



# Exotic Animal Disease Control Act 1989

No. 130 of 1989

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# Exotic Animal Disease Control Act 1989

No. 130 of 1989

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**An Act to establish an Exotic Animal Disease Preparedness Consultative Council and to provide financial assistance for purposes related to the control and eradication of exotic animal diseases**

[Assented to 7 November 1989]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Exotic Animal Disease Control Act 1989*.

### Commencement

2. This Act commences on the day on which it receives the Royal Assent.

**Interpretation**

3. In this Act, unless the contrary intention appears:

“Account” means the Exotic Animal Disease Preparedness Trust Account established by section 21;

“approved veterinary emergency plan” means any plan approved by the Australian Agricultural Council for the control and eradication of exotic animal diseases on their outbreak in Australia;

“Chairperson” means the Chairperson of the Council;

“Council” means the Exotic Animal Diseases Preparedness Consultative Council established by section 5;

“designated participant”, in relation to an exotic animal disease campaign, means a person, body, authority or government department that, under the approved veterinary emergency plan outlining the campaign, is scheduled to take part in the activities of the campaign;

“exotic animal disease” means:

(a) foot-and-mouth disease;

(b) vesicular stomatitis;

(c) vesicular exanthema;

(d) swine vesicular disease;

(e) rinderpest;

(f) swine fever;

(g) African swine fever;

(h) rabies;

(j) Newcastle disease;

(k) avian influenza;

(m) bluetongue;

(n) screw-worm fly; and

(p) any other disease that the Minister declares to be an animal disease for the purposes of this definition;

and includes any bacteria, virus, protozoa, arthropod or other pathogen or organism capable of causing a disease referred to in a paragraph of this definition;

“exotic animal disease campaign” means concerted action, as outlined in an approved veterinary emergency plan, aimed at eradicating, or mitigating the effects of an outbreak of, an exotic animal disease;

“exotic animal disease component”, in relation to the levy imposed by an Act specified in an item in the Schedule, means so much of that levy as is payable by virtue of the provision, or any of the provisions, of that Act specified in that item;

“exotic animal disease levy” means the exotic animal disease levy imposed by section 5 of the *Dairy Produce Levy (No. 1) Act 1986*;

“expenditure program” means a program of expenditure to be met from the Account prepared under section 8;

“member” means a member of the Council.

**First financial year after commencement of Act**

4. The first financial year after the commencement of this Act shall, for the purposes of this Act, be taken to be:

- (a) if the period beginning on the commencement of this Act and ending on the next 30 June is not less than 6 months—that period; or
- (b) if paragraph (a) does not apply—the period beginning on the commencement of this Act and ending on 30 June second occurring after the commencement of this Act.

**PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF COUNCIL**

**Establishment**

5. A Council by the name of the Exotic Animal Disease Preparedness Consultative Council is established by this section.

**Object**

6. The object of the establishment of the Council is to make available to the Minister a reliable source of information and advice on matters relating to the preparedness of the nation to take combative and rehabilitative action with respect to outbreaks in Australia of exotic animal diseases.

**Functions**

7. (1) The functions of the Council are:

- (a) to inquire into, assess, and report to the Minister on:
  - (i) the adequacy of the strategies and procedures provided in any approved veterinary emergency plan and, in particular, but without limiting the generality of the foregoing, the adequacy of such of those strategies and procedures as relate to the planning of exotic animal disease campaigns, the implementation of field programs and the mobilisation of national resources;
  - (ii) the preparedness of designated participants in an exotic animal disease campaign outlined in the plan to take part in the campaign;
  - (iii) the nature and extent of any training required to bring the preparedness of designated participants in an exotic animal disease campaign outlined in the plan to the level required for the proper implementation of the plan; and
  - (iv) the availability, suitability and reliability of all plant and equipment required for the carrying out in accordance with the plan of the exotic animal disease campaigns outlined in

the plan and any remedial action that needs to be taken in that regard;

