



# **Plant Health Australia (Plant Industries) Funding Act 2002**

**No. 80, 2002 as amended**

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**Includes amendments up to:** Act No. 146, 2013

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Plant Health Australia (Plant Industries) Funding Act 2002* as in force on 13 December 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 23 December 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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# An Act to direct funds to Plant Health Australia Limited, and for related purposes

## Part 1—Preliminary

### 1 Short title

This Act may be cited as the *Plant Health Australia (Plant Industries) Funding Act 2002*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	8 October 2002
2. Sections 3 to 13	The first 1 January, 1 April, 1 July or 1 October that occurs on or after the day on which this Act receives the Royal Assent	1 January 2003
3. Schedule 1	At the same time as the provisions covered by item 2 of this table	1 January 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

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### 3 Definitions

In this Act:

**EPPR** is short for emergency plant pest response.

**EPPR Deed** means the Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses, executed by the Commonwealth on 26 May 2005, as the Deed is in force from time to time.

Note: At different times on or before 26 October 2005, the Deed was also executed by Plant Health Australia, the States, the Australian Capital Territory and the Northern Territory.

**EPPR fund**, for an EPPR plant product, means the fund mentioned in subsection 10A(4) for the plant product.

**EPPR late payment penalty** means penalty payable under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to a failure to pay EPPR levy or charge by the time it became due for payment.

**EPPR levy or charge** means a levy or charge:

- (a) that is imposed by regulations under Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* and that is described in those regulations as “EPPR levy”; or
- (b) that is imposed by regulations under Schedule 14 to the *Primary Industries (Customs) Charges Act 1999* and that is described in those regulations as “EPPR charge”.

**EPPR levy or charge receipt**, from an EPPR plant product, means an amount of EPPR levy or charge collected or received by or on behalf of the Commonwealth in relation to the plant product (not including any amount paid by way of EPPR late payment penalty).

**EPPR penalty receipt**, from an EPPR plant product, means an amount of EPPR late payment penalty collected or received by or on behalf of the Commonwealth in relation to the plant product.

**EPPR plant product** has the meaning given by subsection 10A(1).

***fundable contribution liability***, in relation to a Plant Industry Member and a PHA year, means the amount of the Member's yearly contribution for the year, reduced by the total amount of any payments received by PHA (otherwise than from the Commonwealth) to the extent they discharge the liability to pay that contribution.

***PHA*** means Plant Health Australia Limited, A.C.N. 092 607 997.

***PHA late payment penalty*** means penalty payable under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to a failure to pay PHA levy or charge by the time it became due for payment.

***PHA levy or charge*** means a levy or charge:

- (a) that is imposed by regulations under Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* and that is described in those regulations as 'PHA levy'; or
- (b) that is imposed by regulations under Schedule 14 to the *Primary Industries (Customs) Charges Act 1999* and that is described in those regulations as 'PHA charge'.

***PHA plant product*** means a plant product on which PHA levy or charge is imposed.

***PHA year*** means a year for which PHA levy or charge is imposed.

***Plant Industry Member*** has the same meaning as it has in PHA's constitution.

***plant product*** has the same meaning as in Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* and in Schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

***primary levy or charge***, on a PHA plant product for a PHA year, means a levy or charge that is imposed on the plant product for the year by or under the *Primary Industries (Excise) Levies Act 1999* or the *Primary Industries (Customs) Charges Act 1999* and that satisfies whichever of the following paragraphs applies:

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- (a) for a plant product that is a horticultural product within the meaning of the *Horticulture Marketing and Research and Development Services Act 2000*:
  - (i) the levy or charge is covered by paragraph (a) or (b) of the definition of **research and development amounts** in section 4 of that Act; and
  - (ii) the rate of levy or charge is greater than zero;
- (b) for any other plant product:
  - (i) the levy or charge is attached to an R&D Corporation, within the meaning of the *Primary Industries Research and Development Act 1989*; and
  - (ii) the rate of the levy or charge is greater than zero.

**relevant Plant Industry Member**, for a plant product, means the Plant Industry Member that the Minister declares is the designated body for the plant product under:

- (a) clause 13 of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999*; or
- (b) clause 12 of Schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

Note 1: For what happens if the Minister declares that a particular Plant Industry Member is the designated body for 2 or more plant products that are PHA plant products, see section 10.

Note 2: For what happens if the Minister declares that 2 or more Plant Industry Members are the designated bodies for the same plant product, see section 11.

