiation and consultation with industry and governments at State, Federal and local levels. It follows several formal reviews examining aspects of meat processing (culminating in the 1992 McKinsey Organisational Development Review of the Department of Agriculture and a report on meat hygiene regulation by the Business Regulation Review Office) and sustained pressure from rural communities and industry groups for review of slaughterhouse trading rights.

The Bill reflects improvements in industry practices since the formation of the South Australian Meat Hygiene Authority in 1980 and recognises the maturity of the meat processing industry in this State. It does so by establishing the role of industry in regulatory policy, in the introduction of best practice in industry/Government co-regulation of meat quality and in facilitating trade in South Australian meat products under mutual recognition.

In adopting this approach to regulation of meat hygiene the Government is keeping pace with developments in other States, particularly Queensland, Victoria and Tasmania, where there is a determined move towards quality assurance and flexible controls at plant level, together with a greater role for industry in administration of regulations at State level.

With the introduction of mutual recognition, new legislation is necessary to clarify the conditions for unrestricted trade in wholesome meat within South Australia, and so facilitate trade across State and Territory borders, that is free of cumbersome and unnecessary paperwork. Material deficiencies in the current legislation, notably the lack of provisions covering processing of game meat (e.g. kangaroo) and other secondary meat processing operations also require correction.

**Objectives**

The Meat Hygiene Bill 1994 repeals and replaces the Meat Hygiene Act 1980 and the Poultry Meat Hygiene Act 1986 to provide a framework for the hygienic processing of livestock, poultry and game meat in South Australia.

The principal objective of the legislation is to ensure that all meat and meat products processed in South Australia for consumption by the public or by domestic pets is wholesome. In this sense, wholesome means free of any condition which might compromise the physical health or the well-being of a consumer of meat or a meat product and in which the concentration of any residue present does not exceed the Maximum Residue Level ("MRL") prescribed for that substance.

A new industry body (the South Australian Meat Hygiene Advisory Council) will be created to advise the Minister directly on policy and administration of the Act, functions formerly conducted by the Meat Hygiene Authority. This represents a significant shift of role and responsibility of industry, which has no representation on the existing Authority.

The new legislation is designed to allow all major sections of the domestic meat industry to operate within a framework of quality assurance, with flexible levels of control directly related to product safety standards and company-run quality assurance systems.

That is, although regulatory controls based on independent (Government) inspection on-plant will remain as an option, the legislation also provides for more flexible arrangements with those operators who are willing and able to introduce approved safeguards into the production process and agree to regular audits of company quality assurance programs. The principle is established that, subject to consistent compliance with nationally accepted hygiene standards within externally audited quality assurance programs, competent operators at any level of domestic production can process meat without imposition of external (government) full-time meat inspection.

Meat processing in a wider range of facilities will be allowed, providing prescribed standards of hygiene and wholesomeness are met. In effect, operators will be able to seek accreditation based on the standard and capacity of their facilities and processes and on their level of training and competency. Those with higher capacity and competence will be able to become accredited for larger and more sophisticated programs of production and enjoy greater market mobility.

Existing controls on pet food will be retained. Under quality assurance programs, the potential exists for substantial improvement in standards of pet food production, providing more confidence in safety of pet food and further reduction in risk of entry of substituted meat into both export and domestic markets through the pet food route.

All activities provided for in the legislation will be funded by major stakeholders according to a formula which includes a commitment from the State Government, reflecting its community service obligation to public safety.

The legislation is designed to complement the provisions of the Food Act by taking up control of all meat processing occurring before retail sale and excluding processing operations directly associated with retail operations. Continued close liaison with the Health Commission on Food Act implementation policy (at operational level as well as through the Meat Hygiene Advisory Council) will ensure programs are complementary and no duplication of service occurs.

In order to meet the objectives, the legislation will—

* incorporate or operate by reference to various national Codes of Practice and other relevant standards as the basis for accreditation and quality assurance programs;
* provide for appointment of meat hygiene officers in Primary Industries (SA) and the contracting of external specialist agencies or persons as necessary for audit and inspection work;
* enable the raising of funds by way of fees and charges to ensure both effective and efficient administration of the regulations and an equitable balance of contributions by key stakeholders;
* provide for the imposition of appropriate penalties for non­compliance;
* allow a property owner or occupier to slaughter his or her own stock on a home property for use by those residing on the property.

