



Horse Disease Response Levy (Consequential Amendments) Act 2011

No. 117, 2011

**An Act to make amendments relating to the
enactment of Acts for the imposition and collection
of horse disease response levy, and for related
purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to make amendments relating to the
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purposes**

[Assented to 14 October 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Horse Disease Response Levy
(Consequential Amendments) Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 October 2011
2. Schedule 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) the commencement of section 3 of the <i>Horse Disease Response Levy Collection Act 2011</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	15 October 2011

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

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

1 Section 3

Insert:

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

2 After section 4

Insert:

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 less the Commonwealth's costs in collecting or recovering those amounts and in administering this subsection:
- (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.

Condition on Commonwealth payment

- (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

- (3) As first 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.

Second priority for applying Commonwealth payment

- (4) As second 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).

Third priority for applying Commonwealth payment

- (5) As third 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.

Setting off Council payment to Commonwealth

- (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).

Note: The heading to section 4 is altered by adding at the end “—levies and charges other than horse disease response levy”.

3 Section 5

After “section 4”, insert “or 4A”.

4 At the end of the Act

Add:

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 third 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.

Note: The heading to section 6 is altered by adding at the end “**not relating to horse disease response levy**”.

*[Minister’s second reading speech made in—
House of Representatives on 6 July 2011
Senate on 23 August 2011]*

(143/11)

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