**total PHA levy or charge receipts**, from a PHA plant product for a PHA year, means the total amount of PHA levy or charge collected or received by or on behalf of the Commonwealth in relation to the plant product for the year (but not including any amounts paid by way of PHA late payment penalty).

**total PHA penalty receipts**, from a PHA plant product for a PHA year, means the total amount of PHA late payment penalty collected or received by or on behalf of the Commonwealth in relation to the plant product and year.

**yearly contribution**, for a Plant Industry Member for a PHA year, means the sum of:



- (a) the total annual subscription (by whatever name called) determined in accordance with PHA's constitution as being payable by the Plant Industry Member to PHA for the year; and
- (b) any other amounts that are determined in accordance with PHA's constitution, before the start of the year, as being payable by the Plant Industry Member to PHA for the year.

## Part 2—Funding for PHA yearly contributions

### 4 Funding to PHA if there is a primary levy or charge on a PHA plant product

*Situation in which this section applies*

- (1) This section applies in relation to a PHA plant product and a PHA year if there is a primary levy or charge on the plant product for the year.

*Commonwealth's obligation to make a payment to PHA*

- (2) The Commonwealth is to pay to PHA:
  - (a) if the total PHA levy or charge receipts from the plant product for the year exceed the relevant Plant Industry Member's fundable contribution liability for the year—an amount equal to that liability; or
  - (b) if the total PHA levy or charge receipts from the plant product for the year are equal to, or less than, the relevant Plant Industry Member's fundable contribution liability—an amount equal to those total receipts.

*Payment to be used to discharge the Plant Industry Member's fundable contribution liability*

- (3) The payment to PHA is made subject to the condition that PHA must apply the whole of the payment (disregarding any reduction due to set-off) towards discharging the Plant Industry Member's fundable contribution liability for the year, and so much of the payment as is not so applied is repayable by PHA to the Commonwealth.

*Commonwealth's obligation to pay PHA late payment penalty*

- (4) If the Commonwealth makes a payment under paragraph (2)(a), the Commonwealth is also to pay to PHA amounts equalling any amounts of PHA late payment penalty:

- (a) that relate to the liability to pay PHA levy or charge on the plant product for the year; and
  - (b) that are collected or received by the Commonwealth at or before the time by which the total amount of PHA levy or charge collected or received in relation to the plant product for the year equals the relevant Plant Industry Member's fundable contribution liability for the year.
- (5) If the Commonwealth makes a payment under paragraph (2)(b), the Commonwealth is also to pay to PHA an amount equal to the total PHA penalty receipts from the PHA plant product for the PHA year.

### **5 Funding to PHA if there is no primary levy or charge on a PHA plant product**

#### *Situation in which this section applies*

- (1) This section applies in relation to a PHA plant product and a PHA year if there is no primary levy or charge on the plant product for the year.

#### *Commonwealth's obligation to make a payment to PHA*

- (2) The Commonwealth is to pay to PHA an amount equal to the total PHA levy or charge receipts from the PHA plant product for the year.

#### *Payment to be used to discharge the Plant Industry Member's fundable contribution liability*

- (3) The payment to PHA is made subject to the condition that PHA must apply the whole of the payment (disregarding any reduction due to set-off) towards discharging the Plant Industry Member's fundable contribution liability for the year, and (subject to subsection (4)) so much of the payment as is not so applied is repayable by PHA to the Commonwealth.
- (4) However, if the amount of the payment to PHA exceeds the Plant Industry Member's fundable contribution liability, subsection (3)

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only applies to so much of the payment as equals the amount of that liability.

*Commonwealth's obligation to pay PHA associated late payment penalty*

- (5) The Commonwealth is also to pay to PHA an amount equal to the total PHA penalty receipts from the PHA plant product for the PHA year.

## 6 Appropriation

Amounts payable to PHA under sections 4 and 5 are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

## 7 Payment of any remaining balance for research and development purposes

*Situation in which this section applies*

- (1) This section applies if the total PHA levy or charge receipts from a PHA plant product (being a plant product on which there is a primary levy or charge) for a PHA year, exceed the relevant Plant Industry Member's fundable contribution liability by an amount (the *excess*).

*Treatment of excess—horticultural products*

- (2) For a PHA plant product that is a horticultural product within the meaning of the *Horticulture Marketing and Research and Development Services Act 2000*, that Act applies as if:
- (a) the excess; and
  - (b) so much of the total PHA penalty receipts from the plant product for the year as exceeds the amount paid or payable to PHA under subsection 4(4);
- were covered by the definition of ***research and development amounts*** in section 4 of that Act.

