



Animal Health Australia and Plant Health Australia Funding Legislation Amendment Act 2022

No. 90, 2022

**An Act to amend the law relating to the funding of
Australian Animal Health Council Limited and
Plant Health Australia Limited, and for related
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 90, 2022

**An Act to amend the law relating to the funding of
Australian Animal Health Council Limited and
Plant Health Australia Limited, and for related
purposes**

[Assented to 13 December 2022]

The Parliament of Australia enacts:

No. 90, 2022

*Animal Health Australia and Plant Health Australia Funding
Legislation Amendment Act 2022*

1

1 Short title

This Act is the *Animal Health Australia and Plant Health Australia Funding Legislation Amendment Act 2022*.

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
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	14 December 2022

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

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.

2 Subsection 4(5)

Repeal the subsection, substitute:

- (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.

3 At the end of the Act

Add:

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.

4 Application provision

The repeal and substitution of subsection 4(5) of the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996* made by this Schedule applies in relation to payments made by the Australian Animal Health Council on or after the commencement of this item.

Horticulture Marketing and Research and Development Services Act 2000

5 Subsection 16(1) (note 1)

Omit “Note 1”, substitute “Note”.

6 Subsection 16(1) (note 2)

Repeal the note.

Plant Health Australia (Plant Industries) Funding Act 2002

7 Section 3 (definition of *fundable contribution liability*)

Repeal the definition.

8 Section 3 (definition of *primary levy or charge*)

Repeal the definition.

9 Section 3 (definition of *relevant Plant Industry Member*)

Repeal the definition, substitute:

relevant Plant Industry Member, for an EPPR plant product, has the meaning given by section 3A.

10 At the end of Part 1

Add:

3A Definition of *relevant Plant Industry Member*

- (1) For the purposes of this Act, *relevant Plant Industry Member*, for an EPPR plant product, means a body determined in an instrument under subsection (2) in relation to that EPPR plant product.

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- (2) The Secretary of the Department may, by notifiable instrument, determine one or more bodies in relation to one or more specified EPPR plant products.
 - (3) The Secretary of the Department must not determine a body in relation to an EPPR plant product unless:
 - (a) the body is a Plant Industry Member; and
 - (b) the Secretary is satisfied that the body represents the industry for that EPPR plant product in the body's role as a Plant Industry Member.
 - (4) The Secretary of the Department may, by writing, delegate the Secretary's power under subsection (2) to an SES employee, or an acting SES employee, in the Department.

11 Part 2 (heading)

Repeal the heading, substitute:

Part 2—Funding for PHA

12 Sections 4 and 5

Repeal the sections, substitute:

4 Funding for PHA

Total PHA levy or charge receipts

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

Total PHA penalty receipts

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

13 Section 6

Omit "sections 4 and 5", substitute "section 4".

14 Section 7

Repeal the section.

15 Paragraph 8(1)(b)

Repeal the paragraph, substitute:

- (b) the costs the Commonwealth incurs in administering section 4 in relation to the plant product and year.

16 Subsection 8(2) (heading)

Repeal the heading, substitute:

Setting off liabilities under subsection (1) against liabilities under section 4

17 Subsection 8(2)

Omit “or 5”.

18 Subsection 8(3)

Repeal the subsection.

19 Subsection 9(3)

Omit “or 5”.

20 Subsection 9(4) (heading)

Repeal the heading, substitute:

Setting off liabilities under subsection (3) against liabilities under section 4

21 Subsection 9(4)

Omit “or 5”.

22 Subsection 9(5)

Repeal the subsection.

23 Section 10

Repeal the section.

24 Subsection 10C(4)

Omit “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”, substitute “a relevant Plant Industry Member for the EPPR plant product referred to in subsection (1), to discharge any liability of that member to the Commonwealth under the EPPR Deed in relation to that EPPR plant product”.

25 Subsection 10C(5)

Omit “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”, substitute “a relevant Plant Industry Member for the EPPR plant product referred to in subsection (1), in accordance with a request by that member, to discharge any liability of that member to the Commonwealth under the EPPR Deed in relation to any other EPPR plant product for which that member is a relevant Plant Industry Member”.

26 Subsection 10C(6)

Repeal the subsection, substitute:

Fourth priority: promotion or maintenance of plant health

- (6) The fourth priority is to make payments to any person, in accordance with a request by a relevant Plant Industry Member for the EPPR plant product referred to in subsection (1), for any other purpose relating to the promotion or maintenance of the health of:
- (a) that EPPR plant product; or
 - (b) any other EPPR plant product for which that member is a relevant Plant Industry Member.

27 Subsection 10C(7)

Omit “the relevant Plant Industry Member”, substitute “a relevant Plant Industry Member”.

28 Subsection 10G(5)

Omit “the relevant Plant Industry Member”, substitute “a relevant Plant Industry Member”.

29 Section 11

Repeal the section.

30 Application provisions

- (1) The amendments made by items 7 to 9 and 11 to 23 apply in relation to the PHA year in which this item commences and each later PHA year.
- (2) The amendments of section 10C of the *Plant Health Australia (Plant Industries) Funding Act 2002* made by this Schedule apply in relation to payments made by PHA on or after the commencement of this item.
- (3) The amendment of section 10G of the *Plant Health Australia (Plant Industries) Funding Act 2002* made by this Schedule applies in relation to a notice given under subsection 10G(2) of that Act on or after the commencement of this item.

Primary Industries Research and Development Act 1989

31 Subsection 30(1) (note)

Repeal the note.

[Minister’s second reading speech made in—
House of Representatives on 28 September 2022
Senate on 30 November 2022]

(89/22)
