

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**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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1 **A Bill for an Act to deal with consequential matters**
2 **relating to the enactment of the *Horse Disease***
3 ***Response Levy Act 2008*, and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

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

8 **2 Commencement**

9 This Act commences on the day after it receives the Royal Assent.

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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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Amendment of the Australian**
3 **Animal Health Council (Live-stock**
4 **Industries) Funding Act 1996**
5

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

8 **1 Section 3**

9 Insert:

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

12 **2 Section 3**

13 Insert:

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

16 **3 After paragraph 4(2)(a)**

17 Insert:

18 (aa) amounts of horse disease response levy;

19 **4 At the end of subsection 4(2)**

20 Add:

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

25 **5 Subsection 4(3)**

26 Repeal the subsection, substitute:

27 *Australian Animal Health Council's obligation to apply a*
28 *Commonwealth payment*

29 (3) A payment (the *Commonwealth payment*) under subsection (2)
30 relating to:

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

7 *Liability of Australian Animal Health Council to repay*
8 *Commonwealth*

- 9 (3A) However, if a non-government body that is concerned with the
10 horse industry is not a party to the EADR agreement at the time
11 that a Commonwealth payment relating to horse disease response
12 levy is made, the Australian Animal Health Council must, after
13 applying the payment in accordance with the first priority, pay the
14 balance of the payment to the Commonwealth within 28 days after
15 the day on which the payment is made.

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

- 18 (3B) The Commonwealth may set off an amount that is payable to it
19 under subsection (3A) against a Commonwealth payment, to the
20 extent that it relates to horse disease response levy, that is payable
21 to the Australian Animal Health Council under subsection (2).

22 Note 1: The following heading to subsection 4(1) is inserted "*Commonwealth obligation to pay*
23 *the Australian Animal Health Council*".

24 Note 2: The following heading to subsection 4(4) is inserted "*First priority: administrative*
25 *costs*".

26 **6 Subsections 4(5) and (6)**

27 Repeal the subsections, substitute:

28 *Second priority: discharging liabilities under EADR agreement*

- 29 (5) The second priority is to apply the Commonwealth payment in the
30 following way:
31 (a) to the extent that the Commonwealth payment relates to a
32 levy or charge and to an animal product—in making, on
33 behalf of the non-government body that is a party to the
34 EADR agreement and is concerned with the production of the
35 animal product, a payment:

- 1 (i) to the Commonwealth for the purpose of discharging a
2 liability of the body to the Commonwealth that arises
3 under the EADR agreement; or
4 (ii) if the animal product is honey—to the Commonwealth
5 or Plant Health Australia Limited (ACN 092 607 997)
6 for the purpose of discharging a liability of the body to
7 the Commonwealth relating to the Commonwealth's
8 costs connected with a plant disease that is, may be or
9 may have been spread by honey bees;
10 (b) to the extent that the Commonwealth payment relates to
11 horse disease response levy—in making, on behalf of a
12 non-government body that is a party to the EADR agreement
13 and is concerned with the horse industry, a payment to the
14 Commonwealth for the purpose of discharging a liability of
15 the body to the Commonwealth that arises under the EADR
16 agreement.
- 17 Note: Paragraph (a)—a payment to Plant Health Australia Limited may be
18 made for the purpose of discharging a liability of the non-government
19 body concerned with honey production to the Commonwealth relating
20 to a plant disease spread by honey bees if Plant Health Australia
21 Limited is obliged to pay the Commonwealth on behalf of the body.

22 *Third priority: other response purposes*

- 23 (6) The third priority is to apply the Commonwealth payment in the
24 following way:
25 (a) to the extent that the Commonwealth payment relates to a
26 levy or charge and to an animal product—in:
27 (i) making a payment to an organisation that is concerned
28 with research and development relevant to production of
29 the animal product; or
30 (ii) taking measures relating to the promotion or
31 maintenance of the health of animals to which the
32 animal product relates;
33 (b) to the extent that the Commonwealth payment relates to
34 horse disease response levy—in:
35 (i) making a payment to an organisation that is concerned
36 with research and development relevant to the horse
37 industry; or
38 (ii) taking measures relating to the promotion or
39 maintenance of the health of horses.

1 **7 Subsection 4(7)**

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

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

6 **8 After subsection 4(7)**

7 Insert:

8 (7A) The Australian Animal Health Council is to apply the
9 Commonwealth payment, to the extent that it relates to horse
10 disease response levy, in accordance with the third priority only:

- 11 (a) on request by a non-government body that is a party to the
12 EADR agreement and is concerned with the horse industry;
13 and
14 (b) in the way that that body requests.

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

16 **9 Paragraph 6(1)(a)**

17 Repeal the paragraph, substitute:

- 18 (a) a person pays:
19 (i) an amount by way of levy, charge or penalty described
20 in subsection 4(2) relating to an animal product; or
21 (ii) an amount of horse disease response levy or penalty in
22 relation to a failure to pay such levy; and

23 **10 Paragraph 6(3)(a)**

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

25 **11 Subsection 6(3) (note)**

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

27 **12 After subsection 6(3)**

28 Insert:

- 29 (3A) Each payment under subsection 4(2):
30 (a) that relates to horse disease response levy; and
31 (b) that exceeds the amount it should have been because of
32 subsection (2) of this section;
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1 is made subject to the condition that the excess is a debt due by the
2 Australian Animal Health Council to the Commonwealth, and that
3 the Australian Animal Health Council comply with
4 subsection (5A) (if applicable).

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

10 **13 Subsection 6(4)**

11 Repeal the subsection, substitute:

12 *Setting off a liability against future payments*

13 (4) The Commonwealth may set off:

- 14 (a) the excess referred to in subsection (3) against an amount that
15 is payable to the Australian Animal Health Council under
16 subsection 4(2) in relation to an animal product; and
17 (b) the excess referred to in subsection (3A) against an amount
18 that is payable to the Australian Animal Health Council
19 under subsection 4(2) in relation to horse disease response
20 levy.

21 **14 Paragraph 6(5)(a)**

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

23 **15 Paragraph 6(5)(b)**

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

25 **16 After subsection 6(5)**

26 Insert:

27 (5A) If:

- 28 (a) the Secretary of the Department gives written notice to the
29 Australian Animal Health Council that the Secretary expects
30 the Commonwealth will not be able to set off under
31 paragraph (4)(b) a specified amount of the excess; and
32 (b) the Australian Animal Health Council is yet to fully apply
33 one or more Commonwealth payments (as defined in
34 section 4) relating to horse disease response levy;

1 the Australian Animal Health Council must, before applying those
2 Commonwealth payments in accordance with the third priority in
3 that section, apply those Commonwealth payments in paying the
4 Commonwealth as much as possible of that specified amount.

5 **17 Subsection 6(6)**

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

7 **18 Subsection 6(6) (note)**

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

9 **19 After subsection 6(6)**

10 Insert:

11 (6A) The debt referred to in subsection (5A) is discharged by this
12 subsection to the extent of the difference (if any) between:

- 13 (a) the amount specified in a notice described in
14 paragraph (5A)(a); and
15 (b) the amount (if any) paid to the Commonwealth under
16 subsection (5A) by the Australian Animal Health Council in
17 connection with the notice.

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

21 **20 At the end of section 6**

22 Add:

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