- (b) to inquire into, and report to the Minister on:
  - (i) the social and economic effects of outbreaks of exotic animal diseases of different kinds;
  - (ii) any rehabilitation that may be required in the event of any such outbreak; and
  - (iii) the principles that are to govern the payment of compensation for any loss sustained as a result of such an outbreak;
- (c) to make recommendations to the Minister on the carrying out from time to time of operations designed to test:
  - (i) the efficacy of any approved veterinary emergency plan, or any part of such a plan;
  - (ii) the preparedness of designated participants in any exotic animal disease campaign outlined in the plan; and
  - (iii) the suitability and reliability of the plant and equipment required for the purposes of any exotic animal disease campaign outlined in the plan;
- (d) to advise the Minister on:
  - (i) the financial requirements of any approved veterinary emergency plan; and
  - (ii) the priorities to be accorded in allocating funds for the purposes of that plan;
- (e) to prepare, and submit to the Minister, expenditure programs in accordance with section 8; and
- (f) to ensure that payments out of the Account under paragraph 23 (a) are used for the purposes for which they were made.

(2) In the performance of its functions, the Council shall comply with any written directions of the Minister but the Council may also act on its own motion.

(3) The Minister shall, as soon as practicable, cause a copy of any direction given under subsection (2) to be laid before each House of the Parliament.

### **Expenditure programs**

8. (1) Subject to subsection (2), the Council shall prepare, and submit to the Minister not less than 2 months before the commencement of each financial year, the program of expenditure to be met from the Account for that financial year.

(2) The Council shall, as soon as possible after the commencement of this Act, prepare, and submit to the Minister, the program of expenditure to be met from the Account for the first financial year after the commencement of this Act.

**(3)** The expenditure program for a financial year shall include the following details:

- (a)** a list of all payments to be made out of the Account during the financial year for purposes related to the control and eradication of exotic animal diseases on their outbreak in Australia;
- (b)** in respect of each of those payments:
  - (i)** the amount of the payment;
  - (ii)** the name of the payee;
  - (iii)** the purpose for which the payment is to be made; and
  - (iv)** if the payment is to fund any requirement of an approved veterinary emergency plan—a statement to that effect, specifying the plan and describing in general terms the extent to which the payment will help to pursue the strategies outlined in the plan or to achieve its objectives.

**(4)** The expenditure program for a financial year shall also provide an estimate of the amount likely to be spent on meeting the costs incurred by the Commonwealth during the financial year for purposes related to the control and eradication of exotic animal diseases on their outbreak in Australia.

**(5)** The expenditure program for a financial year shall also include:

- (a)** estimates of the amounts proposed to be paid out of the Account, for purposes related to the control and eradication of exotic animal diseases on their outbreak in Australia, during each of the 2 financial years immediately following that financial year;
- (b)** the name of the payee of each of those amounts; and
- (c)** the purpose for which each of the proposed payments would be made.

**(6)** The Council may, at any time during a financial year, vary the expenditure program relating to that financial year.

#### **Approval of expenditure programs**

**9. (1)** Subject to this section, the Minister may approve an expenditure program, or a variation of an expenditure program, submitted under section 8 or subsection (3) of this section.

**(2)** If the Minister is of the opinion that any detail of a payment specified in the expenditure program, or in the expenditure program as varied, should be revised, the Minister:

- (a)** may request the Council to revise the program accordingly; and
- (b)** shall include in the request a statement of his or her reasons for making the request.

**(3)** If the Council receives a request under subsection (2), it shall:

- (a)** consider the request and statement of reasons;

- (b) make such revision of the expenditure program to which the request relates as it considers to be appropriate; and
- (c) submit the program, as so revised, to the Minister for approval.

#### **Powers**

10. The Council has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

### **PART 3—CONSTITUTION AND MEETINGS OF THE COUNCIL**

#### **Membership of the Council**

11. (1) The Council shall consist of the following members:

- (a) the Chairperson;
- (b) 2 persons nominated by the National Farmers' Federation;
- (c) one person nominated by the Australian Agricultural Council;
- (d) an officer of the Department;
- (e) 3 persons suitably qualified to deal with the matters referred to in section 6.

(2) A member:

- (a) shall be appointed by the Minister on a part-time basis;
- (b) holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment; and
- (c) is eligible for re-appointment.

(3) If the Minister is not satisfied as to the suitability of a person nominated for appointment to the Council by a body referred to in paragraph (1) (b) or (c), the Minister may request that body to nominate another person for appointment.