**Explanation of Key Provisions**

Administration

There will be a new regulatory administrative structure, comprising—

* The South Australian Meat Hygiene Advisory Council, which will advise the Minister directly on meat hygiene policy and the administration of the legislation. The Council will be representative of all major industry and public bodies with a stake in the safety and wholesomeness of meat products, and will have an independent chairperson.

Although the full Meat Hygiene Advisory Council is a large body, the legislation provides for the Council to "determine its own procedures", that is, a core working group nominated by the Council would obtain inputs from specific Council representatives on relevant issues, co-opt inputs from non- Council sources and appoint sub-committees (from within or outside the Council) to formulate advice on specific issues.

* A core management group within the PrimaryIndustriesDepartment to administer the regulations, with power to engage field enforcement staff, on a contract basisif necessary, to ensure cost-effectiveness of inspection, audit and training services.

Accreditation

The cornerstone of this Act is certification or "accreditation" of operators, on quality assurance or external inspectionprograms to replace licensing of premises. It is proposed that meatprocessing operators be accredited to engage in specified activities, notably the slaughtering of animals and the secondary processing of meat, including smallgoods production and the processing of game meat. Those activities would be conducted in accordance with approved quality assurance programs to be developed, implemented and audited under the supervision of the Minister.

To operate legally, all meat processors must be accredited.

Accreditation requirements will include—

* adherence to an approved quality assurance ("QA") program, which will include internal (that is, company-employed) product inspection and process audits; or
* full-time inspection by an external agency approved by the Minister; or
* a program of regular inspection (by an external agency) of premises and process, together with compliance with a routine partial QA (or product monitoring) program.

The legislation will allow for operation under full-time or periodic inspection in lieu of QA in the following instances—

* from the introduction of the legislation until such times as approved quality assurance programs are implemented at the various premises;
* where processors choose to operate under full-time or periodic inspection at their own cost rather than implement or adhere to approved quality assurance programs;
* in the event of non-compliance with a QA program approved by the Minister;
* in other circumstances which, in the opinion of the Minister, warrant these strategies.

Under this legislation, the Minister will grant accreditation to the operator, not the premises or the product, on the basis of—

* presentation by the operator of relevant information about the proposed processing program, including
* the types and classes of meat involved, the manner in which the meat is to be processed, the maximum daily throughput of stock and product and the premises, vehicles, plant and equipment to be used;
* details of any quality assurance program proposed, or inspection service required.
* assessment of the operator's proposal by the auditing agency.

Accreditation will be granted if the Minister is satisfied that—

* the operator is a suitable person to hold the accreditation;
* the processing program complies with relevant standards and codes.
* that either the proposed QA program is appropriate or satisfactory inspection arrangements are made to ensure wholesomeness of the products.

The legislation provides for variation, transfer,suspension or revocation of accreditation under appropriate circumstances, including appeal provisions.

Audit and Inspection

The legislation provides for engagement, on contract, of approved agencies or persons to provide independent audit and inspection services on the Minister's behalf.

In addition, the State (through meat hygiene officers of the South Australian Department of Primary Industries) will providespecialist audit, inspection and compliance expertise for referral and backup to contracted agencies as required.

Processing companies themselves will be encouraged (and where necessary for full compliance with standards, compelled) to employ staff qualified in meat inspection, public health and qualityassurancemanagement, to carry out required inspectorial and QAfunctionson- plant. Such company staff would be approved (as QAmanagers) by the Minister.

In all meat processing plants independent, consistent audit or inspection will be appliedtoensure compliance with the conditionsof accreditation.

Quality assurance is already informally practised by the majority ofsmall "owner-operators", who are totally responsibleforthe product and the process from slaughter to sale. These areconsidered"low-risk" and the majority have no wish or need toexpand. For this reason, a class of processors with restricted trade access (related to throughput and specified outlets) will be retained. A form of quality assurance or product monitoring program will also be made available for these operators, to enable those prepared to enter such a program to reduce inspection costs.

All operators seeking unrestricted trade of meat or meat products (that is, anywhere in the State and under mutual recognition, interstate) will be required to reach nationally accepted standards of production. These standards will normally be approved National Codes of Practice.

This legislation recognises the increase in risk to public safety when meat is subject to wholesale. More formal systems of quality control will be required in all wholesale operations to minimise risk of compromising product wholesomeness.

Powers of Meat Hygiene Officers

The Minister will appoint meat hygiene officers who will oversee the inspection and enforcement functions. The powers the legislation grants to a meat hygiene officer will be similar in thrust to the powers under the current Act and will be all, and only, those adequate for the purposes of the Act in ensuring wholesomeness of meat products.

