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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING  
AMENDMENT BILL 2006**

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Agriculture, Fisheries and Forestry, the Hon  
Peter McGauran MP)

## **PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING AMENDMENT BILL 2006**

### **GENERAL OUTLINE**

The purpose of the amendments to the *Plant Health Australia (Plant Industries) Funding Act 2002* (the Act) is to enable amounts equal to emergency plant pest response (EPPR) levies and charges imposed on plant products to be appropriated to Plant Health Australia (PHA), and for PHA to administer these amounts on behalf of plant industry members.

The *Plant Health Australia (Plant Industries) Funding Act 2002* (the Act) currently provides a mechanism by which receipts from certain levies and charges (PHA levies and charges) are appropriated to PHA to pay industry members' yearly membership subscriptions. The Bill implements similar arrangements to enable PHA industry members to repay liabilities that may arise in relation to the response to an outbreak of certain plant pests or diseases.

EPPR levies and charges will be collected for the purpose of the Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses (the EPPR Deed).

The Deed commenced in October 2005. The parties to the EPPR Deed are the Australian Government, the state and territory governments and plant industries. All the parties are members of PHA, which is a company established to facilitate and coordinate national plant health policy. Under the EPPR Deed, the Australian Government, the state and territory governments and affected plant industry members will share the eligible costs incurred in responding to emergency plant pests and diseases. The Australian Government has agreed to underwrite industry liabilities under the EPPR Deed and for statutory EPPR levies and charges to be established to facilitate industry repayment of underwritten amounts.

The Bill provides for PHA to hold and manage the funds raised by the EPPR levies and charges in accord with set priorities. The first priority is to meet the Commonwealth and PHA's costs in collecting and managing the funds, including the costs of receiving and applying the funds.

The second priority is to discharge any obligations that a plant industry member may incur under the EPPR Deed in relation to relevant plant product or products on which the EPPR levy or charge is raised.

The third priority is, at the request of a plant industry member, to discharge any liability of the member in relation to any other EPPR plant product.

The fourth priority is, at the request of a plant industry member, to apply the funds for other emergency plant pest-related purposes. These purposes may include activities such as pest and disease surveillance.

Funds may be applied in accord with a lower priority if there is no call on the funds for a higher priority.

The proposed EPPR levies and charges will be imposed on participating plant industries by regulations under Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* and under Schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

A plant industry member will be able to vary the operative rate of levy and charge. If a positive rate is selected, a reserve of funds will be accumulated and managed by PHA, for use by the plant industry member in accord with the priorities. If the plant industry member chooses a zero rate, a reserve will not be accumulated and it will need to activate the levy and charge if it incurs a debt to the Government under the EPPR Deed as a result of a response affecting one or more of its plant products.

### **FINANCIAL IMPACT STATEMENT**

There are no direct financial implications for the Commonwealth as the intention of the Bill is to facilitate the disbursement of levies and charges to Plant Health Australia. However, indirectly the arrangements will allow the repayment of monies to the Commonwealth expended on behalf of plant industries under agreed cost sharing arrangements for responses to emergency plant pests.

Whilst the Bill will introduce a special appropriation, this is an appropriation of industry levies for set purposes that are prescribed in the Bill. The arrangements are supported by plant industries and are similar to arrangements applying to the animal production sector.

The appropriation will only occur if an industry elects to repay its liabilities to the Commonwealth through an EPPR levy and will generally only be necessary for the period of time that it takes an industry to repay these liabilities. The EPPR Deed specifies that this must occur within a reasonable period, generally expected to be less than ten years.

## NOTES ON CLAUSES

### **Clause 1: Short title**

This clause provides for the Act to be called the *Plant Health Australia (Plant Industries) Funding Amendment Act 2006*.

### **Clause 2: Commencement**

This clause provides for the Act to come into effect on Royal Assent.

### **Clause 3: Schedule(s)**

This clause advises that the amendments being made to the *Plant Health Australia (Plant Industries) Funding Act 2002* are contained in Schedule 1.