#### **Terms and conditions not provided for by this Act**

12. A member holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined in writing by the Minister.

#### **Age qualification**

13. (1) A person who has reached the age of 65 shall not be appointed as a member.

(2) A person shall not be appointed as a member for a period that extends beyond the day on which the person will reach the age of 65.

#### **Defective appointment not invalid**

14. The appointment of a person as a member is not invalid because of a defect or irregularity in connection with the appointment.



### **Remuneration and allowances**

15. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, a member shall be paid such remuneration as is prescribed.

(2) A member shall be paid such allowances as are prescribed.

(3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

### **Leave of absence**

16. The Minister may grant to a member leave of absence on such terms and conditions as to remuneration or otherwise as the Minister determines.

### **Disclosure of interests**

17. (1) A member who has a direct or indirect pecuniary interest in a matter being considered by the Council shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Council and the member shall not, unless the Council or the Minister otherwise determines:

- (a) be present during any deliberation of the Council with respect to that matter; or
- (b) take any part in any decision of the Council with respect to that matter.

### **Resignation**

18. A member may resign by writing signed and delivered to the Minister.

### **Termination of appointment**

19. (1) The Minister may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

(2) If a member:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of those creditors;
- (b) fails, without reasonable excuse, to comply with an obligation imposed by section 17; or
- (c) is absent, except on leave of absence granted under section 16, from 3 consecutive meetings of the Council;

the Minister may terminate the appointment of the member.

(3) The Minister shall terminate the appointment of a member appointed on the nomination of a body referred to in paragraph 11 (1) (b) or (c) at the request of that body.

### **Meetings**

20. (1) The Chairperson shall convene such meetings of the Council as the Chairperson considers necessary for the efficient performance of the Council's functions.

(2) Meetings shall be held at such places as the Chairperson determines.

(3) The Chairperson shall preside at all meetings at which he or she is present.

(4) Where the Chairperson is not present at a meeting, the members present shall appoint one of their number to preside at the meeting.

(5) Subject to this Act, the person presiding at a meeting may give directions regarding the procedure to be followed at or in connection with that meeting.

(6) At a meeting:

(a) all questions shall be decided by a majority of votes of the members present and voting; and

(b) the person presiding has a deliberative vote and, if necessary, also has a casting vote.

(7) The Council shall keep records of its meetings.

## **PART 4—EXOTIC ANIMAL DISEASE PREPAREDNESS TRUST ACCOUNT**

### **Establishment of Account**

21. (1) There is established an account to be known as the Exotic Animal Disease Preparedness Trust Account.

(2) The Account is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

### **Payments into Account**

22. (1) In subsection (2):

“prescribed levy” means a levy imposed by an Act specified in the Schedule.

(2) There shall be paid into the Account:

(a) in respect of each amount of Exotic Animal Disease Levy received by the Commonwealth—an amount equal to that amount of levy;

(b) in respect of each amount of penalty received by the Commonwealth for non-payment of Exotic Animal Disease Levy—an amount equal to that amount of penalty;

- (c) in respect of each amount of prescribed levy received by the Commonwealth—an amount equal to the exotic animal disease component of the levy;
- (d) in respect of each amount of penalty received by the Commonwealth for non-payment of a prescribed levy—an amount equal to so much of that amount of penalty as is attributable to non-payment of the exotic animal disease component of the levy; and
- (e) in respect of each amount received by the Commonwealth under section 53A of the *Wool Marketing Act 1987*—an amount equal to that amount.

(3) There shall also be paid into the Account an amount equal to one-half of any amount required to be paid out of the Account under section 23.

(4) Interest from the investment of money standing to the credit of the Account shall be paid into the Account.

#### **Payments out of Account**

23. Amounts standing to the credit of the Account may be spent in:

- (a) making payments, for purposes related to the control and eradication of exotic animal diseases on their outbreak in Australia, in accordance with an expenditure program approved by the Minister; and
- (b) making payments to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
  - (i) the collection or recovery of amounts referred to in paragraph 22 (2) (a), (b), (c) or (d); or
  - (ii) the administration of paragraph 22 (2) (a), (b), (c) or (d).