Inspection and enforcement staff employed by a contracted agency or meat processing company will conduct routine QA audit activities with specific reference to the compliance agreement with the operator. A meat hygiene officer will become actively involved in field activities where specific statutory enforcement powers are required.

Funding

The system will be part-funded by the State, recognising a community benefit of this legislation; the remaining funding will be obtained from—

* fees for initial accreditation (including inspections/audits required) and for amendment of accreditation;
* an annual service fee for operators, including a minimum number of audits or inspections;
* additional charge (at full cost recovery) for additional inspections and audits;
* fees for approved inspection or audit agencies;
* fees for approved quality assurance managers.

Initial accreditation fees,amendmentfees and annual servicing fees will vary with the size of the operation, the range to be set by regulation. In addition, the Minister will be empowered to set from time to time charges or fees in respect of the inspection of premises, animals, product etc. and the audit of approved QA programs.

Transitional Arrangements

After initial passage of the legislation, a "changeover day" will be determined, when the Act will be proclaimed. The period between passage and proclamation is likely to be about five months, during which the Advisory Council will be appointed, regulations will be prepared, product monitoring and quality assurance codes of practice will be produced, fees and charges will be determined and tenders for external services let and filled.

From changeover day, existing operators of meat processing plants will have "temporary accreditation" pending development of a processing program for approval and granting of full accreditation. The operators will be required to apply for full accreditation within three months.

*Consultation*

Informal consultation with industry has been ongoing since the late 1980's, as a result of sustained concern and political action from sections of the meat industry and rural communities. There has been particular concern over the administration by the Meat Hygiene Authority of country meat trading rights, lack of opportunity for industry to participate in policy decisions of the Authority and more recently the rising costs of inspection in abattoirs.

Following reports by McKinsey and Company (Organisational Development Review, December 1992) and the Business Regulation Review Office (August 1993), the Department of Primary Industries launched a formal consultation process with key industry and government groups, including the Government Adviser on Deregula­tion, aimed at producing a joint strategy for legislative change.

Following a combined industry-government workshop in November 1993, convened to identify the key issues and confirm industry's commitment, an industry working group was convened by the South Australian Farmers Federation to formulate a position. The industry position paper was considered by the Government and subsequently released, with comment, for wider industry and community consideration. The consultation process was then consolidated with an expanded Meat Hygiene Consultative Committee.

A Government Position Paper was released for discussion in March 1994 outlining the regulatory and structural aspects of the proposed meat hygiene legislation including detailed discussion of the intended content. Reaction from industry and community groups has been generally supportive. Concerns are mainly over operational plans and procedures and these are to be finalised in the period between passage of the Bill and the changeover day.

*Summary*

In summary, this Bill reflects improvements in industry practices since the formation of the South Australian Meat Hygiene Authority in 1980. It recognises the maturity of the meat processing industry in this State by establishing its formal role in working with the Government to determine regulatory policy. While clearly establishing nationally accepted codes of practice as the standards for public safety through meat hygiene in South Australia, it provides greater flexibility for industry to move to best practice in cost-effective controls through adoption of total quality management systems in all sectors of the industry.

The Bill provides for effective industry/Government co-regulation of meat quality and a framework for facilitation of trade in South Australian meat products both within the State and interstate under mutual recognition.

**Explanation of Clauses**

**PART 1**

**PRELIMINARY**

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The definition of "meat" sets the scope of the Bill.

The Bill applies to meat intended for human consumption or consumption by pets.

The Bill covers processed products such as smallgoods where the nature of the meat is altered or the meat is mixed with another substance, but it does not cover processed products where the meat is cooked.

The Bill does not cover fish or anything excluded from the definition of "meat" by regulation.

Clause 4: Meaning of meat processing

The definition of "meat processing" sets the scope of the accreditation requirements included in the Bill.

"Meat processing" is broadly defined and includes each of the steps of killing animals or birds, preparing meat and producing meat products (other than by cooking). It also includes packing, storing or transporting meat.

Clause 5: Meaning of wholesome

The definition of "wholesome" is used both in relation to the activities of meat processors and sellers of meat. Meat is not wholesome if—

* the animal or bird from which it comes is diseased or residue affected or died otherwise than by slaughter; or
* it does not meet regulatory standards; or
* it is not fit for human consumption or consumption by pets as intended.

Only diseases specified by the Minister by notice in the Gazette are relevant.

Clause 6: Meaning of marked as fit for human consumption

This definition is relevant to the offence of using a non-official mark to indicate that meat is fit for human consumption (see clause 24). The Minister can determine official marks by notice in the Gazette.

