

2010-2011

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Horse Disease Response Levy  
(Consequential Amendments) Bill 2011**

**No.     , 2011**

*(Agriculture, Fisheries and Forestry)*

**A Bill for 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**



---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
<b>Schedule 1—Amendments</b>		3
	<i>Australian Animal Health Council (Live-stock Industries) Funding Act 1996</i>	3



1     **A Bill for an Act to make amendments relating to**  
2     **the enactment of Acts for the imposition and**  
3     **collection of horse disease response levy, and for**  
4     **related purposes**

5     The Parliament of Australia enacts:

6     **1 Short title**

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

9     **2 Commencement**

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

1

---

**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
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.	

2  
3  
4

Note: This table relates only to the provisions of this Act as originally enacted.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

5  
6  
7

(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.

8

**3 Schedule(s)**

9  
10  
11  
12

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1

2

3

## Schedule 1—Amendments

4

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

5

6

#### **1 Section 3**

7

Insert:

8

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

9

10

#### **2 After section 4**

11

Insert:

12

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

13

14

*Commonwealth payment to Australian Animal Health Council*

15

- (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:

16

17

18

19

20

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

21

22

23

24

25

- (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.

26

*Condition on Commonwealth payment*

27

28

29

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

1 *First priority for applying Commonwealth payment*

- 2 (3) As first priority, the Australian Animal Health Council is to apply  
3 the Commonwealth payment in meeting, or reimbursing the  
4 Council for meeting, costs the Council incurs:  
5 (a) in receiving and applying the payment in accordance with  
6 this section; and  
7 (b) before or in the financial year in which the payment is made.

8 *Second priority for applying Commonwealth payment*

- 9 (4) As second priority, the Australian Animal Health Council is to  
10 apply the Commonwealth payment in making to the  
11 Commonwealth a payment (the **Council payment**) as follows,  
12 depending on whether, when the Commonwealth payment was  
13 made, a non-government body concerned with the horse industry  
14 was party to the EADR agreement:  
15 (a) if such a body was party to the agreement—the Council  
16 payment is on behalf of the body for the purpose of  
17 discharging a liability of the body to the Commonwealth that  
18 arises under the EADR agreement;  
19 (b) if there was not such a body party to the agreement—the  
20 Council payment is made within 28 days after the  
21 Commonwealth payment was made and equals so much of  
22 the payment to the Council as the Council has not applied  
23 under subsection (3).

24 *Third priority for applying Commonwealth payment*

- 25 (5) As third priority, the Australian Animal Health Council is to apply  
26 the Commonwealth payment in:  
27 (a) making a payment to an organisation that is concerned with  
28 research and development relevant to the horse industry; or  
29 (b) taking measures relating to the promotion or maintenance of  
30 the health of horses.
- 31 (6) The Australian Animal Health Council is to apply the  
32 Commonwealth payment under subsection (5) only:  
33 (a) on request by a non-government body that is a party to the  
34 EADR agreement and is concerned with the horse industry;  
35 and  
36 (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).

1                                    *Liability of Council to repay overpayment*

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

- 5                                    (a) the excess is a debt due by the Australian Animal Health  
6                                    Council to the Commonwealth; and  
7                                    (b) the Australian Animal Health Council comply with  
8                                    subsection (5) of this section (if applicable).

9                    Note:            Some or all of this debt may be discharged if the Commonwealth  
10                                    expects it will not be able to set this debt off against future payments  
11                                    under subsection 4A(1), and if past payments under that subsection  
12                                    have already been applied. See subsections (5) and (6) of this section.

13                                    *Setting off this liability against future payments*

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

17                                    *Reduced liability to repay if future payments cease*

- 18                    (5) If:  
19                                    (a) the Secretary of the Department gives written notice to the  
20                                    Australian Animal Health Council that the Secretary expects  
21                                    the Commonwealth will not be able to set off under  
22                                    subsection (4) a specified amount of the excess; and  
23                                    (b) the Australian Animal Health Council is yet to fully apply  
24                                    one or more Commonwealth payments described in  
25                                    section 4A;

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

- 30                    (6) The debt is discharged by this subsection to the extent of the  
31                    difference (if any) between:  
32                                    (a) the amount specified in a notice described in  
33                                    paragraph (5)(a); and  
34                                    (b) the amount (if any) paid to the Commonwealth under  
35                                    subsection (5) by the Australian Animal Health Council in  
36                                    connection with the notice.

