

1978 and appoint the Royal Children's Hospital as committee of management.

All of the bidders for the delivery of the new hospital project have been made aware of the size limitation in this bill and have designed their proposals. The government believes that this framework will not only ensure that the new hospital is designed efficiently but that it will also result in a net increase in the size of Royal Park, after the construction and demolition phase of the development is completed.

In line with the government's Partnership Victoria policy, the bill will enable the committee of management of the new hospital site to enter into an operating lease or licence over the new site for a period up to 30 years. This long-term leasing and licensing power will allow the state, through the committee of management, to enter into an arrangement with its private sector partner for the maintenance of the new hospital facility, as part of the Partnerships Victoria arrangements.

The government is committed to ensuring that the Royal Children's Hospital remains a world-class facility for child and adolescent health care and an international leader in research and education. This bill will facilitate the construction of a state-of-the-art facility that will assist in ensuring we can deliver the best care to our sick children for years to come.

I commend the bill to the house.

**Debate adjourned on motion of Mr WELLS (Scoresby).**

**Debate adjourned until Thursday, 2 August.**

## GENE TECHNOLOGY AMENDMENT BILL

### *Statement of compatibility*

**Mr MERLINO (Minister for Sport, Recreation and Youth Affairs) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Gene Technology (Amendment) Bill 2007.

In my opinion, the Gene Technology Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

#### **Overview of the bill**

The object of the Gene Technology Act 2001 is to protect the health and safety of people and to protect the environment by identifying risks posed by or as a result of gene technology and regulating certain dealings with genetically modified organisms (GMOs). Dealings with GMOs that involve release into the environment (DIRs) are typically agricultural field trials, or commercial release licence applications.

An applicant makes an application to the regulator for a licence to deal with a GMO and the licence, if approved, will have conditions attached to it such that the dealing can be conducted while ensuring that the object of the act is met.

The bill amends the Gene Technology Act 2001 by inserting provisions enabling the responsible Victorian minister to issue an emergency dealing determination in response to a determination made by the responsible commonwealth minister and otherwise includes provisions to improve the efficient operation of the act, allocate resources to areas of greater risk, reduce the regulatory burden and combine two advisory committees (the Gene Technology Ethics and Gene Technology Community Consultative Committee) into one committee. The bill concludes with a series of technical amendments.

The proposed Gene Technology Amendment Bill will ensure that the Victorian act is brought into line with the commonwealth legislation as amended and that the national regulatory framework for gene technology continues to operate in Victoria in a seamless and coherent manner, giving certainty to industry and stakeholders.

#### **1. Human rights protected by the charter that are relevant to the bill**

Section 13(a) of the charter states that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Clause 22 of the bill potentially engages the right to privacy. This provision relates to administration of emergency dealing determinations (EDDs). An EDD enables the responsible minister, on advice, to allow the use of a genetically modified organism (GMO) in an emergency situation, where that GMO is to be used to remedy the emergency. A GMO EDD, like a GMO licence, may have conditions attached to it so that, in complying with these conditions, the GMO itself can be managed such as to protect the health and safety of people and the environment.

Clause 22 of the bill inserts a new section (152(2)(d)) into the principal act. This provision enables an inspector to enter the premises of a person (for purposes of finding out if the act and regulations have been complied with) where the occupier of the premises is a person dealing with, or who has dealt with, a GMO specified in an EDD and the entry is at a reasonable time. This provision enables inspectors to monitor the EDD, just as they are currently able, under the act, to monitor other dealings with GMOs. There is also a power for the regulator to access records and information, but this is information regarding the GMO and the behaviour of a GMO for purposes of securing the objective of the Act and not personal information.

While this provision potentially engages the right to privacy, it does not constitute unlawful or arbitrary interference.

The provision is precise and circumscribed by specific criteria in the act. In relation to the powers of entry it is noted that:

1. the entry relates to potential risks to the health and safety of people and the environment;
2. not any person, but only those dealing with or who have dealt with, a GMO that is subject to an EDD are captured in the provision;
3. dealings with GMOs are typically conducted on premises with appropriately certified facilities by authorised personnel.

**2. Consideration of reasonable limitations — section 7(2)**

The bill does not limit any human right and therefore it is not necessary to consider section 7(2) of the charter.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because even though it potentially engages the right to privacy, it does not limit this right.

HON. BRONWYN PIKE, MP  
Minister for Health

*Second reading*

**Mr MERLINO** (Minister for Sport, Recreation and Youth Affairs) — I move:

That this bill be now read a second time.

The Gene Technology Act 2001 is the mechanism by which Victoria participates in a nationally consistent regulatory scheme for gene technology established by the intergovernmental gene technology agreement of 2001. The object of the scheme is to protect the health and safety of people and the environment by identifying risks posed by gene technology and then managing those risks by regulating certain dealings with genetically modified organisms (GMOs).

In 2005–06, the Commonwealth Gene Technology Act 2000 underwent a statutory review of its operations. The review panel concluded that the gene technology regulatory framework is working well and recommended changes to consolidate the efficient operations of the act. A national whole-of-governments' response to the review recommended giving effect to the review findings.

The response was endorsed by the Gene Technology Ministerial Council in October 2006 and formed the policy basis for legislative amendments to the commonwealth act and thereby to mirror gene technology legislation in Victoria and other states and territories.

This bill introduces:

1. provisions to enable the responsible minister to make emergency dealing determinations for Victoria that mirror those made by the responsible commonwealth minister;
2. provisions to improve the mechanism for providing advice to the gene technology regulator and Gene Technology Ministerial Council on ethics and community consultation;
3. provisions that streamline the process for initial consideration of licences and reduce the regulatory burden for low risk dealings;
4. provisions to clarify the circumstances in which licence variations can be made;
5. provisions clarifying the circumstances under which the regulator can direct a person to comply with the act;
6. provisions granting the regulator power to issue a licence to persons who find themselves inadvertently dealing with a genetically modified organism (GMO) for purposes of disposing of that organism; and
7. technical amendments to improve the operation of the act.

Three major changes are proposed in this bill.

The first change relates to emergency-dealing determinations. The commonwealth act allows the responsible commonwealth minister to make an emergency-dealing determination in response to an emergency. This enables an identified genetically modified organism (GMO) to be used quickly in response to an emergency without the need for the GMO to go through a relatively lengthy licence application process. A GMO to be specified in an emergency-dealing determination must still undergo a rigorous scientific risk assessment.

The commonwealth act obliges the responsible commonwealth minister to take scientific advice before making an emergency-dealing determination. The advice must be that there is an emergency, that the identified GMO can help address the emergency and that the GMO itself can be appropriately managed. If this advice is not given, the emergency-dealing determination cannot be made. The provisions of this bill allow the responsible Victorian minister to make a corresponding emergency-dealing determination when one is made by the commonwealth minister.