

# Veterinary Practice Act 2003

## Reprint history:

Reprint No 1

15 April 2008

## Long Title

An Act relating to the practice of veterinary science, to repeal the *Veterinary Surgeons Act 1986*; and for other purposes.

## Part 1 – Preliminary

### 1 Name of Act

This Act is the *Veterinary Practice Act 2003*.

### 2 Commencement

- (1) Subject to subsection (2), this Act commences on a day or days to be appointed by proclamation.
- (2) A day may not be appointed under subsection (1) that commences section 14 (5) (a) earlier than 12 months after the date of assent to this Act.

### 3 Object of Act

The object of this Act is to regulate the provision of veterinary services for the following purposes:

- (a) to promote the welfare of animals,
- (b) to ensure that consumers of veterinary services are well informed as to the competencies required of veterinary practitioners,
- (c) to ensure that acceptable standards are required to be met by veterinary practitioners so as to meet the public interest and national and international trade requirements,
- (d) to provide public health protection.

### 4 Definitions

(1) In this Act: "**advisory committee**" means the advisory committee established under Part 2. "**approved fee**" means the fee determined by the Board and approved by the Minister. "**Board**" means the Veterinary Practitioners Board constituted under section 76. "**committee**" means a committee established under section 81. "**exercise**" a function includes perform a duty. "**firm**" means a partnership or other unincorporated association of persons. "**full registration**" means registration granted in accordance with section 21. "**function**" includes power, duty and authority. "**health practitioner**" means a person registered in a health profession under the Health Practitioner Regulation National Law. "**honorary registration**" means registration granted in accordance with section 22. "**inspector**" means a person appointed for the time being as an inspector under section 90. "**limited registration**" means registration granted in accordance with section 23. "**major surgery**" has the meaning given by section 64. "**premises**" includes land. "**provisional registration**" means registration granted in accordance with section 24. "**Register**" means the Register required to be kept under section 28. "**registered**" means registered as a veterinary practitioner under this Act. "**Registrar**" means Registrar of the Board. "**registration**" means registration as a veterinary practitioner under this Act. "**restricted act of veterinary science**" has the meaning given by section 7. "**specialist registration**" means registration granted in accordance with section 25. "**Tribunal**" means the Administrative Decisions Tribunal established by the *Administrative Decisions Tribunal Act 1997*. "**veterinary hospital**" means premises the subject of a veterinary hospital licence. "**veterinary hospital licence**" means a licence granted under Part 6 that is in force. "**veterinary practice**" means a business that provides veterinary services. "**veterinary practitioner**" means a person who is registered under this Act as a veterinary practitioner. "**veterinary science**" includes any branch of the science or art of veterinary medicine or of veterinary surgery and, without limiting the generality of the foregoing, includes the following:

- (a) the examination of or attendance on any animal for the purpose of diagnosing the physiological or pathological condition of the animal,
- (b) the giving of any anaesthetic to, or the performance of any operation on, any animal,
- (c) without limiting the generality of paragraph (a), the diagnosing of pregnancy in an animal,
- (d) without limiting the generality of paragraph (b):
  - (i) the carrying out of any artificial breeding procedure involving surgery, and

- (ii) the de-antlering of deer,
- (e) the doing of any act that is prescribed by the regulations as forming part of the practice of veterinary science.

(2) For the purposes of this Act, a person has, or persons have, "**a controlling interest**" in a corporation or firm if the person has, or persons have, the capacity to determine the outcome of decisions about the financial and operating policies of the corporation or firm.

(3) For the purposes of this Act, a person is considered to suffer from an "**impairment**" if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects or is likely to detrimentally affect the person's physical or mental capacity to practise veterinary science. Habitual drunkenness or addiction to a deleterious drug is considered to be a physical or mental disorder.

## **5 Notes**

Notes included in this Act do not form part of this Act.

## **6 Mutual recognition laws**

This Act does not limit or otherwise affect the operation of:

- (a) the *Mutual Recognition Act 1992* of the Commonwealth, or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

## **Part 2 – Restricted acts of veterinary science**

### **7 Restricted acts of veterinary science**

(1) A "**restricted act of veterinary science**" is an act of veterinary science declared by the regulations to be a restricted act of veterinary science for the purposes of this Act. Section 9 makes it an offence for a person to do a restricted act of veterinary science except in certain circumstances. Section 10 provides that a person other than a veterinary practitioner is not entitled to recover fees or charges for doing a restricted act of veterinary science except in certain circumstances.

(2) Before a Minister recommends to the Governor the making of a regulation that includes a declaration referred to in subsection (1), the Minister is to seek the advice of the advisory committee on the proposed regulation.

(3) The advisory committee may make a recommendation to the Minister that an act of veterinary science should be declared to be a restricted act of veterinary science.

(4) The advisory committee is not to make a recommendation to declare an act of veterinary science to be a restricted act of veterinary science unless the advisory committee considers that if such an act were performed on an animal by a person other than a veterinary practitioner it would be likely:

- (a) to cause unacceptable levels of harm or suffering to the animal, or
- (b) to affect human health adversely, or
- (c) to affect domestic or international trade adversely.

(5) The advisory committee may include in a recommendation circumstances in which a person other than a veterinary practitioner should be allowed to do the act of veterinary science concerned.

(6) The Minister is to consider any recommendation of the advisory committee made under this section.

(7) A regulation may not be made declaring an act of veterinary science specified in Schedule 1 as a restricted act of veterinary science.

### **8 Establishment of advisory committee**

(1) The Minister is to establish an advisory committee to consider and make recommendations on what acts of veterinary science should be declared by the regulations to be restricted acts of veterinary science.

(2) The advisory committee is to consist of such members as the Minister appoints from time to time.

(3) The Minister may appoint a presiding member of the advisory committee.

(4) A member of the advisory committee holds office for such term as is specified in the member's instrument of appointment unless the member's appointment is sooner revoked by the Minister.

(5) The procedure of the advisory committee, and the remuneration (if any) of the members, is to be as determined by the Minister.

(6) The remuneration (if any) of members of the advisory committee and any expenses of the advisory committee are to be paid by the Board.

## **Part 3 – Practice of veterinary science**

### **9 Offence for unregistered person to do restricted acts of veterinary science**

- (1) A person must not do any restricted act of veterinary science unless the person is a veterinary practitioner. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (2) Despite subsection (1), a person other than a veterinary practitioner may, in respect of an animal, do any restricted act of veterinary science if:
  - (a) the person is the owner of the animal, or
  - (b) the person is an employee of the owner of the animal and the act is done incidentally to the primary duties of that employment, or
  - (c) the person is a student enrolled in a course of study referred to in section 21 (1) (a) and is doing the restricted act of veterinary science concerned as part of the requirements of that course under the direct supervision of a veterinary practitioner, or
  - (d) the doing of the act is necessary because the animal is in urgent need of veterinary treatment and a veterinary practitioner is not available, or
  - (e) the person belongs to a class of persons, or is doing the act of veterinary science in the circumstances, prescribed by the regulations for the purposes of this paragraph.

### **10 Unregistered person may not recover fees or charges for doing restricted acts of veterinary science**

A person is not entitled to recover any fee or charge for doing any restricted act of veterinary science unless the person is a veterinary practitioner, the holder of a veterinary hospital licence or is referred to in section 14 (5).

### **11 Offence relating to representation of unqualified person to be veterinary practitioner**

- (1) An individual must not represent himself or herself to be a veterinary practitioner and must not allow himself or herself to be represented to be a veterinary practitioner unless he or she is a veterinary practitioner. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (2) A person must not represent an individual to be a veterinary practitioner if the person knows, or ought reasonably to know, that the individual is not a veterinary practitioner. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (3) Without limiting the ways in which an individual can be considered to be represented to be a veterinary practitioner, a representation using any of the following titles, names or descriptions constitutes such a representation:
  - (a) the title or description "veterinary surgeon", "veterinary practice", "veterinary", "vet" or "animal doctor", or any abbreviation or derivative of those words, either alone or in connection with any other title or description,
  - (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the person is a veterinary practitioner or is entitled to be registered as a veterinary practitioner,
  - (c) any title, name or description prescribed by the regulations.
- (4) This section does not prohibit the use of the term "veterinary":
  - (a) by a person for the purpose only of indicating that the person or another person carries on the business of supplying goods or materials used in connection with veterinary science, or
  - (b) in relation to a government department, public or local authority or statutory corporation, or
  - (c) by a person who or body which, because of section 14 (5), is using the term without contravening that section, or
  - (d) by the holder of a veterinary hospital licence in relation to the premises the subject of the licence.

### **12 Offence to falsely represent person as holder of veterinary qualifications**

A person must not represent himself or herself to be the holder of any qualification that would entitle the person to be granted registration as a veterinary practitioner unless the person is the holder of that qualification.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

### **13 Offence to practise as specialist unless registered as specialist**

(1) An individual must not represent himself or herself to be a specialist in a branch of veterinary science unless he or she is the holder of specialist registration in that branch. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) Without limiting the ways in which a person can be considered to be represented as a specialist, a representation using any of the following titles, names or descriptions constitutes such a representation:

- (a) the title or description "specialist" or any abbreviation or derivative of that word in connection with the person's practice of veterinary science,
- (b) any title, description, words or letters implying, or capable of being understood as implying, that the person is a specialist in a branch of veterinary science.

