



INFORMATION, ANALYSIS
AND ADVICE FOR THE PARLIAMENT

INFORMATION AND RESEARCH SERVICES

Bills Digest
No. 22 2002–03

Plant Health Australia (Plant Industries) Funding Bill 2002

ISSN 1328-8091

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Published by the Department of the Parliamentary Library, 2002

I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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Plant Health Australia (Plant Industries) Funding Bill 2002

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20 August 2002

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Plant Health Australia (Plant Industries) Funding Bill 2002

Date Introduced: 26 June 2002

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: The formal provisions come into effect on Royal Assent. The other clauses and schedules will take effect on the first day of a quarter on or after the day of Royal Assent.

Purpose

To require the Commonwealth to pay amounts of levy and charge it has collected on behalf of certain plant industries to Plant Health Australia Limited. The Bill also provides a mechanism for any excess levies or charges that are collected to be appropriated to relevant plant industry research and development bodies.

Background

Primary Industry Levies

Primary industry levies and charges are used to fund activities such as research and development, marketing and promotion, residue testing and animal health programs. These activities are usually beyond the scope of small, scattered rural enterprises to put in place on their own. The need for a levy is usually identified by a peak industry body in response to a problem or an opportunity that needs collective industry funding to address effectively. The Government has issued *Levy Principles* and *Levy Guidelines* to provide guidance to rural industries in preparing a case for a new levy. These guidelines also ensure that the peak industry body has informed levy payers of the proposal and provided them with an effective opportunity to express their views on it, before the proposal is presented to Government for approval.

In considering the industry's case for a new levy, the Government needs to be convinced, firstly, that only collective action by levy payers will ensure the desired outcome in a cost effective manner; secondly, that the benefits to the industry will exceed the costs of raising

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and funding the levy; and finally, that there is a practical way of collecting the levy.¹ A proposal for a new levy must:

- show how the levy will benefit levy payers and the industry in general
- estimate the amount of levy that will be raised
- provide a clear plan as to how the levy money will be spent, and
- recommend how the levy is to be calculated, for example on boxes, trays, tonnes, or value of product, individual head of stock etc.

The Levies Revenue Service of the Department of Agriculture, Fisheries and Forestry – Australia (AFFA) administers and collects most levies on a cost recovery basis. In the financial year 2000/2001 the Levies Revenue Service collected approximately \$420 million from over 14,000 levy payers.² The cost of collections was \$3 million or 0.6 per cent of total collections for 2000/2001.³

All levies must be paid into consolidated revenue without deduction and are subsequently dispersed to the appropriate marketing and promotion body, or research and development organisation or relevant program. To assist primary industries undertake research and development, the Commonwealth Government matches the money raised by research and development levies on a dollar-for-dollar basis up to 0.5 per cent of the gross value of production in any financial year.

Plant Health Australia Limited (PHA)

The purpose of this Bill is to put in place a levy on plant producers in order to fund the plant industries' share of the running costs of Plant Health Australia Limited (PHA). PHA was established under Corporations Law on 27 April 2000 as a non-profit company limited by guarantee. It is the national coordinating body responsible for addressing priority plant health issues in Australia, and for promoting international and domestic confidence in Australia's plant industries.⁴

The 1996 Nairn Review of Quarantine introduced the idea of a national coordinating body to deal with plant health, after finding that there was generally a greater emphasis on animal health issues.⁵ With the majority of plant industries having or developing a significant export component to their business, the need for Australia to enhance its plant health status and plant health arrangements has become increasingly important. The Nairn review proposed the formation of a coordinating body between government and industry to identify and address national priorities in plant health.⁶

In early 1998, the Plant Industries Incurion Management Consultative Committee (PIIMCC) representing industry, and the Standing Committee on Agriculture and Resource Management (SCARM) representing government, began work to come up with

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a structure for a central coordinating body to address plant health issues. An intensive period of consultation, and a number of industry-government workshops held in 1998 and 1999, led to the registration of PHA in April 2000.

