Horse Disease Response Levy (Consequential Amendments) Bill 2008

No. , 2008

(Agriculture, Fisheries and Forestry)

A Bill for an Act to deal with consequential matters relating to the enactment of the Horse Disease Response Levy Act 2008, and for related purposes
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Australian Animal Health Council (Live-stock Industries) Funding Act 1996  3
A Bill for an Act to deal with consequential matters relating to the enactment of the *Horse Disease Response Levy Act 2008*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Horse Disease Response Levy (Consequential Amendments) Act 2008*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.
3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendment of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996

Australian Animal Health Council (Live-stock Industries) Funding Act 1996

1 Section 3
Insert:

horse has the same meaning as in the Horse Disease Response Levy Act 2008.

2 Section 3
Insert:

horse disease response levy means levy of that name imposed by the Horse Disease Response Levy Act 2008.

3 After paragraph 4(2)(a)
Insert:

(aa) amounts of horse disease response levy;

4 At the end of subsection 4(2)
Add:

; (c) amounts of penalty paid under section 10 of the Horse Disease Response Levy Collection Act 2008 in relation to a failure to pay horse disease response levy by the time it became due for payment.

5 Subsection 4(3)
Repeal the subsection, substitute:

Australian Animal Health Council’s obligation to apply a Commonwealth payment

(3) A payment (the Commonwealth payment) under subsection (2) relating to:
Schedule 1 Amendment of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996

(a) a levy or charge and to an animal product; or
(b) horse disease response levy;
is made subject to the condition that the Australian Animal Health Council apply the Commonwealth payment in accordance with the priorities in subsections (4), (5) and (6) and subject to subsections (7), (7A) and (8).

Liability of Australian Animal Health Council to repay Commonwealth

(3A) However, if a non-government body that is concerned with the horse industry is not a party to the EADR agreement at the time that a Commonwealth payment relating to horse disease response levy is made, the Australian Animal Health Council must, after applying the payment in accordance with the first priority, pay the balance of the payment to the Commonwealth within 28 days after the day on which the payment is made.

Setting off liabilities under subsection (3A) against a future Commonwealth payment

(3B) The Commonwealth may set off an amount that is payable to it under subsection (3A) against a Commonwealth payment, to the extent that it relates to horse disease response levy, that is payable to the Australian Animal Health Council under subsection (2).

Note 1: The following heading to subsection 4(1) is inserted “Commonwealth obligation to pay the Australian Animal Health Council”.

Note 2: The following heading to subsection 4(4) is inserted “First priority: administrative costs”.

6 Subsections 4(5) and (6)

Repeal the subsections, substitute:

Second priority: discharging liabilities under EADR agreement

(5) The second priority is to apply the Commonwealth payment in the following way:

(a) to the extent that the Commonwealth payment relates to a levy or charge and to an animal product—in making, on behalf of the non-government body that is a party to the EADR agreement and is concerned with the production of the animal product, a payment:
(i) to the Commonwealth for the purpose of discharging a
liability of the body to the Commonwealth that arises
under the EADR agreement; or
(ii) if the animal product is honey—to the Commonwealth
or Plant Health Australia Limited (ACN 092 607 997)
for the purpose of discharging a liability of the body to
the Commonwealth relating to the Commonwealth’s
costs connected with a plant disease that is, may be or
may have been spread by honey bees;
(b) to the extent that the Commonwealth payment relates to
horse disease response levy—in making, on behalf of a
non-government body that is a party to the EADR agreement
and is concerned with the horse industry, a payment to the
Commonwealth for the purpose of discharging a liability of
the body to the Commonwealth that arises under the EADR
agreement.

Note: Paragraph (a)—a payment to Plant Health Australia Limited may be
made for the purpose of discharging a liability of the non-government
body concerned with honey production to the Commonwealth relating
to a plant disease spread by honey bees if Plant Health Australia
Limited is obliged to pay the Commonwealth on behalf of the body.