### **14 Offence of representing certain corporations and firms to be veterinary practices**

(1) A corporation must not represent itself to be a veterinary practice unless one or more veterinary practitioners has or have the controlling interest in the corporation. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both, in the case of an individual or 100 penalty units in the case of a corporation.

(2) A person must not represent that a corporation is a veterinary practice if the person knows, or ought reasonably to know, that any such representation by the corporation itself would be a contravention of subsection (1). Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(3) A partner or member of a firm must not represent the firm to be a veterinary practice unless one or more veterinary practitioners has or have the controlling interest in the firm. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(4) Without limiting the ways in which a corporation or firm can be considered to be represented to be a veterinary practice, a representation using any of the following titles, names or descriptions constitutes such a representation:

- (a) a representation using the title or description "veterinary surgeon", "veterinary practice", "veterinary", "vet" or "animal doctor" or any abbreviation or derivative of those words, either alone or in connection with any other title or description,
- (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the corporation or firm is a veterinary practice,
- (c) any title, name or description prescribed by the regulations.

(5) This section does not apply to the following:

- (a) a corporation or firm that provides veterinary services but whose principal business is the supply of goods or materials used in connection with agriculture so long as the provision of the veterinary services is at the same premises from which those goods and materials are supplied,
- (b) a government department, public or local authority or statutory corporation,
- (c) a charitable organisation within the meaning of the *Prevention of Cruelty to Animals Act 1979* that provides veterinary services,
- (d) a person or body, or a class of persons or bodies, prescribed by the regulations for the purposes of this paragraph.

### **15 Prohibition against directing or inciting misconduct**

(1) (Repealed)

(2) A person ("**the employer**") who employs a veterinary practitioner to assist in the provision of veterinary services must not direct or incite the veterinary practitioner to engage in conduct in the course of professional practice that would constitute unsatisfactory professional conduct or professional misconduct. Maximum penalty: 50 penalty units in the case of an individual and 100 penalty units in the case of a corporation.

(3) For the purposes of this section, any actions of an agent or employee of the employer

are taken to be actions of the employer unless the employer establishes:

- (a) that the employer had no knowledge of those actions, and
- (b) that the employer could not, by the exercise of due diligence, have prevented those actions.

(4) When a veterinary practitioner is employed by a corporation, each of the following persons is for the purposes of this section also considered to be the employer of the veterinary practitioner (in addition to the corporation):

- (a) a person who is a director, secretary or executive officer (as defined in the *Corporations Act 2001* of the Commonwealth) of the corporation or is concerned in the management of the corporation,
- (b) any other employee of the corporation in accordance with whose directions the veterinary practitioner is required or expected to act.

#### **16 Signing certificates**

A person, other than a veterinary practitioner, must not sign any certificate required by law to be signed by a veterinary practitioner.

Maximum penalty: 50 penalty units.

## **Part 4 – Registration of veterinary practitioners**

### **Division 1 – Registration procedures**

#### **17 Application to registration of Licensing and Registration (Uniform Procedures) Act 2002**

(1) The Board may grant the following kinds of registration for the purposes of this Act:

- (a) full registration,
- (b) honorary registration,
- (c) limited registration,
- (d) provisional registration,
- (e) specialist registration.

(2) Part 3 of the *Licensing and Registration (Uniform Procedures) Act 2002* ("**the applied Act**") applies to and in respect of registration under this Act, subject to the modifications and limitations prescribed by or under this Act. See clause 19 of Schedule 4, which temporarily suspends the provisions of the applied Act in relation to the making of applications by way of electronic communication.

(3) For the purposes of applying Part 3 of the applied Act to the granting of registration under this Act:

- (a) an application for the granting of registration may only be made by an individual and must be accompanied by the approved fee for the application, and
- (b) the Board may require an application for the granting of registration to be accompanied by such documents in support of the application as the Board requires, and
- (c) registration may be amended under that Act, and
- (d) section 54 of that Act does not have effect, and
- (e) the reference to 28 days in section 46 (1) of that Act (as to the period within which applications are to be dealt with) is to be read as a reference to 40 days, and
- (f) the reference to 14 days in section 48 (1) of that Act (as to the period within which notice of the Board's decision on an application is to be notified) is to be read as a reference to 7 days.

(4) Full registration, honorary registration or specialist registration is continuing registration for the purposes of Part 3 of the applied Act.

(5) Subject to this section, the regulations may make provision for or with respect to such matters concerning registration under this Act as are relevant to the operation of Part 3 of the applied Act.

#### **18 Refusal of registration**

The Board may refuse to register an applicant as a veterinary practitioner on any of the following grounds:

- (a) the applicant is not of good character,
- (b) the applicant has been found guilty of any of the following offences:
  - (i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,
  - (ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,
  - (iii) any offence under a law of the Commonwealth, or another State or Territory, or of a jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii),
- (c) the applicant has been refused registration, licensing or other authorisation as a veterinary practitioner in another State or Territory or has had his or her authority to practise veterinary science suspended or cancelled in another State or Territory,
- (d) the Board is satisfied that the applicant is not fit to practise veterinary science because the applicant suffers from an impairment,
- (e) the applicant has not made the declaration, prescribed by the regulations, relating to the conduct to be observed by veterinary practitioners.

### **19 Conditions of registration**

- (1) Registration is subject to such conditions as are imposed by the Board.
- (2) The Board may, by notice in writing given to a veterinary practitioner:
  - (a) impose a condition on the veterinary practitioner's registration at any time, or
  - (b) vary or revoke a condition imposed on the registration.
- (3) The Board may impose a condition on registration only if the Board is satisfied that the condition is warranted, having regard to any one or more of the following:
  - (a) the provisions of any Act or law of a jurisdiction in Australia affecting veterinary practitioners or the practice of veterinary science,
  - (b) the safety or health of any person,
  - (c) the health or welfare of animals or any particular type of animals,
  - (d) damage to the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events,
  - (e) any conditions imposed on the applicant's authority to practise veterinary science in another State or Territory,
  - (f) any impairment suffered by the veterinary practitioner.

The Board may be aware, for example, that a veterinary practitioner is prescribing or dispensing inappropriate drugs (such as those that leave a residue in meat intended for consumption), or prescribing or dispensing drugs in circumstances that allow the drugs to be used by human contestants in sporting events.

- (4) Without limiting subsection (1), a condition imposed on registration may require the registered person to do either or both of the following within a specified time:
  - (a) to undertake and successfully complete additional academic or practical training courses,
  - (b) to demonstrate, to the satisfaction of the Board:
    - (i) a knowledge of the law and ethics relating to the practice of veterinary science generally, and
    - (ii) in particular, a knowledge of the law and ethics concerning the supply, dispensing, storage and use of poisons and therapeutic substances that are relevant to the practice of veterinary science.

### **20 Duration of registration**

- (1) Subject to this Act, registration continues in force until it is cancelled.
- (2) Registration is not in force during any period of suspension.

## **Division 2 – Qualifications for registration**

### **21 Qualifications for full registration**

- (1) A person may be granted full registration if:
  - (a) the person holds an academic award in veterinary science that was awarded on the completion of a regular graded course of study extending over at least 5 academic years in which a general study of veterinary science was made at a university, college or institution approved in writing by the Board on the advice of the Australasian Veterinary Boards Council Inc, or
  - (b) the person:
    - (i) holds an academic award in veterinary science that was awarded on the completion of

a regular graded course of study in veterinary science extending over at least 4 academic years at a university, college or institution (not referred to in paragraph (a)) and that at the time it was granted was accepted in the country in which it was granted as a sufficient qualification for the practice of veterinary science in that country, and

(ii) has, if required by the Board, passed the examination required by the regulations.

(2) The Board is to review the universities, colleges and institutions that are approved for the purposes of subsection (1) (a) at least once every year and the results of the review are to be included in the Board's annual report.

## **22 Qualifications for honorary registration**

A person who is a veterinary practitioner with full registration or a person eligible to be granted full registration may be granted honorary registration if the Board is satisfied that:

- (a) the person has been a member of the profession of veterinary science for not less than 40 years, or
- (b) the person is a member of the profession of veterinary science of long standing and is of or above the age of 65 years, or
- (c) the person's standing in the profession of veterinary science is such as to justify the person's being granted honorary registration.

## **23 Qualifications for limited registration**

(1) A person may be granted limited registration if the Board is satisfied that the person does not have all the qualifications necessary for full registration but has such qualifications in veterinary science and experience in the practice of veterinary science as to justify the granting of limited registration.

(2) Without limiting subsection (1), limited registration may be granted for any one or more of the following purposes:

- (a) to enable a person to carry on the practice of veterinary science for a specific purpose,
- (b) to enable a person to carry on the practice of veterinary science for a limited time,
- (c) to enable a person with a qualification referred to in section 21 (1) (b) (i) to carry on the practice of veterinary science until the person has passed the examination referred to in section 21 (1) (b) (ii).