By August 2002 PHA had a total of 26 members.⁷ The Commonwealth and all State and Territory governments are members, as are a number of peak bodies that represent most major plant industries. The peak industry bodies include the Grains Council of Australia, the Australian Cotton Growers Research Association, the Nursery Industry Association of Australia, and the Australian Apple and Pear Growers Association.⁸

According to PHA's first annual report, its long-term goal is to improve Australia's plant health status and the sustainability and profitability of Australia's plant industries.⁹ PHA has identified four priorities in plant health that are required at a national level. These are:

- a nationally coordinated plant health preparedness and prevention system
- an enhanced plant pest and disease emergency response system
- a national perspective on plant health service capability, and
- a national system of plant health information through the creation of an accessible web-based database of plant pests and diseases.¹⁰

PHA has observer status on several government decision-making committees concerned with plant health. In March 2001 they received \$7 million from the Government under the Commonwealth Budget initiative entitled *Building a National Approach to Animal and Plant Health*. This funding is for high priority plant issues over a four-year period to 2004.¹¹

PHA's running costs are approximately \$1.5 million a year. These costs are shared between the members, with the plant industry's share being about \$500,000 annually. The remaining \$1 million is contributed by the Commonwealth, State and Territory governments. Since April 2000, as an interim measure pending development of the arrangements that will be implemented by this Bill, the plant industry's share of PHA's costs have been paid either directly from industry association funds, or through their industry's Research and Development Corporation.

This legislation does not impose the new levy or charge on participating plant industry members. It directs the Commonwealth to pay certain monies out of Consolidated Revenue to PHA on behalf of participating plant industries. The new PHA levy and charge will be imposed on plant producers 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*. According to the Explanatory Memorandum, there will be no increase in the overall levy and charge burden on producers.¹² Instead, it is proposed that the operative rate of the PHA levy or charge for initial participants will be exactly offset by a corresponding decrease in that industry's existing research and

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development levy and charge rate. For those plant industries that choose to use this arrangement, the effect will be that funds previously raised for research and development in the participating industries (which would attract a dollar-for-dollar contribution from the Commonwealth), will be re-directed to pay for the administration of the PHA.

The amount of the PHA levy for each plant industry will be calculated based on the farmgate value, or local value of production of each industry.¹³ If the PHA levy collects more funds than is needed to meet an industry's PHA liability, the excess funds will be re-directed to fund other research and development activities for the industry. Should this happen, then those re-directed funds will attract a Commonwealth dollar-for-dollar contribution.

Some industry members of PHA represent more than one product. For example, the Grains Council of Australia is a member of PHA representing producers of wheat, coarse grains, grain legumes and oilseeds. This Bill provides for PHA to advise the Minister of the portion of the grain industry's share of PHA's costs that are attributable to each grain sector, based on their share of production for a relevant year. The Minister must publish the details of the apportionment of the levy between the relevant plant products in the *Commonwealth Gazette*.

Accountability

This legislation provides for the Commonwealth to collect the levy (on a cost recovery basis) and to make payments directly to PHA. The effect of this Bill is similar to the legislation that funds the Australian Animal Health Council (AAHC), the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*. AAHC is also a non-profit, public company limited by guarantee with its membership comprised of the Commonwealth, all State and Territory governments and the peak national representative bodies of Australia's livestock-based industries. It is funded by government and industry members, with the industry members' contributions being collected as a levy and dispersed by the Commonwealth to the AAHC.

PHA is required under Corporations Law to be accountable to its members. It must produce an annual report and report to members at an annual General Meeting. During the debate on the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, the question arose whether the AAHC would be required to report on its operations to parliament through the estimates committee process. It was stated at that time that the collection of levies by the Commonwealth and their payment to AAHC, did provide grounds for AAHC (and in this case, PHA) to report to parliament through the estimates committee process if required.¹⁴

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Main Provisions

Clause 4 will apply where there is an existing plant industry research and development levy or charge in place. Currently the grain, horticulture and forestry industries have levies for marketing and research and development. In this situation, **clause 4** requires the Commonwealth to pay to PHA all the levies and charges it receives in respect of PHA levies and charges, up to the limit of the individual industry's yearly contribution, as well as any late payment penalties. If excess funds have been collected, **clause 7** is to apply.