Third priority: other response purposes

(6) The third priority is to apply the Commonwealth payment in the
following way:
(a) to the extent that the Commonwealth payment relates to a
levy or charge and to an animal product—in:
(i) making a payment to an organisation that is concerned
with research and development relevant to production of
the animal product; or
(ii) taking measures relating to the promotion or
maintenance of the health of animals to which the
animal product relates;
(b) to the extent that the Commonwealth payment relates to
horse disease response levy—in:
(i) making a payment to an organisation that is concerned
with research and development relevant to the horse
industry; or
(ii) taking measures relating to the promotion or
maintenance of the health of horses.
Schedule 1  Amendment of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996

7  Subsection 4(7)

After “Commonwealth payment”, insert “, to the extent that it relates to a levy or charge and to the animal product,”.

Note: The following heading to subsection 4(7) is inserted “Third priority only to be applied on request”.

8  After subsection 4(7)

Insert:

(7A) The Australian Animal Health Council is to apply the Commonwealth payment, to the extent that it relates to horse disease response levy, in accordance with the third priority only:

(a) on request by a non-government body that is a party to the EADR agreement and is concerned with the horse industry; and

(b) in the way that that body requests.

Note:  The following heading to subsection 4(8) is inserted “Applying the priorities”.

9  Paragraph 6(1)(a)

Repeal the paragraph, substitute:

(a) a person pays:

(i) an amount by way of levy, charge or penalty described in subsection 4(2) relating to an animal product; or

(ii) an amount of horse disease response levy or penalty in relation to a failure to pay such levy; and

10  Paragraph 6(3)(a)

Omit “the animal product”, substitute “an animal product”.

11  Subsection 6(3) (note)

After “subsection 4(2)”, insert “that relate to the animal product”.

12  After subsection 6(3)

Insert:

(3A) Each payment under subsection 4(2):

(a) that relates to horse disease response levy; and

(b) that exceeds the amount it should have been because of subsection (2) of this section;
is made subject to the condition that the excess is a debt due by the
Australian Animal Health Council to the Commonwealth, and that
the Australian Animal Health Council comply with
subsection (5A) (if applicable).

Note: Some or all of this debt may be discharged if the Commonwealth
expects it will not be able to set this debt off against future payments
under subsection 4(2) that relate to horse disease response levy, and if
past payments under that subsection have already been applied. See
 subsections (5A) and (6A).

13 Subsection 6(4)

Repeal the subsection, substitute:

Setting off a liability against future payments

(4) The Commonwealth may set off:

(a) the excess referred to in subsection (3) against an amount that
    is payable to the Australian Animal Health Council under
    subsection 4(2) in relation to an animal product; and

(b) the excess referred to in subsection (3A) against an amount
    that is payable to the Australian Animal Health Council
    under subsection 4(2) in relation to horse disease response
    levy.

14 Paragraph 6(5)(a)

Omit “subsection (4)”, substitute “paragraph (4)(a)”.

15 Paragraph 6(5)(b)

Omit “the animal product”, substitute “an animal product”.

16 After subsection 6(5)

Insert:

(5A) If:

(a) the Secretary of the Department gives written notice to the
    Australian Animal Health Council that the Secretary expects
    the Commonwealth will not be able to set off under
    paragraph (4)(b) a specified amount of the excess; and

(b) the Australian Animal Health Council is yet to fully apply
    one or more Commonwealth payments (as defined in
    section 4) relating to horse disease response levy;
the Australian Animal Health Council must, before applying those
Commonwealth payments in accordance with the third priority in
that section, apply those Commonwealth payments in paying the
Commonwealth as much as possible of that specified amount.

17 Subsection 6(6)
After “The debt”, insert “referred to in subsection (5)”.

18 Subsection 6(6) (note)
Omit “subsection (4)”, substitute “paragraph (4)(a)”.

19 After subsection 6(6)
Insert:

(6A) The debt referred to in subsection (5A) is discharged by this
subsection to the extent of the difference (if any) between:
(a) the amount specified in a notice described in
paragraph (5A)(a); and
(b) the amount (if any) paid to the Commonwealth under
subsection (5A) by the Australian Animal Health Council in
connection with the notice.

Note: A set-off under paragraph (4)(b) of an amount of the excess, or a
payment to the Commonwealth under subsection (5A), also discharges
the debt to the extent of that amount or payment.

20 At the end of section 6
Add:

(8) Subsections 4(3) and (7A) have effect subject to subsections (3A)
and (5A) of this section.