(3) Without limiting section 19, the types of conditions that may be imposed on limited registration include the following:

- (a) a condition that the registered person is to be supervised by a veterinary practitioner (other than a veterinary practitioner with limited registration) when doing any act of veterinary science,
- (b) a condition that the registered person is to perform only the acts of veterinary science specified in the certificate of registration.

## **24 Qualifications for provisional registration**

(1) A person who has applied for full registration may be granted provisional registration by the Board if the Board is satisfied that the person has satisfied all the requirements for an academic award referred to in section 21 (1) (a) and, but for the conferring of the award, would be entitled to be granted full registration.

(2) Unless sooner cancelled, provisional registration remains in force for a period of 3 months from the date of its issue.

(3) The Board may, for any reason, cancel a person's provisional registration without prejudice to the application of the person to be granted full registration.

(4) If a veterinary practitioner with provisional registration is granted full registration while the provisional registration is in force, the person's provisional registration expires (despite subsection (2)) on the day on which the person is granted full registration.

## **25 Qualifications for specialist registration**

A person who is a veterinary practitioner with full registration or a person eligible to be granted full registration may be granted specialist registration in a branch of veterinary science if the Board is satisfied that the person has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the granting of specialist registration.

## **Division 3 – Cancellation and suspension of registration**

### **26 Cancellation and suspension of registration**

(1) A person ceases to be registered as a veterinary practitioner if the person's name is removed from the Register.

(2) A reference in this Act to the cancellation of a veterinary practitioner's registration is a reference to the removal of the veterinary practitioner's name from the Register.

(3) Subsections (1) and (2) do not apply to the removal of a person's name from a division of the Register as referred to in section 28 (4).

(4) A person whose registration as a veterinary practitioner is suspended is taken not to be a veterinary practitioner during the period of suspension, except for the purposes of Part 5 (Complaints and disciplinary proceedings).

## **27 Removal of person's name from Register**

- (1) The Board must remove a veterinary practitioner's name from the Register if:
  - (a) the veterinary practitioner has died, or
  - (b) the veterinary practitioner has requested the Board to remove his or her name from the Register, or
  - (c) the Tribunal or the Supreme Court has ordered that the veterinary practitioner's registration be cancelled.
- (2) The Board may remove a veterinary practitioner's name from the Register if:
  - (a) the veterinary practitioner does not possess the qualifications in respect of which he or she is registered, or
  - (b) the Board is of the opinion that the veterinary practitioner is not a person of good character, or
  - (c) the veterinary practitioner has been found guilty of any of the following offences:
    - (i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,
    - (ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,
    - (iii) any offence under a law of the Commonwealth, or another State or Territory, or of a jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii), or
  - (d) the veterinary practitioner has had his or her authority to practise veterinary science suspended or cancelled in another State or Territory, or
  - (e) the veterinary practitioner has been registered because of any false or fraudulent representation or declaration made either orally or in writing, or
  - (f) the veterinary practitioner has become a mentally incapacitated person, or
  - (g) the veterinary practitioner has failed to pay any fee or fine due to the Board under this Act or any other amount ordered to be paid by the veterinary practitioner in accordance with proceedings under this Act, or
  - (h) the veterinary practitioner has failed to lodge a return as required by section 33.
- (3) Action is not to be taken under subsection (2) unless the Board:
  - (a) has caused notice of the proposed action to be given to the veterinary practitioner, and
  - (b) has given the veterinary practitioner at least 28 days within which to make written submissions to the Board in relation to the proposed action, and
  - (c) has taken any such submissions into consideration.

## **Division 4 – Register of veterinary practitioners**

### **28 Register of veterinary practitioners**

- (1) The Board is to keep and maintain a Register of veterinary practitioners.
- (2) The Register is to be divided as follows:
  - (a) a division that includes an entry for each veterinary practitioner with full registration,
  - (b) a division that includes an entry for each veterinary practitioner with honorary registration,
  - (c) a division that includes an entry for each veterinary practitioner with limited registration,
  - (d) a division that includes an entry for each veterinary practitioner with provisional registration,
  - (e) a division that includes an entry for each veterinary practitioner with specialist registration.
- (3) Each entry of the Register that relates to a veterinary practitioner is to include the following:
  - (a) the full name and address of the veterinary practitioner,
  - (b) a description of the veterinary practitioner's qualification for registration and, in the case of a veterinary practitioner with specialist registration, a description of the veterinary practitioner's qualifications and experience that enable the veterinary practitioner to be granted specialist registration,
  - (c) in the case of a veterinary practitioner with specialist registration, the branch of veterinary science in respect of which the veterinary practitioner is a specialist,
  - (d) in the case of a veterinary practitioner with limited registration--the date (if specified in the certificate of registration) on which the registration will expire and any condition attached to the registration,
  - (e) the premises (if any) at which the veterinary practitioner practises,
  - (f) such other particulars as may be prescribed by the regulations.
- (4) The name of a person is to be removed from a division of the Register if the name of the person is entered in any other division of the Register.

### **29 General provisions relating to Register**

- (1) If a veterinary practitioner applies for particulars to be recorded in the Register in addition to those

required to be recorded under this Act, the Board may, on payment of the approved fee, cause to be recorded in the Register such of those additional particulars as the Board approves.

(2) The Register is to be available for inspection, at the office of the Board at all times when that office is open for business, by any person on payment of the approved fee.

(3) If the description of a person's qualifications is required to be entered into the Register, the description is to include the date on which the qualification was awarded.

(4) The name of a veterinary practitioner is removed from the Register by the making in the Register of such recording as the Board directs.

### **30 Annual registration fees**

(1) A veterinary practitioner must, on or before 30 June of each year following the year in which the veterinary practitioner was first registered, pay to the Board the approved fee for annual registration.

(2) The Board may approve different annual registration fees by reference to different factors.

(3) The Board may cause a veterinary practitioner's name to be removed from the Register if the veterinary practitioner has failed to pay the approved fee for annual registration by the due date.

(4) A person whose name has been removed from the Register for failure to pay the approved fee for annual registration by the due date is entitled to re-registration if the person pays to the Board any unpaid approved fee or fees for annual registration together with any approved fee for late payment.

(5) The entitlement to re-registration is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of the person's name from the Register.

(6) A person registered pursuant to an entitlement to re-registration under this section is taken to have been so registered on and from the day the person's name was removed from the Register or on and from such later day as the Board determines and notifies to the person. However, nothing in this subsection affects any proceedings for an offence instituted against the person before the person was entitled to be re-registered.

(7) Nothing in this section requires the Board to re-register a person if the Board is satisfied that the person would not be entitled to be registered as a veterinary practitioner but for this section.

(8) An entitlement to re-registration under this section does not override any other provision of this Act pursuant to which a person's name is authorised or required to be removed from the Register.

### **31 Change of particulars to be notified**

A veterinary practitioner must comply with the requirements of section 53 (as applied by this Act) of the *Licensing and Registration (Uniform Procedures) Act 2002*.

Maximum penalty: 10 penalty units.

Section 53 of the *Licensing and Registration (Uniform Procedures) Act 2002* makes it a condition of registration for registered persons to provide information regarding changes to their particulars.

### **32 Evidentiary certificates**

A certificate:

(a) that is signed by the Registrar, and

(b) that certifies that, on a specified date or during a specified period, the particulars contained in the Register as to specified matters were as so specified,

is admissible in any proceedings and is evidence of the matters so certified.

See also section 55 of the *Licensing and Registration (Uniform Procedures) Act 2002* with respect to evidentiary certificates.

## **Division 5 – Returns and information**

### **33 Annual return to be submitted**

(1) A veterinary practitioner must, on or before the return date in each year, furnish in writing to the Board in a form approved by the Board a return for the return period specifying the following information:

(a) if the veterinary practitioner has been found guilty of any of the following offences:

(i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,

(ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,

(iii) any offence under a law of the Commonwealth, or another State or Territory, or of a

jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii),

(b) details of any impairment suffered by the veterinary practitioner,

(c) details of any suspension or cancellation of, or imposition of conditions on, the licence, registration or other authorisation of the veterinary practitioner in relation to the practice of veterinary science in another jurisdiction (either within Australia or elsewhere) during the return period,

(d) a statement as to whether the veterinary practitioner has been refused a licence, registration or other authorisation in relation to the practice of veterinary science in another jurisdiction (either within Australia or elsewhere) during the return period,

(e) the premises (if any) at which the veterinary practitioner has been practising during the return period and the premises (if any) at which the veterinary practitioner intends to practise in the next 12 months,

(e1) such details of any continuing professional development undertaken by the veterinary practitioner as are prescribed by the regulations,

(f) such other information as may be prescribed by the regulations.

(2) The Board may require a return under this section to be verified by statutory declaration.

(3) Despite subsection (1), the regulations may provide that a veterinary practitioner with honorary registration need not submit an annual return or need include in the annual return only such information as the regulations may specify.

(4) The Board may cause a veterinary practitioner's name to be removed from the Register if the veterinary practitioner has failed to furnish an annual return in accordance with this section.