## **Schedule 1: Funding for emergency plant pest responses**

### **Item 1 – Before Section 1**

The Act is to be divided into parts to make it easier to follow.

### **Items 2 to 9– Section 3**

These items define terms associated with emergency plant pest responses, including the EPPR Deed and the EPPR levy and charge. The EPPR Deed may be accessed from Plant Health Australia (PHA) and is available from its website at [www.planthealthaustralia.com.au](http://www.planthealthaustralia.com.au).

### **Items 10 to 15 – Section 3**

These items provide that the definition of “relevant Plant Industry Member” applies to EPPR levies and charges as well as PHA levies and charges.

### **Item 16 – After Section 3**

The Act is to be divided into parts to make it easier to follow.

### **Item 17 – After Section 10**

This item adds seven new clauses after the existing Section 10 of the Act.

Clause 10A provides that the Commonwealth will forward to PHA amounts collected by the EPPR levies and charges, together with any penalty receipts. PHA is required to hold the payments for each plant product in a separate fund (the EPPR fund for the plant product). This clause defines an EPPR plant product as a plant product on which EPPR levy or charge has been imposed. An EPPR levy or charge is imposed even if it is set to a nil rate.

Clause 10B acknowledges that all levy and charge receipts (including penalties) received by the Commonwealth must be paid into the Consolidated Revenue Fund. Amounts equal to these amounts will then be payable to PHA out of the Fund. These arrangements are supported by plant industries and are similar to arrangements applying to the animal production sector.

Clause 10C discusses the priority rules that PHA must follow for applying the funds. These are:

- a) firstly, meeting the Commonwealth and PHA's costs in managing the funds, including the costs of receiving and applying the funds;
- b) secondly, meeting any outstanding obligations under the EPPR Deed on behalf of the relevant plant industry member, in relation to the plant product on which the EPPR levy or charge is raised;
- c) thirdly, at a plant industry member's request, meeting any outstanding obligations under the EPPR Deed on behalf of the member, in relation to another EPPR plant product for which it is the relevant plant industry member;
- d) fourthly, at a plant industry member's request, apply the funds for other purposes related to emergency plant pests that may affect an EPPR plant product for which it is the relevant plant industry member.

It will be open for PHA to apply the amounts in accord with the next lowest priority if they are not required for a higher priority.

Under the third priority, an industry that produces product X and product Y, could if it wished, use levy funds raised on product X to discharge its cost-sharing obligations for product Y in a response to an outbreak of a EPP affecting product Y, as long as there was an EPPR levy (whether set to a nil rate or a positive rate) imposed by the regulations for product Y.

If the EPP affects both product X and product Y, the plant industry member will determine the proportion of its cost-sharing obligation that will be met from the funds that relate to each plant product.

Clause 10D provides that PHA must manage an EPPR fund in a way it considers appropriate, subject to other requirements imposed on it, for example under its Constitution or as a result of a resolution of its members. PHA will be able to invest money in an EPPR fund, and any income on an investment will form part of the fund. This will be subject to any provisions or restrictions specified in the regulations.

Under Clause 10E, PHA is obliged to pay the costs that the Commonwealth incurs in collecting EPPR levies and charges and in recovering any penalties. It will be open for the Commonwealth to recover these costs directly from the amounts that are payable to PHA.

Clause 10F provides for that if for example as a result of an over-payment, the Commonwealth has to refund an amount paid as an EPPR levy or charge, it may as a consequence adjust the amount payable to PHA.

Clause 10G provides for the Minister to require PHA to repay an appropriate amount to the Commonwealth or into the EPPR fund if the Minister is satisfied that PHA has

breached the conditions of payment of EPPR funds. In taking action under this clause, the Minister must take into consideration advice received from the relevant Plant Industry Member.

**Item 18 Section 11**

This amendment is consequential to the amendments in items 10-15.