#### **Closing of Account**

24. (1) The Account shall be closed at the end of the day before the day on which this section ceases to have effect and any money standing to the credit of the Account at the time when it is closed shall be paid out of the Account, in accordance with subsection (2), to:

- (a) the following funds established by the *Rural Industries Research Act 1985*:
  - (i) the Chicken Meat Research Trust Fund;
  - (ii) the Dairy Research Trust Fund;
  - (iii) the Pig Research Trust Fund;
  - (iv) the Egg Industry Research Trust Fund;
- (b) the Australian Meat and Live-stock Research and Development Corporation (being the corporation established by the *Australian Meat and Live-stock Research and Development Act 1985*); and
- (c) the Australian Wool Corporation (being the corporation continued in existence by section 4 of the *Wool Marketing Act 1987*).

(2) The amount payable under subsection (1) to a fund referred to in paragraph (1) (a) or a corporation referred to in paragraph (1) (b) or (c) is the amount calculated in accordance with the formula:

$$\frac{\text{PA}}{\text{TAP}} \times \text{ASC}$$

where:

- PA** is the amount that is under subsection (3) the prescribed amount in relation to the fund or corporation;
- TAP** is the total sum of the amounts paid into the Account under section 22; and
- ASC** is the amount standing to the credit of the Account at the time when it is closed.

(3) The prescribed amount in relation to a fund referred to in paragraph (1) (a) or the corporation referred to in paragraph (1) (b) or (c) is:

(a) in the case of the Chicken Meat Research Trust Fund—the total of the amounts paid into the Account in respect of:

- (i) the amounts of levy; and
- (ii) the amounts of penalty for non-payment of levy;

received by the Commonwealth under the *Meat Chicken Levy Act 1969*;

(b) in the case of the Dairy Research Trust Fund—the total of the amounts paid into the Account in respect of:

- (i) the amounts of exotic animal disease levy; and
- (ii) the amounts of penalty for non-payment of exotic animal disease levy;

received by the Commonwealth;

(c) in the case of the Pig Research Trust Fund—the total of the amounts paid into the Account in respect of:

- (i) the amounts of levy; and
- (ii) the amounts of penalty for non-payment of levy;

received by the Commonwealth under the *Pig Slaughter Levy Act 1971*;

(d) in the case of the Egg Industry Research Trust Fund—the total of the amounts paid into the Account in respect of:

- (i) the amounts of levy; and
- (ii) the amounts of penalty for non-payment of levy;

received by the Commonwealth under the *Egg Industry Research (Hen Quota) Levy Act 1987* and the *Laying Chicken Levy Act 1988*;

(e) in the case of the Australian Meat and Live-stock Research and Development Corporation—the total of the amounts paid into the Account in respect of:

- (i) the amounts of levy; and

- (ii) the amounts of penalty for non-payment of levy; received by the Commonwealth under the *Live-stock Slaughter Levy Act 1964*; and
- (f) in the case of the Australian Wool Corporation—the total of the amounts paid into the Account in respect of the amounts received by the Commonwealth under section 53A of the *Wool Marketing Act 1987*.

## **PART 5—MISCELLANEOUS**

### **Publication of Council reports**

**25. (1)** Where the Council gives a report to the Minister under subsection 7 (1), the Minister may cause it to be made public in such ways as the Minister considers appropriate.

(2) The Council shall not make public a report, or any part of a report, that has not been made public by the Minister.

(3) Where a member disagrees with a finding or recommendation to be included in a report of the Council, the report shall:

- (a) identify the member; and
- (b) include a statement of the views of the member in relation to the finding or recommendation.

### **Annual report**

**26. (1)** The Council shall, as soon as practicable after the end of:

- (a) the first financial year after the commencement of this Act; and
- (b) each later financial year;

give to the Minister a report on its operations during the financial year.

(2) The Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

### **Final report**

**27. (1)** The persons who were the members of the Council immediately before it ceased to exist shall, not later than 3 months from the day on which it ceased to exist, give to the Minister a report on its operations during the period commencing on 1 July immediately preceding that day and ending at the end of that day.