(5) A person whose name has been removed from the Register for failure to furnish an annual return is entitled to re-registration if the person furnishes the return to the Board together with any approved fee for restoration to the Register under this section.

(6) The entitlement to re-registration is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of the person's name from the Register.

(7) A person registered pursuant to an entitlement to re-registration under this section is taken to have been so registered on and from the day the person's name was removed from the Register or on and from such later day as the Board determines and notifies to the person. However, nothing in this subsection affects any proceedings for an offence instituted against the person before the person was entitled to be re-registered.

(8) Nothing in this section requires the Board to re-register a person if the Board is satisfied that the person would not be entitled to be registered as a veterinary practitioner but for this section.

(9) An entitlement to re-registration under this section does not override any other provision of this Act pursuant to which a person's name is authorised or required to be removed from the Register.

(10) In this section: "**return date**" means the date in a particular year notified to a veterinary practitioner by the Board in writing at least 1 month in advance. "**return period**" means the period of 12 months ending 2 months before the return date in a year.

## **Division 6 – Review of registration decisions**

### **34 Tribunal may review certain registration decisions**

(1) A person may apply to the Tribunal for a review of any of the following decisions of the Board under this Part:

(a) a decision to refuse to grant the person full registration,

(b) a decision to impose conditions on the full registration of the person,

(c) a decision to remove the person's name from the Register.

(2) Despite subsection (1), a person is not entitled to apply to the Tribunal for a review of a decision of the Board refusing to grant registration to the person if the registration was refused on the ground that the person had failed to pass an examination that the person was required to pass under this Part.

## **Part 5 – Complaints and disciplinary proceedings**

### **Division 1 – Interpretation**

#### **35 Definitions**

In this Part:

"**complainant**" means a person who makes a complaint.

"**complaint**" means a complaint made under this Part.

"**disciplinary finding**" means a finding of unsatisfactory professional conduct or professional misconduct.

**"professional misconduct"** means:

- (a) unsatisfactory professional conduct of a sufficiently serious nature to justify the suspension or cancellation of a veterinary practitioner's registration, or
- (b) any other conduct that is declared by the regulations to be professional misconduct for the purposes of this Act.

**"unsatisfactory professional conduct"** means any of the following:

- (a) providing information relating to the veterinary practitioner's qualifications for registration knowing the information to be false or misleading in a material particular,
- (b) contravening Order 1998/1 made under section 46 of the *Stock Medicines Act 1989* and published in Gazette No 108 on 17 July 1998 at pages 5496-5498 (or any Order amending or replacing that Order),
- (c) engaging in conduct in the veterinary practitioner's professional capacity that, if repeated or continued, is likely to do any of the following:
  - (i) cause unnecessary suffering to an animal,
  - (ii) cause the inappropriate death of an animal,
  - (iii) adversely affect the safety or health of any person,
  - (iv) damage the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events,
- (d) any contravention by a veterinary practitioner of the conditions of the veterinary practitioner's registration,
- (e) any failure by a veterinary practitioner to comply with a provision, prescribed by the regulations for the purposes of this paragraph, of the code of professional conduct in effect under section 37,
- (e1) any failure by a veterinary practitioner, without reasonable excuse, to comply with any continuing professional development requirements determined by the Board that are applicable to the veterinary practitioner,
- (f) any failure by a veterinary practitioner to supervise a person adequately in doing an act where supervision by a veterinary practitioner was required by law and the veterinary practitioner concerned undertook to provide that supervision,
- (g) any failure without reasonable excuse by the veterinary practitioner to comply with a direction, order or requirement of the Board, Tribunal or Supreme Court imposed on the veterinary practitioner in his or her capacity as a veterinary practitioner,
- (h) any failure by the veterinary practitioner to comply with the applicable requirements of the *Licensing and Registration (Uniform Procedures) Act 2002*,
- (i) any contravention by a veterinary practitioner of this Act or the regulations,
- (j) any conduct that demonstrates that a veterinary practitioner is not fit to practise veterinary science because the practitioner suffers from an impairment,
- (k) any other conduct of a veterinary practitioner that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care in the practice of veterinary science,
- (l) any other improper or unethical conduct of a veterinary practitioner in the course of the practice of veterinary science,
- (m) any conduct that is declared by the regulations to be unsatisfactory professional conduct for the purposes of this Act.

### **36 Application of Part**

- (1) A complaint about a veterinary practitioner may be made and dealt with even though the veterinary practitioner has ceased to be registered. For that purpose, a reference in this Part to a veterinary practitioner includes a reference to a person who has ceased to be registered or whose registration is suspended.
- (2) Despite subsection (1), the Board or the Tribunal may decide not to investigate a complaint or determine an application (or may decide to terminate an investigation or application) if the person to whom the complaint or application relates has ceased to be registered.

### **37 Veterinary practitioners code of professional conduct**

- (1) The regulations may establish a veterinary practitioners code of professional conduct setting out the rules of conduct that should be observed by a veterinary practitioner in carrying on the practice of veterinary science.
- (2) The Board may make recommendations to the Minister with respect to the code.

## **Division 2 – Complaints**

### **38 Persons who may make complaints**

- (1) Any person (including the Board) may make a complaint against a veterinary practitioner in respect of the veterinary practitioner's conduct as a veterinary practitioner.
- (2) Complaints (other than complaints made by the Board) are to be made to the Board and are to be lodged with the Registrar.

(3) The Board may direct the Registrar to provide reasonable assistance in making a complaint to a person, or a person belonging to a class of persons, specified by the Board from time to time.

### **38A Time limit for making complaints**

(1) A complaint may be made about the conduct of a veterinary practitioner irrespective of when the conduct is alleged to have occurred.

(2) However, the Board is not required to investigate a complaint if the complaint is made more than 3 years after the conduct is alleged to have occurred, unless the Board determines that it is just and fair to investigate the complaint having regard to the delay and the reasons for the delay.

(3) A determination by the Board under this section is final and cannot be challenged in any proceedings by the complainant or the veterinary practitioner concerned.

### **39 Withdrawal of complaint**

A complaint may be withdrawn by the complainant at any time.

### **40 Form of complaint**

(1) A complaint must be in writing, must identify the complainant and must contain particulars of the allegations on which it is founded.

(2) The Board may require the complainant to provide further particulars of a complaint.

(3) The Board may require the complaint and any further particulars provided to be verified by statutory declaration.

(4) The Board may refuse to investigate a complaint if the complainant does not comply with a requirement of the Board under this section.

### **40A Protection of complainants and other persons**

(1) If a person makes a complaint, and does so in good faith:

(a) the making of the complaint does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and

(b) no liability for defamation is incurred because of the complaint, and

(c) the making of the complaint does not constitute a ground for any other civil proceedings.

(2) The protections given to a complainant by this section extend to:

(a) any person who, in good faith, provided the complainant with any information on the basis of which the complaint was made, and

(b) any person who, in good faith, was otherwise concerned in the making of the complaint.

### **41 Board to notify person against whom complaint is made**

(1) Written notice of the making of a complaint, the nature of the complaint, the type of unsatisfactory professional conduct or professional misconduct that the Board considers may be indicated by the complaint and the identity of the complainant is to be given by the Board to the veterinary practitioner against whom the complaint is made, as soon as practicable after the complaint is made.

(2) Any such notice must invite the veterinary practitioner to make, within such period (being at least 7 days) as the Board specifies in the notice, such representations in writing to the Board with respect to the complaint as the veterinary practitioner thinks fit.

(3) The Board need not give notice or may exclude from the notice any information required to be included under subsection (1) if, in the opinion of the Board, the giving of the notice or the inclusion of the information will or is likely to:

(a) prejudice the investigation of the complaint, or

(b) place the health or safety of a person at risk, or

(c) place the complainant or another person at risk of intimidation or harassment.

### **42 Board to investigate complaints**

(1) The Board must, subject to this Part, conduct an investigation into each complaint made under this Part.

(2) The Board may deal with one or more complaints about a veterinary practitioner in an investigation.

(3) If during an investigation of any one or more complaints it appears to the Board that there is a matter in respect of which another complaint could have been made against the veterinary practitioner concerned, the Board may deal with the matter in its investigation as if a complaint had been made about the matter.

(4) For the purposes of subsection (3), the Board may deal with a matter that could have been the subject of another complaint:

(a) whether that complaint could have been made instead of or in addition to any complaint that was in fact made, and

(b) whether or not that complaint could have been made by the same complainant.

(5) If the Board deals with a matter in accordance with subsections (3) and (4) as if a complaint had been made in relation to the matter, the Board is to comply with section 41 (with appropriate modifications) in relation to the matter.

(6) The Board may dismiss any complaint without investigation if further particulars of the complaint are not given, or the complaint or the further particulars are not verified, as required by the Board.

### **43 Proceedings before Board in respect of complaints**

- (1) For the purposes of investigating or determining a complaint, the Board is not bound to observe the rules of evidence but may inform itself of any matter in such manner as it thinks fit.
- (2) Without limiting subsection (1), the Board may meet separately or jointly with the complainant and veterinary practitioner concerned in an attempt to resolve any issue raised by the complaint if it considers the complaint may be resolved expeditiously by doing so.
- (3) The Board may be assisted by any person that it considers has relevant expertise in mediation or alternative dispute resolution in any such attempt to resolve a complaint.
- (4) Nothing in subsection (2) or (3) operates to prejudice the rights of the complainant or veterinary practitioner concerned.