*Treatment of excess—other PHA plant products*

- (3) For any other PHA plant product, the *Primary Industries Research and Development Act 1989* applies as if:
- (a) PHA levy or charge on the plant product for the year were attached to the R&D Corporation or R&D Fund (within the meaning of that Act) to which the primary levy or charge on the plant product for the year is attached; and
  - (b) the research component of the PHA levy or charge so attached were an amount equal to the excess; and
  - (c) so much (if any) of the total PHA penalty receipts from the plant product for the year as exceeds the amount paid or payable to PHA under subsection 4(4) were an amount of penalty referred to in subparagraph 30(1)(a)(iii) of that Act that is attributable to the research component referred to in paragraph (b) of this subsection.

**8 PHA to pay PHA levy or charge costs***PHA's obligation to pay Commonwealth certain costs*

- (1) PHA must pay to the Commonwealth, in relation to a PHA plant product and PHA year, amounts equalling:
- (a) the costs the Commonwealth incurs in collecting or recovering:
    - (i) the total PHA levy or charge receipts from the plant product for the year; and
    - (ii) the total PHA penalty receipts from the plant product for the year; and
  - (b) the costs the Commonwealth incurs in administering the following provisions in relation to the plant product and year:
    - (i) sections 4 and 5 of this Act;
    - (ii) the *Horticulture Marketing and Research and Development Services Act 2000* as it applies because of subsection 7(2) of this Act;
    - (iii) the *Primary Industries Research and Development Act 1989* as it applies because of subsection 7(3) of this Act.

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*Setting off liabilities under subsection (1) against liabilities under sections 4 and 5*

- (2) The Commonwealth may set off an amount that is payable to it under subsection (1) against an amount that is payable to PHA under section 4 or 5.

*The research and development Acts do not apply to these expenses*

- (3) The following provisions do not apply to an expense incurred by the Commonwealth to the extent that the expense is covered by subsection (1):
- (a) subsection 16(7) or paragraph 17(2)(d) of the *Horticulture Marketing and Research and Development Services Act 2000*;
  - (b) section 34 of the *Primary Industries Research and Development Act 1989*.

## 9 PHA levy or charge refunds

*Situation in which this section applies*

- (1) This section applies if:
- (a) a person pays an amount by way of PHA levy or charge or PHA late payment penalty in relation to a PHA plant product and PHA year; and
  - (b) the Commonwealth refunds the amount (the **refunded amount**) to the person.

Note: For example, the Commonwealth might refund an amount because the person paid too much PHA levy or charge.

*Other provisions of this Act apply as if the refunded amount had never been paid*

- (2) The other provisions of this Act apply, and are taken always to have applied, as if the refunded amount had never been paid to the Commonwealth.

Note: This may, for example, lead to a result as provided for in subsection (3) or (4).

*Liability of PHA to repay overpayment*

- (3) If an amount paid to PHA before the refund (disregarding any reduction due to set-off) under section 4 or 5 exceeded the amount that should have been so paid to PHA (after taking account of the effect of subsection (2)), PHA must pay to the Commonwealth an amount equal to the excess.

*Setting off liabilities under subsection (3) against liabilities under sections 4 and 5*

- (4) The Commonwealth may set off an amount that is payable to it under subsection (3) against an amount that is payable to PHA under section 4 or 5.

*How the research and development Acts apply to the refunded amount*

- (5) If an amount dealt with before the refund in accordance with subsection 7(2) or (3) exceeded the amount that should have been so dealt with under that section (after taking account of the effect of subsection (2)), the following provisions apply to the refunded amount, to the extent of the excess:
- (a) subsection 16(7) or paragraph 17(2)(d) (as the case requires) of the *Horticulture Marketing and Research and Development Services Act 2000*;
  - (b) section 35 of the *Primary Industries Research and Development Act 1989*.

**10 What happens if 2 or more PHA plant products have the same designated body?***Situation in which this section applies*

- (1) This section applies if the Minister declares that a particular Plant Industry Member is the designated body for 2 or more PHA plant products (the **relevant plant products**) under:
- (a) clause 13 of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999*; or

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(b) clause 12 of Schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

*PHA to advise what proportion of the yearly contribution relates to each of the relevant plant products*

- (2) As soon as practicable after the Plant Industry Member's yearly contribution for a particular PHA year is known, PHA must, in relation to each of the relevant plant products, advise the Minister what proportion (expressed as a percentage or fraction) of the yearly contribution relates to that plant product.