If the Commonwealth does not receive enough levies and charges to cover an individual plant industry's yearly contribution, then the Commonwealth must pay to PHA whatever amounts it receives through the plant levy and charge arrangements.

For its part, PHA is required to use those levies and charges to discharge, as far as possible, the relevant plant industries' liabilities to PHA.

Clause 5 will apply where a plant industry does not have an existing research and development levy or charge. In this case, all the PHA levy and charge funds will be directed to PHA and any excess funds cannot be directed to other industry research and development activities.

Clause 6 provides that the PHA levies and charges as defined in **clause 3**, are to be paid out of Consolidated Revenue.

Clause 7 provides that any levy or charge received by the Commonwealth in excess of the plant industry's yearly contribution to PHA must be redirected to the industry's prescribed research and development body, unless the relevant plant industry body does not have existing research and development levy or charge arrangements in place.

The Commonwealth will be paid for any costs associated with the collection and administration of the levies and charges on behalf of PHA (**clause 8**). Should the Commonwealth refund levies or charges that have been overpaid by plant industries, then PHA must reimburse the Commonwealth an equivalent amount (**clause 9**).

Clause 10 is to apply if two or more plant products are represented by the same peak industry body. In this case, PHA is required to advise the Minister of the proportion of the individual plant industry's yearly contribution that is attributable to each of the plant products being levied (**sub-clause 10(2)**). The Minister in turn must publish this information in the *Gazette* (**sub-clause 10(3)**). It is possible for regulations to be made to modify this arrangement in future. Similarly, should two or more peak industry bodies represent the same PHA plant product, then regulations may be made to apply to the situation (**clause 11**).

Schedule 1 makes consequential amendments to the *Horticulture Marketing and Research and Development Services Act 2000* and to the *Primary Industries and Energy Research and Development Act 1989*.

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Endnotes

- 1 Information about agricultural levies and charges is to be found at www.affa.gov.au/content/levies (site visited 25 July 2002).
- 2 Levies and Revenue Service, *Report to Clients 2000-2001*, Agriculture, Fisheries and Forestry – Australia, p. 3. (On AFFA's figures, this works out at about \$30,000 p.a. for every levy payer. However, large companies pay the bulk of these levies while small farmers pay much less.)
- 3 *ibid.*
- 4 Plant Health Australia, 'Who we are'. Information from their website at <http://www.planthealthaustralia.com.au>
- 5 Australian Quarantine Review Secretariat, *Australian quarantine: a shared responsibility*, by M.E. Nairn [and others], Canberra, Department of Primary Industries and Energy, 1996.
- 6 *ibid.*, p. 173–175.
- 7 Personal communication with PHA 15 August 2002.
- 8 Plant Health Australia, 'Company structure'. Information from their website at <http://www.planthealthaustralia.com.au>
- 9 Information from their website at <http://www.planthealthaustralia.com.au>
- 10 Information from their website at <http://www.planthealthaustralia.com.au>
- 11 Hon Warren Truss, 'The fight against plant pests and diseases receives a \$7 million boost', *Media Releases* AFFA01/78WT, 6 April 2001.
- 12 *Explanatory Memorandum*, Plant Health Australia (Plant Industries) Funding Bill 2002, p. 2.
- 13 Plant Health Australia, 'Our resources'. Information from their website at <http://www.planthealthaustralia.com.au>
- 14 Sen Bob Collins, 'Speech on the Australian Animal Health Council (Live-stock Industries) Funding Bill 1996', Senate, *Hansard*, 10 October 1996, p. 3894.

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