2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HORSE DISEASE RESPONSE LEVY (CONSEQUENTIAL AMENDMENTS)
BILL 2008

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Agriculture, Fisheries and Forestry,
The Hon Tony Burke MP)
HORSE DISEASE RESPONSE LEVY (CONSEQUENTIAL AMENDMENTS) BILL 2008

GENERAL OUTLINE
The Horse Disease Response Levy (Consequential Amendments) Bill 2008 amends the Australian Animal Health Council (Live-stock Industries) Funding Act 1996 to enable horse disease response levies to be appropriated to the Australian Animal Health Council (AAHC), also known as Animal Health Australia (AHA), to be used to repay the Commonwealth for underwriting the horse industry’s share of the costs of responding to emergency horse diseases. The Bill also provides a mechanism for any excess horse disease response levies that are collected to be appropriated to relevant horse industry research and development bodies for research and development activities or the promotion or maintenance of the health of horses.

The Commonwealth became a party to the Emergency Animal Disease Response Agreement (EADRA) in March 2002. The EADRA provides for industry repaying any amounts paid for by the Commonwealth on behalf of industry under the agreement, via a statutory levy. To do this a new horse disease response levy will be imposed on the industry under the new Horse Disease Response Levy Act.

Under the terms of the EADRA, the AAHC co-ordinates, collates and maintains financial information in respect of any animal disease emergency. Livestock industries agreed that the AAHC will receive and disburse levy funds to be used to repay the Commonwealth for the costs underwritten by the Commonwealth on behalf of industry. Several payments of the horse disease response levy may be made to the AAHC in any period. The horse industry will be advised of total debt to the Commonwealth by the AAHC and repayment arrangements will be implemented in accordance with Schedule 7 of the EADRA. Once the size of the debt is known, the horse disease response levy will be activated with all levy funds initially flowing to the Consolidated Revenue Fund and subsequently disbursed to the AAHC. The AAHC will manage the horse disease response levy funds on behalf of the industry in order to repay debt to the Commonwealth.

To allow the repayment arrangements via a levy to come into law, it is necessary to amend the Australian Animal Health Council (Live-stock Industries) Funding Act 1996.

These arrangements are similar to those applying to other industries party to the EADRA.

FINANCIAL IMPACT STATEMENT
There are no direct financial implications for the Commonwealth as the intention of the Bill is to facilitate the disbursement of the levy to Animal Health Australia. However, indirectly the arrangements will allow the repayment of monies to the Commonwealth expended on behalf of the horse industry under agreed cost sharing arrangements for responses to emergency horse diseases. There is no impact on Commonwealth contributions to industry research and development as a consequence of these arrangements.
NOTES ON CLAUSES

Clause 1: Short title
This clause provides for the Act to be called the Horse Disease Response Levy (Consequential Amendments) Act 2008.

Clause 2: Commencement
This clause provides for the Act to come into effect on the day after it receives Royal Assent.

Clause 3: Schedule(s)
This clause specifies that amendments will be made to the Act or Acts mentioned in the schedule which is provided. In this case amendments will be made to the Australian Animal Health Council (Live-stock Industries) Funding Act 1996.

Schedule 1: Amendments to the Australian Animal Health Council (Live-stock Industries) Funding Act 1996

Items 1 & 2 Definitions
This item provides for a reference to the definitions used in the Horse Disease Response Levy Act 2008 for a horse and horse disease response levy in Section 3 of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996.

Item 3 –After paragraph 4(2) (a)
This item provides a new reference to the horse disease response levy under the existing Section 4 (2) (a) of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996 and provides for the payment of the horse disease response levy to be made to the Australian Animal Health Council.

Item 4 At the end of subsection 4 (2)
This clause adds a further point to this section outlining the payment of penalty amounts under Section 10 of the Horse Disease Response Levy Collection ACT 2008 in relation to a failure to pay the horse disease response levy by the due date.

Item 5 Subsection 4(3)
Australian Animal Health Council’s obligations to apply a Commonwealth payment
This clause repeals the subsection 4 (3) dealing with Commonwealth payment as described in Section 4 (2) of the Australian Animal Health Council (Livestock Industries) Funding Act 1996. The clause then incorporates subsection 3 (a) a levy or charge and to an animal product; and 3 (b) horse disease response levy; which is subject to the condition that the Australian Animal Health Council apply the payment according to the priorities as outlined in subsections (4), (5) and (6) and subject to subsections (7), (7A) and (8) of the this Act.

Liability of Australian Animal Health Council to repay Commonwealth
A new clause 3 (A) is included that outlines that if a non-government body is not a party to the Emergency Animal Disease Response Agreement at the time that a Commonwealth payment is made, the Australian Animal Health Council must apply the payment in accord to the first priority and pay the balance to the Commonwealth with 28 days.

**Setting off liabilities under subsection (3A) against a future Commonwealth payment**
This new clause applies to the Commonwealth being able to set off a credit balance on a debit amount as described under subsection (3A) that is due to the Commonwealth from future payments to the Australian Animal Health Council as described in subsection (2).

Note: A new heading has been inserted under subsection 4 (1) Commonwealth obligation to pay the Australian Animal Health Council.

Note: The following heading to subsection 4 (4) is inserted First priority: — administrative costs.

**Item 6 Subsections 4(5) and (6)**
This clause repeals these two subsections and substitutes them with clauses that outline second and third priorities that oblige the Australian Animal Health Council on the way it applies the Commonwealth payment as it relates to the horse disease response levy, and the ability to pay any excess horse disease response levy collected to an organisation that is concerned with research and development or to the promotion or maintenance of the health of horses.

**Item 7 subsection 4(7)**
This clause inserts “to the extent that it relates to a levy or charge and to the animal product”.

Note: The following heading to subsection 4 (7) is inserted “third priority only to be applied on request”.

**Item 8 After subsection 4(7)**
This new clause inserts clause 4 (7) the Australian Animal Health Council is to apply the Commonwealth payment, to the extent that it relates to the horse disease response levy, in accordance with the third priority 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.

Note: The following heading to subsection 4 (8) is inserted “Applying the priorities”.

**Items 9 to 18 – Treatment of Refunds**
This item provides for situations where refunds of the levy charges or penalty are applicable.
Clause 6 refers to the Treatment of Refunds. This clause sets out that, if the Commonwealth refunds levies or charges, which have been overpaid by industry, then the Australian Animal Health Council, must also pay the equivalent amount back to the Commonwealth. This clause also provides for the Commonwealth to set off any refunds due to the Commonwealth from future payments to the Australian Animal Health Council.

The clause then refers to associated subclauses that will apply if this situation arises.