

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

No. 45, 1996

**Compilation No. 6**

**Compilation date:** 14 December 2022

**Includes amendments up to:** Act No. 90, 2022

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**About this compilation**

**This compilation**

This is a compilation of the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996* that shows the text of the law as amended and in force on 14 December 2022 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

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

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

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to direct funds to the Australian Animal Health Council, and for related purposes

1 Short title

 This Act may be cited as the *Australian Animal Health Council (Live‑stock Industries) Funding Act 1996*.

2 Commencement

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

3 Definitions

 In this Act:

***Australian Animal Health Council*** means the Australian Animal Health Council Limited, A.C.N. 071‑890‑956.

***Australian Animal Health Council levy*** means a levy or charge the rate of which is set by or under any of the following provisions:

 (aa) paragraph 3(1)(d) or (2)(d) of Schedule 3 to the *Primary Industries (Customs) Charges Act 1999*;

 (ab) paragraph 6(1)(d), (2)(d) or (3)(d) of Schedule 3 to the *Primary Industries (Excise) Levies Act 1999*;

 (ac) subclause 10(1) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*, so far as it relates to paragraph 6(1)(g) of that Schedule;

 (ad) paragraph 4(b) of Schedule 16 to the *Primary Industries (Excise) Levies Act 1999*;

 (ae) paragraph 3(c), 4(c) or 5(c) of Schedule 12 to the *Primary Industries (Customs) Charges Act 1999*;

 (af) paragraph 4(1)(c), (3)(c) or (4)(c) of Schedule 18 to the *Primary Industries (Excise) Levies Act 1999*;

 (ag) paragraph 3(b) of Schedule 19 to the *Primary Industries (Excise) Levies Act 1999*;

 (ah) paragraph 3(c) of Schedule 22 to the *Primary Industries (Excise) Levies Act 1999*;

 (a) paragraph 5(1)(d) or 5(2)(d) of the repealed *Cattle (Producers) Export Charges Act 1997*;

 (b) paragraph 7(1)(d), 7(2)(d) or 7(3)(d) of the repealed *Cattle Transactions Levy Act 1997*;

 (c) subsection 9(1) of the repealed *Dairy Produce Levy (No. 1) Act 1986*, so far as it relates to paragraph 5(1)(g) of that Act;

 (d) paragraph 7(b) of the repealed *Laying Chicken Levy Act 1988*;

 (e) paragraph 5(c), 6(c) or 7(c) of the repealed *Live‑stock (Producers) Export Charges Act 1997*;

 (f) paragraph 6(1)(c), 7(c) or 8(1)(c) of the repealed *Live‑stock Transactions Levy Act 1997*;

 (g) paragraph 7(1)(b) of the repealed *Meat Chicken Levy Act 1969*;

 (h) paragraph 6(1)(c) of the repealed *Pig Slaughter Levy Act 1971*.

***EADR agreement*** means the government and livestock industry cost sharing deed in respect of emergency animal disease responses made by the Commonwealth and other parties, and executed by the Commonwealth in March 2002.

***emergency biosecurity response deed*** means:

 (a) the EADR agreement; or

 (b) a deed:

 (i) that relates to an emergency biosecurity response; and

 (ii) that is prescribed by the regulations for the purposes of this subparagraph.

***horse disease response levy*** means levy imposed by the *Horse Disease Response Levy Act 2011*.

4 Transfer of funds to Australian Animal Health Council—levies and charges other than horse disease response levy

Commonwealth payments to Australian Animal Health Council

 (1) The Commonwealth is to pay to the Australian Animal Health Council amounts equal to the following amounts:

 (a) amounts of Australian Animal Health Council levy collected or received by or on behalf of the Commonwealth on or after 1 July 1996;

 (b) amounts of penalty paid under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to a failure to pay Australian Animal Health Council levy by the time it became due for payment.

 (2) The Commonwealth is to pay to the Australian Animal Health Council an amount equal to the sum of the following amounts:

 (a) amounts of levy or charge:

 (i) imposed by regulations under Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* or Schedule 14 to the *Primary Industries (Customs) Charges Act 1999* on an animal product (as defined in whichever one of those Schedules is relevant); and

 (ii) described in those regulations as EADR levy or EADR charge; and

 (iii) collected or received by or on behalf of the Commonwealth;

 (b) amounts of penalty paid under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to a failure to pay levy or charge described in paragraph (a) by the time it became due for payment.

Conditions of Commonwealth payment

 (2A) The payments made under subsection (2) are subject to the condition that the Australian Animal Health Council will pay to the Commonwealth an amount equal to the Commonwealth’s costs in:

 (a) collecting or recovering the amounts of levy, charge or penalty to which the payments relate; and

 (b) administering subsection (2) in relation to the making of the payments.

 (3) A payment (the ***Commonwealth payment***) under subsection (2) relating to a levy or charge and to an animal product is made subject to the condition that the Australian Animal Health Council apply the Commonwealth payment in accordance with the priorities in subsections (3A), (4), (5) and (6) and subject to subsections (7) and (8).