*Minister to determine what proportion of the yearly contribution relates to each of the relevant plant products*

- (3) The Minister must, by notice published in the *Gazette*, determine, for each of the relevant plant products, what proportion (expressed as a percentage or fraction) of the yearly contribution relates to that plant product. The Minister must, in making the determination, have regard to PHA's advice (unless PHA has not provided advice).

*A plant product's relevant proportion*

- (4) The **relevant proportion**, for a particular one of the relevant plant products, is the percentage or fraction determined by the Minister under subsection (3) in relation to the plant product.

*References to fundable contribution liability to be read as references to the relevant proportion of that liability*

- (5) Sections 4, 5 and 7, as they apply in relation to a particular one of the relevant plant products, have effect as if the references in those provisions to the Plant Industry Member's fundable contribution liability were instead references to the relevant proportion of that liability.



*Regulations may set out other modifications*

- (6) The regulations may set out other modifications of this Act, including modifications of this section, that are to apply in situations to which this section applies.

## Part 3—Funding for emergency plant pest responses

### 10A Payments to PHA from EPPR levies and charges

- (1) This section applies in relation to a plant product (an **EPPR plant product**) on which EPPR levy or charge has been imposed.

*Commonwealth obligation to pay PHA*

- (2) The Commonwealth must pay to PHA amounts equal to the following:
- (a) EPPR levy or charge receipts from the EPPR plant product;
  - (b) EPPR penalty receipts from the EPPR plant product.

*Payment conditions*

- (3) Payments under subsection (2) in relation to the EPPR plant product are made subject to the following conditions:
- (a) PHA must hold the amounts in the EPPR fund for the plant product;
  - (b) PHA must apply the fund as required by section 10C;
  - (c) PHA must not apply the fund to make payments otherwise than:
    - (i) as required by section 10C; or
    - (ii) to make an investment in accordance with section 10D.

Note: If PHA contravenes a condition in relation to a payment under this section, it may be required to make a payment under section 10G.

*EPPR fund*

- (4) The **EPPR fund** for the EPPR plant product consists of the following (and nothing else):
- (a) payments under subsection (2) in relation to the plant product;

- (b) investments of fund money, made in accordance with section 10D;
- (c) income (for example, interest) earned on those investments;
- (d) the proceeds of the realisation of those investments;
- (e) payments made into the fund in accordance with a requirement under subsection 10G(2).

### **10B Appropriation**

Amounts payable to PHA under section 10A are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

### **10C Payments out of EPPR funds**

*PHA's obligation to apply EPPR fund*

- (1) If there is an EPPR fund for an EPPR plant product, PHA must apply the fund as required by this section.

Note: PHA may have to realise an investment made in accordance with section 10D in order to meet its obligations under this section.

- (2) PHA must apply the EPPR fund to make payments of the kinds mentioned in subsections (3), (4), (5) and (6) that are due from time to time. If, at a particular time, payments of 2 or more of those kinds are due, PHA must apply the fund to make the payments in the following order of priority:

- (a) a payment mentioned in subsection (3) (the first priority);
- (b) a payment mentioned in subsection (4) (the second priority);
- (c) a payment mentioned in subsection (5) (the third priority);
- (d) a payment mentioned in subsection (6) (the fourth priority).

Note: This section does not require PHA to make a payment otherwise than by applying the EPPR fund. If there are insufficient resources in the fund at a particular time for a particular payment, PHA is only obliged at that time to make so much of the payment as can then be made from the resources of the fund. The balance would be payable later when the fund has sufficient resources.

*First priority: administrative and other costs*

- (3) The first priority is to make payments of the following kinds:
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- (a) payments to discharge PHA's obligations to the Commonwealth under subsection 10E(1) or 10F(3) in relation to EPPR levy or charge on the plant product, or to reimburse PHA for any payments made to the Commonwealth (otherwise than under this section) to discharge those obligations;
- (b) payments to meet, or reimburse, PHA's costs in establishing and managing the EPPR fund from time to time, including the costs of receiving payments into the fund, making and realising investments and making payments out of the fund;
- (c) payments to the Commonwealth in accordance with any requirements under subsection 10G(3) to make such payments from the EPPR fund for the plant product.