#### **44 Power to summon witnesses and take evidence**

- (1) For the purposes of investigating or determining a complaint, the Board may summon a person to appear before the Board to give evidence and to produce such documents (if any) as may be referred to in the summons.
- (2) The person presiding at a meeting of the Board concerning a complaint may require a person appearing before the Board in respect of the investigation or determination of a complaint to produce a document.
- (3) The Board may, in proceedings before it in respect of a complaint, take evidence on oath or affirmation and, for that purpose, a member of the Board:
  - (a) may require a person appearing in the proceedings to give evidence either to take an oath or to make an affirmation in a form approved by the person presiding, and
  - (b) may administer an oath to or take an affirmation from a person so appearing in the proceedings.
- (4) A person served with a summons to appear in any such proceedings and to give evidence must not, without reasonable excuse:
  - (a) fail to attend as required by the summons, or
  - (b) fail to attend from day to day unless excused, or released from further attendance, by the Board.

Maximum penalty: 20 penalty units.

- (5) A person appearing in proceedings before the Board in respect of a complaint to give evidence must not, without reasonable excuse:
  - (a) when required to be sworn or to affirm--fail to comply with the requirement, or
  - (b) fail to answer a question that the person is required to answer by the person presiding, or
  - (c) fail to produce a document that the person is required to produce by this section.

Maximum penalty: 20 penalty units.

- (6) In this section, a reference to the Board includes a reference to a committee of the Board exercising functions in relation to a complaint.

#### **44A Protection from incrimination**

- (1) Self-incrimination not an excuse A person is not excused from answering any question, providing any information or producing a document if required to do so by the Board in any proceedings before the Board in respect of a complaint on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.
- (2) Answer or information not admissible if objection made However, any answer given or information provided by a natural person in any proceedings before the Board in respect of a complaint is not admissible in evidence against the person in any criminal proceedings (except proceedings for an offence against section 44 or under Part 5A of the *Crimes Act 1900*) if:
  - (a) the person objected at the time to doing so on the ground it might incriminate the person, or
  - (b) the person was not warned on that occasion that the person may object to answering the question or providing the information on the ground it might incriminate the person.
- (3) Documents admissible Any document produced by the person in compliance with a requirement of the Board in proceedings before the Board in respect of a complaint is not inadmissible in evidence against the person in criminal proceedings on the ground that the document might incriminate the person.
- (4) Further information Further information obtained as a result of an answer given or information provided in compliance with a requirement of the Board in proceedings before the Board in respect of a complaint is not inadmissible in any proceedings on the ground:
  - (a) that the answer had to be given or the information had to be provided, or
  - (b) that the answer given or information provided might incriminate the person.

#### **45 Powers of Board in investigation in respect of veterinary practitioners**

- (1) For the purpose of investigating or determining any complaint, the Board may, by notice served on any

veterinary practitioner, require the veterinary practitioner to do any one or more of the following:

- (a) provide written information, by the date specified in the notice, and to verify the information by statutory declaration,
- (b) produce, at a time and place specified in the notice, any document (or a copy of any document) specified in the notice,
- (c) otherwise assist in, or co-operate with, the investigation of the complaint in the specified manner.

(2) The Board may inspect any document produced before the Board under this section and may retain it for such period as the Board thinks necessary for the purposes of an investigation in relation to which it is produced. The Board may make copies of the document or any part of the document.

#### **45A Board may require practitioner to undergo examination**

(1) For the purpose of investigating or determining any complaint, the Board may, by notice given to the veterinary practitioner against whom a complaint has been made, require the practitioner to undergo an examination by a specified health practitioner at a specified time and place.

(2) A veterinary practitioner must not be required to undergo an examination unless it is reasonable to require the examination.

(3) The time and place for the examination must be reasonable.

(4) The examination is to be at the expense of the Board.

(5) A health practitioner must, as soon as possible after carrying out an examination of a veterinary practitioner under this section, give a report about the examination to the Board.

(6) The Board must give a copy of such a report to the veterinary practitioner concerned as soon as possible after the Board receives the report from the health practitioner.

(7) A failure by a veterinary practitioner, without reasonable cause, to comply with a requirement to undergo an examination is, for the purposes of this Act, evidence that the practitioner does not have sufficient physical or mental capacity to practise veterinary science.

(8) If a health practitioner provides a report to the Board under this section, and does so in good faith:

- (a) the provision of the report does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and
- (b) no liability for defamation is incurred because of the provision of the report, and
- (c) the provision of the report does not constitute a ground for any other civil proceedings.

(9) The protections given to a health practitioner by subsection (8) extend to:

- (a) any person who, in good faith, provided the health practitioner with any information on the basis of which the report was prepared, and
- (b) any person who, in good faith, was otherwise concerned in the preparation or the provision to the Board of the report.

#### **46 Power to dismiss certain complaints**

(1) The Board may dismiss a complaint if the Board is satisfied that the complaint:

- (a) is frivolous or vexatious or otherwise lacking in merit, or
- (b) is a complaint in respect of a matter that has already been dealt with as a complaint under this Part, or
- (c) is trivial in nature.

(2) The Board may dismiss a complaint under this section without having investigated the complaint under this Part or following an investigation of the complaint under this Part.

(3) The Board is not required to investigate a complaint that has been dismissed under this section.

(4) The Board is to notify the veterinary practitioner and complainant concerned of the dismissal of a complaint under this section.

(5) If the Board dismisses a complaint under this section, the Board may also make a recommendation to the veterinary practitioner against whom the complaint was made in respect of the matter complained of.

#### **47 Decision after investigation of complaint**

(1) After the Board has completed an investigation into a complaint against a veterinary practitioner, the complaint is to be dealt with in accordance with this section.

(2) If the Board is satisfied that the veterinary practitioner is guilty of unsatisfactory professional conduct or professional misconduct, the Board may:

(a) apply to the Tribunal for a disciplinary finding against the veterinary practitioner under Division 3, or

(b) take any one or more of the following actions:

- (i) reprimand or caution the veterinary practitioner,
- (ii) impose a fine on the veterinary practitioner of an amount not exceeding \$5,000,
- (iii) impose conditions on the veterinary practitioner's registration with respect to the practice of veterinary science,
- (iv) require the veterinary practitioner to complete specified educational courses,
- (v) require the veterinary practitioner to report on his or her veterinary practice at

specified times, in a specified manner and to specified persons,

(vi) require the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons,

(vii) require the veterinary practitioner to pay specified costs relating to the hearing.

(3) If the Board is satisfied that the veterinary practitioner is guilty of professional misconduct of a kind that is of a sufficiently serious nature to justify the suspension or cancellation of a veterinary practitioner's registration, the Board must apply to the Tribunal for a disciplinary finding against the veterinary practitioner under Division 3.

(4) If the Board is satisfied that the veterinary practitioner is guilty of professional misconduct and has applied to the Tribunal for a disciplinary finding against the practitioner, the Board may suspend the practitioner's registration pending determination of the matter by the Tribunal.

(5) The Board must not suspend the veterinary practitioner's registration unless the Board:

(a) has caused notice of the proposed action to be given to the veterinary practitioner, and

(b) has given the veterinary practitioner at least 28 days within which to make written submissions to the Board in relation to the proposed action, and

(c) has taken any such submissions into consideration.

(5A) However, the Board may suspend the registration of the veterinary practitioner with immediate effect if satisfied that immediate suspension of the veterinary practitioner's registration is justified:

(a) to protect the health or safety of a person, or

(b) to protect the health or welfare of an animal, or

(c) to prevent damage to Australia's international reputation in relation to animal exports, animal welfare, animal produce or sporting events.

(6) Without limiting section 46, the Board is to dismiss the complaint against the veterinary practitioner if it is satisfied that the veterinary practitioner is not guilty of either unsatisfactory professional conduct or professional misconduct.

(7) The Board is to notify the veterinary practitioner of any action taken by the Board under this section.

#### **48 Person may apply to Tribunal for a review of disciplinary finding of Board**

(1) A person in respect of whom the Board has made a disciplinary finding may apply to the Tribunal for a review of that finding and any action taken by the Board under section 47.

(2) If the Board has applied to the Tribunal for a disciplinary finding against a veterinary practitioner and has suspended the registration of the veterinary practitioner concerned:

(a) an application by the veterinary practitioner to the Tribunal for a review of the Board's decision to suspend may be dealt with by the Tribunal as part of the proceedings in relation to the Board's application instead of as an application for review, and

(b) in so dealing with the veterinary practitioner's application, the Tribunal may grant a stay of the suspension.

(3) Despite section 88 of the *Administrative Decisions Tribunal Act 1997*, the Tribunal must award costs against a veterinary practitioner in proceedings commenced by application made under this section if the Tribunal confirms or makes a disciplinary finding against the veterinary practitioner.