(2) The Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

### **Appropriation**

28. (1) Amounts payable into the Account under subsection 22 (2) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

(2) Amounts payable into the Account under subsection 22 (3) are payable out of money appropriated by the Parliament for that purpose.

### **Regulations**

29. The Governor-General may make regulations, not inconsistent with this Act, 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.

### **Cessation of operation of Act**

30. (1) The provisions of this Act (other than sections 1, 3, 21, 23, 24 and 27 and subsection (2) of this section), unless sooner repealed, cease to have effect at the end of 30 June 1995.

(2) Sections 1, 3, 21, 23, 24 and 27 and this subsection, unless sooner repealed, cease to have effect at the end of 31 December 1995.

## **PART 6—CONSEQUENTIAL AMENDMENTS OF OTHER ACTS**

### **Amendments of *Dairy Produce Act 1986***

31. Section 3 of the *Dairy Produce Act 1986*<sup>1</sup> is amended:

- (a) by inserting in the definition of “milk fat levy” in subsection (1) “, the exotic animal disease levy” after “corporation levy”;
- (b) by inserting the following definition in subsection (1):
  - “‘exotic animal disease levy’ means the levy of that name imposed by the first Levy Act and includes amounts of penalty (if any) payable under this Act in relation to that levy;”.

### **Amendment of *Rural Industries Research Act 1985***

32. Schedule 1 to the *Rural Industries Research Act 1985*<sup>2</sup> is amended by omitting from Column 2 of the table in Part I “Whole of levy referred to in Column 1” (second occurring) and substituting “So much of levy referred to in Column 1 as is received by virtue of paragraph 7 (1) (a) of the *Meat Chicken Levy Act 1969*”.

### **Amendments of *Wool Marketing Act 1987***

33. (1) In this section:

“Principal Act” means the *Wool Marketing Act 1987*<sup>3</sup>.

(2) Section 45 of the Principal Act is amended by inserting after paragraph (e) the following paragraph:

“(ea) to make payments under section 53A;”.

(3) After section 53 of the Principal Act the following section is inserted:

**Payments to Commonwealth in relation to exotic animal disease control**

“53A. (1) The Corporation shall, on 1 July in each financial year ending before 1 July 1995, pay such amount as is prescribed to the Commonwealth as a contribution by the Corporation in respect of the expenditure incurred by the Commonwealth for the purposes of the *Exotic Animal Disease Control Act 1989*.

“(2) Before making regulations prescribing an amount for the purposes of subsection (1), the Governor-General shall take into consideration any recommendation with respect to the amount to be prescribed for the purposes of that subsection made to the Minister by the members of the Exotic Animal Disease Preparedness Consultative Council (being the Council established by the *Exotic Animal Disease Control Act 1989*) nominated by the National Farmers’ Federation and regulations shall not be made prescribing an amount that is greater than the amount last recommended by those members to the Minister.”.

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**SCHEDULE**

Sections 3 and 22

**ACTS IMPOSING CERTAIN LEVIES**

Column 1 Item No.	Column 2 Act	Column 3 Provision of Act
1.	<i>Egg Industry Research (Hen Quota) Levy Act 1987</i>	Paragraph 10 (b)
2.	<i>Live-stock Slaughter Levy Act 1964</i>	Paragraphs 6 (1) (c), 6A (1) (c), 6B (1) (c), 6C (1) (c), 6D (1) (c), 6E (1) (c) and 6F (1) (c)
3.	<i>Meat Chicken Levy Act 1969</i>	Paragraph 7 (1) (b)
4.	<i>Pig Slaughter Levy Act 1971</i>	Paragraph 6 (1) (b)

**NOTES**

1. No. 54, 1986, as amended. For previous amendments, see No. 168, 1986; Nos. 162 and 141, 1987; and Nos. 51, 111 and 114, 1988.
2. No. 102, 1985, as amended. For previous amendments, see Nos. 19, 59 and 82, 1986; and Nos. 51, 111 and 114, 1988.
3. No. 90, 1987, as amended. For previous amendments, see Nos. 51 and 111, 1988.

[*Minister’s second reading speech made in—  
House of Representatives on 24 May 1989  
Senate on 26 October 1989*]