 (3A) The first priority is to apply the Commonwealth payment in making a payment to the Commonwealth for the purpose of discharging any liability of the Australian Animal Health Council under subsection (2A).

 (4) The second priority is to apply the Commonwealth payment in meeting, or reimbursing the Australian Animal Health Council for meeting, costs the Council incurs:

 (a) in receiving and applying the Commonwealth payment in accordance with subsection (3); and

 (b) before or in the financial year in which the Commonwealth payment is made.

 (5) The third priority is to apply the Commonwealth payment in making, on behalf of a non‑government body that is a party to an emergency biosecurity response deed and is concerned with the production of the animal product, a payment to the Commonwealth for the purpose of discharging a liability of the body to the Commonwealth that arises under that deed.

 (6) The fourth priority is to apply the Commonwealth payment in:

 (a) making a payment to an organisation that is concerned with research and development relevant to production of the animal product; or

 (b) taking measures relating to the promotion or maintenance of the health of animals to which the animal product relates.

 (7) If a body is declared under the relevant Schedule mentioned in subparagraph (2)(a)(i) as the designated body for the animal product, the Australian Animal Health Council is to apply the Commonwealth payment in accordance with the fourth priority only:

 (a) on request by the body; and

 (b) in the way that the body requests.

 (8) It is not a contravention of the condition in subsection (3) for the Australian Animal Health Council to apply the Commonwealth payment in accordance with a lower priority if the Council cannot apply the payment in accordance with a higher priority. For this purpose, a priority set out in a later subsection is lower than a priority set out in an earlier subsection.

Recovery of Commonwealth costs

 (9) An amount payable by the Australian Animal Health Council under subsection (2A):

 (a) is a debt due to the Commonwealth; and

 (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Setting off Council payment to Commonwealth

 (10) The Commonwealth may set off an amount payable to it under subsection (2A) against a payment the Commonwealth must make under subsection (2).

4A Transfer of funds relating to horse disease response levy to Australian Animal Health Council

Commonwealth payment to Australian Animal Health Council

 (1) The Commonwealth is to make a payment (the ***Commonwealth payment***) to the Australian Animal Health Council of an amount equal to the sum of the following amounts:

 (a) horse disease response levy collected or received by the Commonwealth;

 (b) amounts of penalty paid under section 7 of the *Horse Disease Response Levy Collection Act 2011* in relation to a failure to pay horse disease response levy by the time it became due for payment.

Conditions of Commonwealth payment

 (1A) The payments made under subsection (1) are subject to the condition that the Australian Animal Health Council will pay to the Commonwealth an amount equal to the Commonwealth’s costs in:

 (a) collecting or recovering the amounts of levy or penalty to which the payments relate; and

 (b) administering subsection (1) in relation to the making of the payments.

 (2) The Commonwealth payment is subject to the condition that the Australian Animal Health Council apply the payment in accordance with this section.

First priority for applying Commonwealth payment

 (2A) As first priority, the Australian Animal Health Council is to apply the Commonwealth payment in making a payment to the Commonwealth for the purpose of discharging any liability of the Australian Animal Health Council under subsection (1A).

Second priority for applying Commonwealth payment

 (3) As second priority, the Australian Animal Health Council is to apply the Commonwealth payment in meeting, or reimbursing the Council for meeting, costs the Council incurs:

 (a) in receiving and applying the payment in accordance with this section; and

 (b) before or in the financial year in which the payment is made.

Third priority for applying Commonwealth payment

 (4) As third priority, the Australian Animal Health Council is to apply the Commonwealth payment in making to the Commonwealth a payment (the ***Council payment***) as follows, depending on whether, when the Commonwealth payment was made, a non‑government body concerned with the horse industry was party to the EADR agreement:

 (a) if such a body was party to the agreement—the Council payment is on behalf of the body for the purpose of discharging a liability of the body to the Commonwealth that arises under the EADR agreement;

 (b) if there was not such a body party to the agreement—the Council payment is made within 28 days after the Commonwealth payment was made and equals so much of the payment to the Council as the Council has not applied under subsection (3).

Fourth priority for applying Commonwealth payment

 (5) As fourth priority, the Australian Animal Health Council is to apply the Commonwealth payment in:

 (a) making a payment to an organisation that is concerned with research and development relevant to the horse industry; or

 (b) taking measures relating to the promotion or maintenance of the health of horses.

 (6) The Australian Animal Health Council is to apply the Commonwealth payment under subsection (5) 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.

Applying for lower priority if higher priority cannot be met

 (7) The Australian Animal Health Council may apply the Commonwealth payment in accordance with a lower priority if the Council cannot apply the payment in accordance with a higher priority. For this purpose, a priority set out in a later subsection is lower than a priority set out in an earlier subsection.

Recovery of Commonwealth costs

 (7A) An amount payable by the Australian Animal Health Council under subsection (1A):

 (a) is a debt due to the Commonwealth; and

 (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Setting off Council payment to Commonwealth

 (7B) The Commonwealth may set off an amount payable to it under subsection (1A) against a payment the Commonwealth must make under subsection (1).

 (8) The Commonwealth may set off an amount payable to it under paragraph (4)(b) against a payment the Commonwealth must make under subsection (1).