#### **49 Delegation of Board's functions under this Part to committee**

(1) The Board may:

(a) delegate any of its functions under this Part (other than this power of delegation) to a committee established under section 81, or

(b) require such a committee to make recommendations to the Board in relation to a complaint.

(2) It does not matter that any or all of the members of the committee are not members of the Board.

(3) However, a committee is to include at least one member who does not hold qualifications in veterinary science and, if a committee is determining a complaint, must also include a member who is an Australian lawyer and who is to be the Chairperson of the committee.

### **Division 3 – Applications to Tribunal for disciplinary findings**

#### **50 Board may apply to Tribunal for disciplinary finding**

The Board may, in accordance with section 47, apply to the Tribunal for a disciplinary finding under this Division against a veterinary practitioner with respect to any complaint against the veterinary practitioner.

#### **51 Tribunal's powers when complaint proved**

(1) If an application is made under this Division for a disciplinary finding against a veterinary practitioner and the Tribunal determines that the veterinary practitioner is guilty of unsatisfactory professional conduct or professional misconduct, the Tribunal may make any one or more of the following orders:

(a) an order reprimanding or cautioning the veterinary practitioner,

(b) an order suspending the veterinary practitioner's registration for a period not exceeding 12 months,

(c) an order cancelling the veterinary practitioner's registration,

(d) an order imposing a fine on the veterinary practitioner of an amount not exceeding \$25,000,

- (e) an order imposing conditions on the veterinary practitioner's registration with respect to the practice of veterinary science,
  - (f) an order requiring the veterinary practitioner to complete specified educational courses,
  - (g) an order requiring the veterinary practitioner to report on his or her veterinary practice at specified times, in a specified manner and to specified persons,
  - (h) an order requiring the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons,
  - (i) an order requiring the veterinary practitioner to pay specified costs relating to the hearing.
- (2) If the Tribunal considers that the matter of the complaint against the veterinary practitioner has been proved, or has not been proved to the satisfaction of the Tribunal but the Tribunal nevertheless considers that the conduct of the veterinary practitioner was sufficiently unacceptable to warrant the making of the complaint, the Tribunal must, despite section 88 of the *Administrative Decisions Tribunal Act 1997*, make an order against the veterinary practitioner under subsection (1) (i).
- (3) If the Tribunal orders the cancellation of the veterinary practitioner's registration, it may also order that the veterinary practitioner cannot apply for such registration within such period as may be specified by the Tribunal.
- (4) An order under this section does not take effect until 21 days after notice of the order is given to the veterinary practitioner by the Registrar, subject to any decision of the Supreme Court on appeal under Part 9A.

## **52 (Repealed)**

### **53 Restoration of registration**

- (1) Subject to section 51 (3), any person whose registration has been cancelled by the Tribunal under section 51 may apply to the Board for the granting of registration as a veterinary practitioner.
- (2) The provisions of this Act relating to applications for registration apply to an application under this section for registration.
- (3) The Tribunal may, if it thinks fit, terminate any period of suspension imposed by the Tribunal under section 51 before the expiration of the period specified in the order of suspension.
- (4) Subject to any order referred to in section 51 (3) that is made by the Supreme Court on an appeal, the Tribunal may direct that any person whose registration was cancelled at the direction of the Tribunal under section 51 be granted new registration.
- (5) Registration is not to be granted in accordance with this section until the approved fee has been paid.

### **54 Recording of proceedings and orders of Tribunal, Board and committees**

- (1) The Registrar of the Tribunal is to notify the Board of any orders the Tribunal makes under section 51.
- (2) The Registrar of the Board, or a person appointed by the Registrar, is to keep a record of:
  - (a) all proceedings and decisions under this Part of the Board or a committee appointed by the Board, and
  - (b) all orders of the Tribunal made under section 51.
- (3) The Registrar of the Board is to make a notation in the Register of the terms of:
  - (a) an order of the Tribunal under section 51 or the Supreme Court on appeal under Part 9A, and
  - (b) an order made under this Part of the Board or a committee appointed by the Board.

## **Division 4 – Confidentiality issues**

### **55 Duty of confidentiality of client communications**

- (1) A veterinary practitioner must comply with a requirement under this Part to answer a question or to produce information or a document despite any duty of confidentiality in respect of a communication between the veterinary practitioner and a client (but only if the client is the complainant or consents to its disclosure).
- (2) A veterinary practitioner may disclose a matter to the Board, a committee of the Board or the Tribunal in breach of any duty of confidentiality if the Board, committee or Tribunal is satisfied that it is necessary for the veterinary practitioner to do so to rebut an allegation in the complaint.

### **56 Statement of reasons of Tribunal need not contain confidential information**

- (1) The Tribunal is not required to include confidential information in the statement of reasons given under section 89 or 117 of the *Administrative Decisions Tribunal Act 1997*. If a statement would be false or misleading if it did not include the confidential information, the Tribunal is not required to provide the statement.
- (2) When confidential information is not included in the statement of a decision provided to a person or the statement is not provided to a person because of subsection (1), the Tribunal must give a confidential information notice to the person.
- (3) A "**confidential information notice**" is a notice that indicates that confidential information is not included or that the statement will not be provided (as appropriate) and gives the reasons for this. The notice must be in writing and must be given within one month after the decision is made.
- (4) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

- (5) In this section: "**confidential information**" means information that:
- (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared, or
  - (b) relates to the personal or business affairs of a person, other than a person to whom the Tribunal is required (or would, but for subsection (1), be required) to provide a written statement of a decision, or
  - (c) is information:
    - (i) that was supplied in confidence, or
    - (ii) the publication of which would reveal a trade secret, or
    - (iii) that was provided in compliance with a duty imposed by an enactment, or
    - (iv) the provision of which by the Tribunal would be in breach of any enactment, or
  - (d) is not directly relevant to the decision.

#### **56A Confidentiality of health reports about veterinary practitioners**

- (1) A person must not directly or indirectly make a record of or disclose to any person any information contained in a protected health report which has come to the person's notice in the exercise of the person's functions under this Act, except for the purposes of exercising functions under this Act. Maximum penalty: 50 penalty units.
- (2) A protected health report may not be admitted or used in any civil proceedings before a court except with the consent of:
- (a) the health practitioner who prepared the report, and
  - (b) the veterinary practitioner who is the subject of the report.
- (3) A person may not be compelled to produce a protected health report or to give evidence in relation to the report or its contents in any such civil proceedings.
- (4) In this section: "**court**" includes any tribunal, authority or person having power to require the production of documents or the answering of questions, but does not include the Board, the Tribunal (in respect of proceedings under this Act) or the Supreme Court (in respect of appeal proceedings under this Act). "**protected health report**" means a report prepared by a health practitioner in relation to the examination of a veterinary practitioner that was required by the Board under this Part.

#### **Division 5 – Co-operation with other jurisdictions in respect of disciplinary action**

##### **57 Notice of disciplinary action to other Boards**

- (1) When a veterinary practitioner's registration is cancelled or suspended or any condition is imposed on the registration, the Board may notify particulars of that action to the local registration authority of any other jurisdiction.
- (2) The Board is authorised to act under this section despite any law relating to secrecy or confidentiality.
- (3) This section does not affect any obligation or power to provide information under the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.
- (4) In this section: "**local registration authority**" of a jurisdiction means the person or authority in the jurisdiction having the function conferred by legislation of registering, licensing or otherwise authorising persons in connection with the carrying on of veterinary science in the jurisdiction. "**registration**" includes the registering, licensing, approval, admission, certification (including by way of practising certificates), or any other form of authorisation, of a person required by or under legislation for the carrying on of the practice of veterinary science.

#### **Division 6 – Publicising disciplinary action**

##### **58 Definitions**

In this Division:

"**disciplinary action**" means any of the following actions (whether or not taken under this Part):

- (a) the suspension or cancellation of the registration of a veterinary practitioner,
- (b) the refusal to register a qualified person as a veterinary practitioner,
- (c) the removal of the name of a veterinary practitioner from the Register,
- (d) any direction or order made by the Board or Tribunal in respect of a veterinary practitioner following a disciplinary finding in respect of the veterinary practitioner.

"**veterinary practitioner**" includes a former veterinary practitioner.

##### **59 Publicising disciplinary action**

- (1) The Board may publicise disciplinary action taken against a veterinary practitioner in any manner the Board thinks fit.
- (2) However, the Board must publicise disciplinary action taken against a veterinary practitioner (including the name and other identifying particulars of the person against whom the disciplinary action was taken).

(3) Without limiting subsection (1), it is sufficient compliance with subsection (2) if the Board provides to the Registrar sufficient information to enable the Registrar to exercise the Registrar's functions in respect of the register of disciplinary action required to be kept under this Division.

(4) The requirement to publicise disciplinary action applies only to disciplinary action taken after the commencement of this section. However, the Board may publicise disciplinary action taken under the *Veterinary Surgeons Act 1986* before the commencement of this section in accordance with this Division.

(5) This section extends to disciplinary action taken outside this State, to the extent that the particulars of that disciplinary action are known to the Board.

#### **60 Register of disciplinary action**

(1) The Registrar must keep a register of disciplinary action taken against veterinary practitioners.