**PART 2**

**MEAT HYGIENE ADVISORY COUNCIL**

Clause 7: Establishment of Advisory Council

Clause 8: Functions of Advisory Council

The Council is to advise the Minister on the operation of the Act and on issues directly related to meat hygiene in this State.

Clause 9: Composition of Advisory Council

The Advisory Council contains broad representation from industry and from those involved in administration.

Clause 10: Terms and conditions of membership of Advisory Council

Membership is for a maximum of 3 years at a time. Grounds for removal are set out.

Clause 11: Procedures of Advisory Council

The Council is required to meet at least once every six months and at other times directed by the Minister. The Council may determine its own procedures but must keep minutes. The Minister must make the minutes and any reports of the Council to the Minister available for public inspection.

**PART 3**

**ACCREDITATION OF MEAT PROCESSORS**

Clause 12: Obligation to hold accreditation

A person who processes meat must be accredited and must process the meat in accordance with the conditions of accreditation.

The following exceptions are set out in the clause:

* a person tolling their own animals or birds and processing the meat for their own consumption;
* a person killing wild game and processing the meat for their own consumption;
* a person obtaining meat from an accredited source and processing it only—
* in the course of the retail sale of meat;
* in the course of a restaurant type business;
* in the course of a food or pet food production business where the meat is cooked;
* in a domestic situation.

Clause 13: Application for accreditation

This clause governs the manner in which an application is made, the information that must be provided and the carrying out of inspections for the purposes of determining the application. It provides that an applicant must prepare a proposed processing program setting out the classes and quantity of meat to be processed and how the meat is to be processed. The program is to cover preparations, processing and clean-up as well as maintenance of premises, equipment and plant. It enables an applicant to propose to follow a quality assurance program—an inhouse program of checks and records for the purposes of ensuring compliance with the processing program and other requirements of the Bill.

Clause 14: Temporary accreditation

The Minister may grant temporary accreditation for a period up to 6 months while considering an application for accreditation.

Clause 15: Grant of accreditation

The Minister is required to grant accreditation if satisfied that the applicant is a suitable person, that the proposed processing program is satisfactory and that the proposed quality assurance program or inspection arrangements are satisfactory.

Clause 16: Conditions of accreditation

Accreditation is subject to conditions set out in the clause and to any further conditions imposed by theMinister. The conditions set out in the clause are generally aimed at ensuring that the processing program is followed and that a quality assurance program, full-time inspection or program of periodic inspections is in place. If a processor elects to have a quality assurance program, the records resulting from that program are to be audited from time to time. The conditions may require that the quality assurance program be managed by a person approved by the Minister. If significant problems are found on an audit or, in the case of an accreditation subject to periodic inspections, during a program of inspection, further audits or inspections are to be carried out, generally at the cost of the holder of the accreditation. The inspections or audits may be carried out by an approved inspection or audit service.

Clause 17: Annual return and fee

The holder of an accreditation is required to provide the Minister with an annual return and to pay an annual fee. Accreditation is of unlimited duration.

If the holder of an accreditation fails to comply with these requirements, the accreditation may be suspended and ultimately cancelled.

Clause 18: Variation of accreditation

The Minister may impose further conditions, vary or revoke conditions, vary an approved processing or quality assurance program or revoke an approval of a quality assurance program or a quality assurance manager. A variation is not to take effect for 6 months unless the holder of the accreditation agrees otherwise.

Clause 19: Application for variation of accreditation

This clause governs the manner in which an application is made, the information that must be provided and the carrying out of inspections for the purposes of determining the application.

Clause 20: Transfer of accreditation

An accreditation is transferable (unless the conditions of accreditation provide otherwise) to a suitable person who has capacity, or has made arrangements, for ensuring compliance with the conditions of accreditation.

Clause 21: Suspension or revocation of accreditation

The circumstances in which the Minister may suspend or revoke an accreditation are set out and include breach of conditions orcommission of an offence against the Act or regulations. The holder of an accreditation must be given 14 days to respond to a proposed suspension or revocation.

Clause 22: Surrender of accreditation

The holder of an accreditation may surrender it to the Minister.

**PART 4**

**SALE AND MARKING OF MEAT**

Clause 23: Sale of meat for human consumption

It is an offence to sell meat for human consumption that has not come from an accredited source or that is not wholesome.

*Clause 24: Marking of meat for human consumption*

It is an offence to use an official mark indicating that meat is fit for human consumption except in accordance with the conditions of an accreditation or the regulations.