5 Appropriation

 Amounts payable to the Australian Animal Health Council under section 4 or 4A are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

6 Treatment of refunds not relating to horse disease response levy

When this section applies

 (1) This section applies if:

 (a) a person pays an amount by way of levy, charge or penalty described in subsection 4(2) relating to an animal 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 levy or charge.

Act applies as if the refunded amount had never been paid

 (2) The other sections 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), (4) or (5).

Liability of Council to repay overpayment

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

 (a) that relates to the animal product; 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 (5) (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), and if past payments under that subsection have already been applied. See subsections (5) and (6).

Setting off this liability against future payments

 (4) The Commonwealth may set off the excess against an amount that is payable to the Australian Animal Health Council under subsection 4(2) in relation to the animal product.

Reduced liability to repay if future payments cease

 (5) 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 subsection (4) 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 the animal product;

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

 (6) The debt is discharged by this subsection to the extent of the difference (if any) between:

 (a) the amount specified in a notice described in paragraph (5)(a); and

 (b) the amount (if any) paid to the Commonwealth under subsection (5) by the Australian Animal Health Council in connection with the notice.

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

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

7 Treatment of refunds relating to horse disease response levy

 (1) This section applies if:

 (a) a person pays an amount of horse disease response levy or of penalty for failure to pay horse disease response levy by the time it became due for payment; 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 levy or penalty.

Act applies as if the refunded amount had never been paid

 (2) The other sections 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 provided for in subsection (3), (4) or (5).

Liability of Council to repay overpayment

 (3) Each payment under subsection 4A(1) that exceeds the amount it should have been because of subsection (2) of this section is subject to the condition that:

 (a) the excess is a debt due by the Australian Animal Health Council to the Commonwealth; and

 (b) the Australian Animal Health Council comply with subsection (5) of this section (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 4A(1), and if past payments under that subsection have already been applied. See subsections (5) and (6) of this section.

Setting off this liability against future payments

 (4) The Commonwealth may set off the excess against an amount that is payable to the Australian Animal Health Council under subsection 4A(1).

Reduced liability to repay if future payments cease

 (5) 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 subsection (4) a specified amount of the excess; and

 (b) the Australian Animal Health Council is yet to fully apply one or more Commonwealth payments described in section 4A;

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

 (6) The debt is discharged by this subsection to the extent of the difference (if any) between:

 (a) the amount specified in a notice described in paragraph (5)(a); and

 (b) the amount (if any) paid to the Commonwealth under subsection (5) by the Australian Animal Health Council in connection with the notice.

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

 (7) Section 4A has effect subject to subsections (3) and (5) of this section.

8 Regulations

 The Governor‑General may make regulations prescribing matters:

 (a) required or permitted by this Act to be prescribed by the regulations; or

 (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key 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 (or will amend) the compiled law. The information includes commencement details for amending laws and details of any 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 (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- | --- |
| Australian Animal Health Council (Live‑stock Industries) Funding Act 1996 | 45, 1996 | 25 Oct 1996 | 25 Oct 1996 |  |
| Australian Animal Health Council (Live‑stock Industries) Funding Amendment Act 1997 | 83, 1997 | 23 June 1997 | 23 June 1997 | — |
| Australian Meat and Live‑stock Industry (Repeals and Consequential Provisions) Act 1997 | 207, 1997 | 17 Dec 1997 | Sch 3 (item 1): 1 July 1998 (s 2(4)) | — |
| Primary Industries Levies and Charges (Consequential Amendments) Act 1999 | 32, 1999 | 14 May 1999 | Sch 9: 1 July 1999 (s 2(1)) | — |
| Australian Animal Health Council (Live‑stock Industries) Funding Amendment Act 2002 | 122, 2002 | 2 Dec 2002 | 1 May 2003 (s 2(1) item 1) | — |
| Horse Disease Response Levy (Consequential Amendments) Act 2011 | 117, 2011 | 14 Oct 2011 | 15 Oct 2011 (s 2(1) item 2) | — |
| Financial Framework Legislation Amendment Act (No. 2) 2012 | 82, 2012 | 28 June 2012 | Sch 1 (items 1–23): 29 June 2012 (s 2(1) item 2) | Sch 1 (item 23) |
| Animal Health Australia and Plant Health Australia Funding Legislation Amendment Act 2022 | 90, 2022 | 13 Dec 2022 | Sch 1 (items 1–4): 14 Dec 2022 (s 2(1) item 1) | Sch 1 (item 4) |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 3  | am No 83, 1997; No 207, 1997; No 32, 1999; No 122, 2002; No 117, 2011; No 90, 2022 |
| s 4  | am No 122, 2002; No 117, 2011; No 82, 2012; No 90, 2022 |
| s 4A  | ad No 117, 2011 |
|  | am No 82, 2012 |
| s 5  | am No 117, 2011 |
| s 6  | ad No 122, 2002 |
|  | am No 117, 2011; No 82, 2012 |
| s 7  | ad No 117, 2011 |
|  | am No 82, 2012 |
| s 8  | ad No 90, 2022 |