(2) The register is to include the following:

(a) the name and other identifying particulars of the person against whom the disciplinary action was taken,

(b) particulars of the disciplinary action taken.

(3) The Registrar is to ensure that the register is made available to the public, free of charge, at the Board's offices during ordinary office hours and in any other manner that the Board directs.

(4) The Registrar may, on request, provide information recorded in the register to members of the public in any other manner.

(5) The Registrar may correct any error in or omission from the register.

(6) The requirement to keep a register of disciplinary action applies only to disciplinary action taken after the commencement of this section. However, the Registrar may include in the register disciplinary action taken before the commencement of this section under a former law regulating the practice of veterinary science, or publicise such action in any other manner, in accordance with this Division.

(7) This section extends to disciplinary action taken outside this State, to the extent that the particulars of that disciplinary action are known to the Registrar.

#### **61 Quashing of disciplinary action**

(1) If disciplinary action is quashed on appeal or review after the action was publicised by the Board under this Division, the result of the appeal or review is to be publicised with equal prominence by the Board.

(2) If the disciplinary action was recorded in the register kept by the Registrar under this Division, any reference to that disciplinary action is to be removed from the register.

#### **62 Liability for publicising disciplinary action**

(1) No liability is incurred by the State, the Board, the Registrar or any person acting at the direction of the Board or Registrar in respect of anything done in good faith for the purpose of:

(a) publicising disciplinary action under this Division, or

(b) exercising the functions of the Board or Registrar under this Division.

(2) No liability is incurred by a person publishing in good faith disciplinary action, or a fair report or summary of disciplinary action, recorded in a register kept by the Registrar, or otherwise publicised by the Board or Registrar, under this Division.

(3) In this section: "**liability**" includes liability in defamation.

#### **63 General**

(1) The provisions of this Division are subject to any order made by the Tribunal under section 75 of the *Administrative Decisions Tribunal Act 1997*. Section 75 of the *Administrative Decisions Tribunal Act 1997* allows the Tribunal to make an order prohibiting or restricting the disclosure of information.

(2) If disciplinary action is taken against a person because the person suffers from an impairment, the reason for the disciplinary action, and any other information relating to the impairment of the person, is not to be recorded in the register kept under this Division or otherwise publicised.

(3) Despite subsection (2), the name and other identifying particulars of the person against whom the disciplinary action was taken, and the kind of disciplinary action taken, must be publicised, and recorded in the register kept under this Division, in accordance with the requirements set out in this Division.

## **Part 6 – Veterinary hospitals**

### **Division 1 – Offences relating to veterinary hospitals**

#### **64 Meaning of "major surgery"**

(1) In this Act, "**major surgery**" means a restricted act of veterinary science that includes the carrying out of a procedure that:

(a) according to current standards of veterinary practice, should not be undertaken without the administration of an anaesthetic (other than a local anaesthetic) to an animal, or

(b) involves a spinal anaesthetic.

(2) Despite subsection (1), "**major surgery**" includes any act of veterinary science prescribed by the regulations for the purposes of this section to be major surgery but does not include any act of veterinary science prescribed by the regulations for the purposes of this section not to be major surgery.

#### **65 Premises required to be licensed as a veterinary hospital**

(1) A person must not perform major surgery on an animal except at premises that are the subject of a veterinary hospital licence that authorises major surgery of the type concerned to be carried out at those premises. Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that it was necessary to perform major surgery on the animal concerned at a place other than premises referred to in that subsection because of any one or more of the following reasons:

- (a) the major surgery was performed in an emergency and there was no time to move the animal to a veterinary hospital,
- (b) it was impractical to move the animal to a veterinary hospital because of the size of the animal or because of the type of animal,
- (c) it was dangerous to the health of the animal to move it to a veterinary hospital.

#### **66 Unlicensed premises not to be represented as veterinary hospital**

(1) The owner or occupier of premises must not represent the premises to be a veterinary hospital unless the premises are a veterinary hospital. Maximum penalty: 50 penalty units in the case of an individual and 100 penalty units in the case of a corporation.

(2) Without limiting the ways in which premises can be considered to be represented to be a veterinary hospital, a representation using any of the following titles, names or descriptions constitutes such a representation:

- (a) the title or description "veterinary hospital", "veterinary practice", "animal hospital" or "animal doctor", or any abbreviation or derivative of those words, either alone or in connection with any other title or description,
- (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the premises are a veterinary hospital or are entitled to be licensed as a veterinary hospital,
- (c) any title, name or description prescribed by the regulations.

#### **67 Requirement to have qualified superintendent**

The holder of a veterinary hospital licence must ensure that:

- (a) the premises the subject of the licence are managed by a superintendent who is a veterinary practitioner, and
- (b) the Board is notified in writing before a person assumes the duties of a superintendent of the name of the person.

Maximum penalty: 50 penalty units.

#### **68 Requirement to display information**

The holder of a veterinary hospital licence must ensure that a sign is displayed at the premises to which the licence relates that:

- (a) specifies the type or types of major surgery that are authorised to be carried out on the premises, and
- (b) is printed in a style and size, and placed in a location, that would reasonably be expected to be seen by customers entering the premises.

Maximum penalty: 20 penalty units.

### **Division 2 – Licensing procedures**

#### **69 Application to licensing of Licensing and Registration (Uniform Procedures) Act 2002**

(1) The Board may grant a veterinary hospital licence.

(2) Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* ("**the applied Act**") applies to and in respect of licensing under this Act, subject to the modifications and limitations prescribed by or under this Act. See clause 19 of Schedule 4, which temporarily suspends the provisions of the applied Act in relation to the making of applications by way of electronic communication.

(3) For the purposes of applying Part 2 of the applied Act to the granting of a veterinary hospital licence:

- (a) an application for a licence must be accompanied by the approved fee for the application, and
  - (b) a licence may be amended under that Act, and
  - (c) the reference to 28 days in section 17 (1) of that Act (as to the period within which applications are to be dealt with) is to be read as a reference to 40 days, and
  - (d) the reference to 14 days in section 19 (1) of that Act (as to the period within which notice of the Board's decision on an application is to be notified) is to be read as a reference to 7 days.
- (4) A veterinary hospital licence is a continuing licence for the purposes of Part 2 of the applied Act.
- (5) Subject to this section, the regulations may make provision for or with respect to such matters concerning licensing under this Act as are relevant to the operation of Part 2 of the applied Act.

## **70 Refusal of licence**

The Board is to refuse a licence unless:

- (a) the applicant:
  - (i) is an individual who is a veterinary practitioner, or
  - (ii) is a corporation or firm in which one or more veterinary practitioners has or have a controlling interest, or
  - (iii) is a corporation, firm or body referred to in section 14 (5), and
- (b) the applicant for the licence demonstrates to the Board that the premises for the proposed veterinary hospital will be able to provide acceptable levels of care for animals before, during and after major surgery.

## **71 Conditions of licences**

- (1) A licence is subject to such conditions as are imposed by the Board.
- (2) Without limiting subsection (1), the Board may impose a condition on a licence that the premises to which the licence relates are to be used for a certain type or types of major surgery only.
- (3) The Board may, by notice in writing given to the holder of a veterinary hospital licence:
  - (a) impose a condition on the licence at any time, or
  - (b) vary or revoke a condition imposed on the licence.

## **72 Duration of licence**

- (1) Subject to this Act, a veterinary hospital licence continues in force until it is cancelled.
- (2) A licence is not in force during any period of suspension.

## **73 Annual licence fee**

- (1) The holder of a veterinary hospital licence is, on or before 30 June in each year, to pay to the Board the approved fee in respect of the licence.
- (2) The Board may approve different annual licence fees by reference to different factors.
- (3) The approved fee is payable under this section even if the licence is suspended.

## **74 Suspension or cancellation of licence**

- (1) The Board must cancel a veterinary hospital licence if:
  - (a) the holder of the licence is an individual who has died, or
  - (b) the holder of the licence is a corporation or other body that has been wound up or otherwise ceased to exist.
- (2) The Board may suspend a veterinary hospital licence for a period not exceeding 12 months or may cancel a licence if:
  - (a) the approved fee is not paid in accordance with section 73 (1), or
  - (b) the holder of the licence is convicted of an offence under this Act or the regulations, or
  - (c) in a case where the holder of the licence is a corporation, any director or person concerned in the management of the corporation is convicted of an offence under this Act or the regulations, or
  - (d) in a case where the holder of the licence is a firm that is a partnership, any partner is convicted of an offence under this Act or the regulations, or
  - (e) in a case where the holder of the licence is any other type of firm, any member of the governing body of the firm is convicted of an offence under this Act or the regulations, or
  - (f) any condition of the licence is breached, or
  - (g) in a case where the holder of the licence is not an individual, the holder has ceased to be a corporation or firm in which one or more veterinary practitioners has or have a controlling interest or a corporation or firm referred to in section 14 (5), or
  - (h) in the case of the cancellation of a licence--the holder of the licence so requests.
- (3) The Board may suspend or cancel a licence only after having given the holder of the licence written

notice of its intention to suspend or cancel the licence setting out its reasons.