*Second priority: meeting liabilities under EPPR Deed for the plant product*

- (4) The second priority is to make payments to the Commonwealth, on behalf of the relevant Plant Industry Member, to discharge any liability of the Member to the Commonwealth under the EPPR Deed in relation to the EPPR plant product.

*Third priority: meeting liabilities under EPPR Deed for other plant products*

- (5) The third priority is to make payments to the Commonwealth on behalf of the relevant Plant Industry Member, in accordance with a request by the Member, to discharge any liability of the Member to the Commonwealth under the EPPR Deed in relation to any other EPPR plant product for which the Member is the relevant Plant Industry Member.

*Fourth priority: other emergency plant pest response purposes*

- (6) The fourth priority is to make payments to any person, in accordance with a request by the relevant Plant Industry Member, for any other purpose relating to emergency plant pests, within the meaning of the EPPR Deed, that affect, or that may affect:
  - (a) the EPPR plant product; or

- (b) any other EPPR plant product for which the Member is the relevant Plant Industry Member.

*Emergency plant pest response affecting 2 or more plant products*

- (7) If a Plant Industry Member has a liability to the Commonwealth under the EPPR Deed in relation to an emergency plant pest response affecting 2 or more EPPR plant products for which the Member is the relevant Plant Industry Member:
  - (a) the Member must determine a proportionate amount of the total liability for each of the plant products; and
  - (b) for subsections (4) and (5), the amount of the Member's liability in relation to each of the plant products is the determined proportionate amount for the plant product.

*When is a payment **due**?*

- (8) For the purposes of this section, a payment of a kind described in subsection (3), (4), (5) or (6) is **due** if the conditions described in the subsection for making the payment are satisfied.

## **10D EPPR funds—management and investment**

*Management generally*

- (1) PHA may manage an EPPR fund, or arrange for an EPPR fund to be managed by another person on PHA's behalf, in any way it considers appropriate, subject to:
  - (a) this section; and
  - (b) any restriction or requirement in relation to the management of the fund (including any restriction or requirement in relation to the investment of money that is in the fund) to which PHA is otherwise subject.

*Investment*

- (2) If there is any money in an EPPR fund that is not immediately required for a payment under section 10C, PHA may invest the money (or part of it).

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- (3) If PHA cannot apply an EPPR fund as required by section 10C without realising an investment forming part of the fund, PHA must realise the investment.
- (4) PHA may invest money that is in an EPPR fund only in a way that would readily allow PHA to realise the investment, if necessary, to meet its obligations to make payments under section 10C.
- (5) Despite subsection (4):
  - (a) PHA may invest money that is in an EPPR fund in a form (if any) that is permitted by the regulations; and
  - (b) PHA must not invest money that is in an EPPR fund in a form (if any) that is not permitted by the regulations.

### 10E PHA to pay EPPR levy or charge costs

*PHA's obligation to pay Commonwealth certain costs*

- (1) PHA must pay to the Commonwealth, in relation to an EPPR plant product, amounts equalling:
  - (a) the costs the Commonwealth incurs in collecting or recovering:
    - (i) EPPR levy or charge receipts from the plant product; and
    - (ii) EPPR penalty receipts from the plant product; and
  - (b) the costs the Commonwealth incurs in administering this Part.

*Setting off liabilities under subsection (1) against liabilities under section 10A*

- (2) The Commonwealth may set off an amount that is payable to it under subsection (1) against an amount that is payable to PHA under section 10A in relation to the plant product.

### 10F EPPR levy or charge refunds

*Situation in which this section applies*

- (1) This section applies if:
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- (a) a person pays an amount by way of EPPR levy or charge or EPPR late payment penalty in relation to an EPPR plant product; and
- (b) the Commonwealth refunds the amount (the *refunded amount*) to the person.

Note: For example, the Commonwealth might refund an amount because the person paid too much EPPR levy or charge.

*Other provisions of this Act apply as if the refunded amount had never been paid*

- (2) The other provisions of this Act apply, and are taken always to have applied, as if the refunded amount had never been paid to the Commonwealth.

Note: This may, for example, lead to a result as provided for in subsection (3) or (4).

*Liability of PHA to repay overpayment*

- (3) If an amount paid to PHA under section 10A before the refund (disregarding any reduction due to set-off) exceeded the amount that should have been so paid to PHA (after taking account of the effect of subsection (2)), PHA must pay to the Commonwealth an amount equal to the excess.

*Setting off liabilities under subsection (3) against liabilities under section 10A*

- (4) The Commonwealth may set off an amount that is payable to it under subsection (3) against an amount that is payable to PHA under section 10A.