Clause 25: Sale of meat for consumption by pets

It is an offence to sell meat for consumption by pets that hasnot come from an accredited source or that is not wholesome.

**PART 5**

**ENFORCEMENT**

**DIVISION I —INSPECTION AND AUDIT**

Clause 26: Approved inspection or audit services

The Minister may approve a person or body to be an approved inspection or audit service and enter into an agreement relating to the provision of services by that person or body for the purposes of the Act. The services would relate to inspections or audits required to be carried out by conditions of accreditation.

Clause 27: Appointment of meat hygiene officers

The Minister may appoint meat hygiene officers or enter into an arrangement with the Commonwealth or a local government authority for the provision of meat hygiene officers.

Clause 28: Identification of meat hygiene officer

Meat hygiene officers are required to carry identification and produce it for inspection on request.

Clause 29: General powers of meat hygiene officers

Meat hygiene officers are given general powers to enable them to administer and enforce the Act and regulations. They may not break into residential premises without a warrant.

Clause 30: Provisions relating to seizure

This clause details how a meat hygiene officer is to deal with meat, animals or birds or anything else seized by the officer.

Clause 31: Offence to hinder, etc., meat hygiene officers

The maximum penalty for hindering or disobeying a meat hygiene officer is a division 6 fine ($4 000) and for assaulting a meat hygiene officer, a division 5 fine ($8 000) or division 5 imprisonment (2 years) or both.

Clause 32: Offences by meat hygiene officers, etc.

The maximum penalty for abuse by a meat hygiene officer is a division 6 fine
($4 000).

**DIVISION 2—COMPLIANCE ORDERS**

Clause 33: Power to require compliance with conditions of accreditation

A meat hygiene officer may issue the holder of an accreditation with a notice requiring the holder to take specified action to rectify a contravention of conditions of accreditation or to ensure compliance with those conditions or prohibiting the holder using premises, vehicles, plant or equipment until those conditions arecompliedwith. The notice can be varied.

Clause 34: Offence of contravening compliance order

The maximum penalty for disobeying such a notice is a division 4 fine ($15 000).

**PART 6**

**APPEALS**

Clause 35: Appeal to Administrative Appeals Court

A right of appeal to the Administrative Appeals Division of the District Court is provided in relation to—

* a refusal to grant accreditation;
* a decision relating to conditions of accreditation or to an approved processing or quality assurance program;
* a revocation of approval of a quality assurance program or quality assurance manager;
* a suspension or revocation of accreditation;
* a compliance order issued by a meat hygiene officer.

**PART 7**

**MISCELLANEOUS**

Clause 36: Exemptions

The Minister is given power to issue exemptions, individually or by class, by notice in the Gazette.

Clause 37: Delegation

The Minister is given power to delegate functions or powers to a public servant.

Clause 38: Immunity from personal liability

Immunity is provided to meat hygiene officers or other persons engaged in the administration of the Act.

Clause 39: False or misleading statements

The maximum penalty for knowingly making a false or misleading statement is a division5 fine($8 000) or division5 imprisonment(2years).

Clause 40: Statutory declaration

The Minister may require information to be verified by statutory declaration.

Clause 41: Confidentiality

Information relating to trade processes or financial information obtained in the administration of the Act is not to be divulged.

Clause 42:*Giving*of notice

This clause provides for methods of serving notices under the Act.

Clause 43: Evidence

This clause provides evidentiary assistance for the prosecution of offences.

Clause 44: General defence

A defence to a charge of any offence against the Act is provided of taking reasonable care to avoid the commission of the offence.

Clause 45: Offences by bodies corporate

Each member of the governing body and the manager of a body corporate are guilty of an offence if the body corporate is guilty of an offence.

Clause 46: Continuing offences

A penalty of one-fifth of the maximum penalty for an offence is payable for each day that the offence continues.

Clause 47: Regulations

The regulations may incorporate standards or codes as in force from time to time.

**SCHEDULE 1**

Repeal and Transitional Provisions

The Meat Hygiene Act 1980 and the Poultry Meat Hygiene Act 1986 are repealed.

Previous licence holders are to be given temporary accreditation on the commencement of the Act. They then have 3 months within which to apply for accreditation and provide the relevant details.

**SCHEDULE2**

Consequential Amendments

Amendment of Local Government Act 1934 and Prevention of Cruelty to Animals Act 1985

Reference to premises licensed under the Meat Hygiene Act 1980 are updated.

The Hon. BARBARA WIESE secured the adjournment of the debate.