## **10G Contravention of EPPR plant product payment conditions**

*Situation in which this section applies*

- (1) This section applies if the Minister is satisfied that PHA has contravened a condition mentioned in subsection 10A(3) in relation to an EPPR fund for an EPPR plant product.

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*Requirement to make payment*

- (2) The Minister may, by written notice to PHA, require PHA to pay a stated amount that the Minister considers to be appropriate in the circumstances:
  - (a) to the Commonwealth; or
  - (b) into the EPPR fund for the plant product.
- (3) The Minister may, by the notice, require the payment to be made from either or both of the following sources (in the proportions, if any, stated in the notice):
  - (a) unless paragraph (2)(b) applies—from the EPPR fund for the plant product;
  - (b) from a source other than that EPPR fund, whether or not the source is specified in the notice.
- (4) The Minister may, by the notice, state a time within which the payment must be made.

*Representations by relevant Plant Industry Member*

- (5) Without limiting subsection (2), (3) or (4), in considering whether to give a notice under subsection (2), or the requirements to be included in such a notice, the Minister must have regard to any representation made by the relevant Plant Industry Member for the EPPR plant product.

*Liability of PHA to pay*

- (6) PHA must pay the amount stated in a notice under subsection (2) in accordance with the notice, within the time (if any) stated in the notice.

*Setting off liabilities under subsection (6) against liabilities under section 10A*

- (7) The Commonwealth may set off an amount that is payable to it under subsection (6) against an amount that is payable to PHA under section 10A.



## **Part 4—Miscellaneous**

### **11 What happens if there are 2 or more designated bodies for the same plant product?**

The regulations may set out modifications of this Act that are to apply if the Minister declares that 2 or more Plant Industry Members are the designated bodies for the same plant product under:

- (a) clause 13 of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999*; or
- (b) clause 12 of Schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

### **12 Regulations**

The Governor-General may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

### **13 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—Consequential amendments

### *Horticulture Marketing and Research and Development Services Act 2000*

#### **1 Subsection 16(1) (note)**

Omit “Note:”, substitute “Note 1:”.

#### **2 At the end of subsection 16(1) (after note 1)**

Add:

Note 2: See also subsection 7(2) of the *Plant Health Australia (Plant Industries) Funding Act 2002*, which provides that this Act applies to certain amounts of levy or charge (and related late payment penalty) to which that Act applies.

### *Primary Industries and Energy Research and Development Act 1989*

#### **3 At the end of subsection 30(1)**

Add:

Note: See also subsection 7(3) of the *Plant Health Australia (Plant Industries) Funding Act 2002*, which provides that this Act applies to certain amounts of levy or charge (and related late payment penalty) to which that Act applies.

#### **4 At the end of subsection 108(1)**

Add:

Note: See also subsection 7(3) of the *Plant Health Australia (Plant Industries) Funding Act 2002*, which provides that this Act applies to certain amounts of levy or charge (and related late payment penalty) to which that Act applies.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

## Endnotes

Endnote 1—About the endnotes

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### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Plant Health Australia (Plant Industries) Funding Act 2002	80, 2002	8 Oct 2002	ss. 3–13 and Schedule 1: 1 Jan 2003 Remainder: Royal Assent	
Plant Health Australia (Plant Industries) Funding Amendment Act 2006	62, 2006	22 June 2006	22 June 2006	—
Rural Research and Development Legislation Amendment Act 2013	146, 2013	13 Dec 2013	Sch 1 (items 1–4) and Sch 2 (items 7–11): Royal Assent	—

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
Heading to Part 1 .....	ad. No. 62, 2006
s. 3 .....	am. No. 62, 2006; No 146, 2013
<b>Part 2</b>	
Heading to Part 2 .....	ad. No. 62, 2006
s. 7 .....	am. No 146, 2013
Heading to s. 8 .....	rs. No. 62, 2006
s. 8 .....	am. No 146, 2013
Heading to s. 9 .....	rs. No. 62, 2006
s. 9 .....	am. No 146, 2013
<b>Part 3</b>	
Part 3 .....	ad. No. 62, 2006
ss. 10A–10G .....	ad. No. 62, 2006
<b>Part 4</b>	
Heading to Part 4 .....	ad. No. 62, 2006
Heading to s. 11 .....	am. No. 62, 2006
s. 11 .....	am. No. 62, 2006

## Endnotes

Endnote 5—Uncommenced amendments [none]

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**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**