(4) The notice must include a statement that the holder of the licence concerned may make submissions to the Board in relation to the proposed suspension or cancellation within 14 days after the date of the notice.

(5) The suspension or cancellation of a licence:

(a) must be made by notice in writing, and

(b) must be served on the holder of the licence, and

(c) subject to subsection (6), takes effect on a day specified in the notice.

(6) Subsections (3), (4) and (5) do not apply to cancellation of a licence under subsection (1) or the suspension or cancellation of a licence at the request of the holder of the licence.

(7) A suspension or cancellation of a licence (except at the request of the holder of the licence) does not take effect until the expiry of the period within which an application under section 75 for review of the decision to suspend or cancel may be made, or if such an application is made, until the application is determined or withdrawn.

(8) If a licence is cancelled at the request of the holder of the licence, the Board may refund to the holder a part of the approved fee for the licence last paid by the holder under section 73.

### **75 Reviews by the Tribunal**

An applicant for a veterinary hospital licence or the holder of such a licence may apply to the Tribunal for a review of any of the following decisions:

(a) the refusal of the Board to issue a veterinary hospital licence to the applicant,

(b) a decision of the Board to issue the applicant with a veterinary hospital licence that authorises the carrying out of major surgery of a type other than the type applied for,

(c) the suspension of the holder's veterinary hospital licence by the Board,

(d) the cancellation of the holder's veterinary hospital licence (other than at the holder's request) by the Board.

## **Part 7 – Veterinary Practitioners Board**

### **76 Constitution of Board**

There is constituted by this Act a body corporate with the corporate name of the "Veterinary Practitioners Board".

### **77 Membership of Board**

(1) The Board is to consist of 8 members appointed by the Governor.

(2) Of the members of the Board:

(a) 4 are to be veterinary practitioners selected by the Minister to represent each of the following:

(i) specialist veterinary practitioners,

(ii) veterinary practitioners practising in urban areas,

(iii) veterinary practitioners practising in rural areas,

(iv) academics in the field of veterinary science,

(b) 2 are to be veterinary practitioners selected by the Minister,

(c) 2 are to be persons who are not veterinary practitioners and are selected by the Minister to represent consumers of veterinary services.

(3) The Minister is to select:

(a) the members that are to represent the veterinary practitioners referred to in subsection (2) (a)

(i), (ii) and (iii) from panels prepared by the New South Wales Division of the Australian Veterinary Association, and

(b) the member that is to represent academics referred to in subsection (2) (a) (iv) from a panel prepared jointly by the University of Sydney and Charles Sturt University.

(4) The Minister may give directions with respect to the way in which panels under subsection (3) are to be prepared and the calling for nominations for all or any of the members of the Board.

(5) Schedule 2 has effect with respect to the members and procedure of the Board.

### **78 President of the Board**

The Board is to elect one of its members who is a veterinary practitioner to be President of the Board.

### **79 Functions of Board**

(1) The Board has the functions conferred or imposed on it by or under this or any other Act.

(2) In particular, the Board has the following functions:

(a) to register veterinary practitioners and licence veterinary hospitals,

(b) to investigate complaints against veterinary practitioners,

(c) to take disciplinary action against veterinary practitioners,

(d) to enforce the provisions of this Act and the regulations, including to take proceedings for offences against this Act or the regulations,

- (e) to develop codes of professional conduct for veterinary practitioners,
- (f) to co-operate with other jurisdictions in Australia and New Zealand to further a common and harmonious approach to the administration of legislation relating to veterinary practitioners,
- (g) to provide information to the veterinary profession relating to continuing education issues, developments in the field of veterinary science and disciplinary matters,
- (h) to provide general advice to consumers of veterinary services with respect to the ethics and standards of professional competence that are generally expected of veterinary practitioners,
- (i) to provide advice to the Minister with respect to any other matter in connection with the administration of this Act,
- (j) to promote, provide for or facilitate the professional development of veterinary practitioners, including by determining the requirements for continuing professional development of veterinary practitioners,
- (k) to provide, if practicable, scholarships for veterinary study,
- (l) to liaise with and, if considered by the Board to be appropriate, to become a member of, professional organisations concerned with veterinary science.

#### **80 Staff of the Board**

- (1) The Board may employ a Registrar and such other staff as may be necessary to enable the Board to exercise its functions. Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of any such staff.
- (2) The Board may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any Act or law.
- (3) The Board may arrange for the use of the services of any contractor.
- (4) For the purposes of this Act, a person who is employed under subsection (1), or whose services are made use of under subsection (3), is an officer of the Board.

#### **81 Committees**

- (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of a committee are not members of the Board.
- (3) A member of a committee, while sitting on the committee, is entitled to be paid by the Board such amount as the Board from time to time determines in respect of the member, and is approved by the Minister.
- (4) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings may be determined by the Board or (subject to any determination of the Board) by the committee.

#### **82 Delegation of functions**

- (1) The Board may delegate any of its functions (other than this power of delegation) to:
  - (a) a member of the Board, or
  - (b) a committee of the Board, or
  - (c) the Registrar or any other member of staff of the Board.
- (2) The Board must not delegate any of its functions under Part 5 (Complaints and disciplinary proceedings) to the Registrar or any other member of the staff of the Board other than the investigation of a complaint or a function relating to the investigation of a complaint.
- (3) The Registrar may delegate to a member of the staff of the Board the exercise of:
  - (a) any of the functions of the Registrar under this Act, other than this power of delegation, or
  - (b) any functions delegated to the Registrar by the Board, unless the Board otherwise provides in its instrument of delegation to the Registrar.
- (4) This section has effect subject to the provisions of section 49.

## **Part 8 – Finance**

### **83 Board to establish and maintain account at financial institution**

The Board must establish and maintain an account at an authorised deposit-taking institution located in New South Wales and ensure that all money received by the Board is paid into the account.

### **84 Investment of money**

The Board may invest money held in the account referred to in section 83:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power to invest money held by the Board--in any manner authorised for the investment of trust funds or in any other manner approved by the Minister with the concurrence of the Treasurer.

### **85 Financial year of Board**

- (1) The financial year of the Board is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public*

### **86 Consultation on fees**

- (1) Before the Board submits a proposed fee under this Act to the Minister for approval, the Board is to ensure that it has undertaken consultation with the veterinary profession in relation to the proposed fee.
- (2) The Board is to submit a written report to the Minister on the consultation undertaken in relation to a proposed fee.
- (3) In this section, a reference to a "**proposed fee**" includes a reference to the proposed remuneration of a member of the Board.

### **87 Waiver, reduction or refund of fees by Board**

- (1) The Board may in a particular case, if it considers it appropriate to do so in the circumstances, waive a requirement to pay a fee imposed by or under this Act or reduce or refund such a fee.
- (2) If a requirement to pay a fee is waived, or the fee is reduced or refunded, under this section:
  - (a) in the case of a waiver of the requirement or a refund of the fee--any requirement under this Act to pay the fee is taken to have been satisfied, and
  - (b) in the case of a fee reduction--any requirement under this Act to pay the fee is taken to have been satisfied when the reduced fee is paid.

### **88 Recovery of fees and fines**

- (1) Any charge, fee or other money due to the Board may be recovered by the Board as a debt in a court of competent jurisdiction.
- (2) Any fine recovered under this Act (including any fine recovered under the *Fines Act 1996* in respect of a matter under this Act) is to be paid to the Board.

### **89 Reviews of revenue strategies**

The Board is to carry out regular reviews of its strategies for raising revenue.

## **Part 9 – Powers of inspectors**

### **90 Appointment of inspectors**

- (1) The Board may appoint a member of its staff as an inspector for the purposes of this Act.
- (2) The Board may, at any time, revoke the appointment of an inspector.

### **91 Power of entry and examination**

- (1) An inspector may, at any reasonable time, enter any premises in which the inspector has reasonable cause to believe that any person is doing or has done any act that is a restricted act of veterinary science for the purpose of ascertaining:
  - (a) whether any provision of this Act or the regulations has been or is being contravened, or
  - (b) whether the conduct of a veterinary practitioner constitutes unsatisfactory professional conduct or professional misconduct.
- (2) An inspector may:
  - (a) make such examinations, inspections and inquiries, and
  - (b) collect and take away such samples and specimens, and
  - (c) take such photographs, and
  - (d) seize and take away such records,in or from premises entered in accordance with this section as the inspector considers necessary in connection with the administration of this Act.
- (3) An inspector may exercise the powers conferred by this section with the aid of such assistants as the inspector considers necessary.
- (4) A person must not, without reasonable excuse:
  - (a) obstruct or hinder an inspector in the exercise of the inspector's powers under this section, or
  - (b) being the occupier of the premises--refuse to assist the inspector in exercising those powers.

Maximum penalty: 20 penalty units.

- (5) This section does not authorise an inspector to enter that part of any premises being used for residential purposes without the consent of the occupier of that part of the premises.
- (6) An inspector must, at the request of a person in relation to whom the inspector is exercising or proposing to exercise powers under this Act, produce a written authority issued by the Board authorising the inspector to exercise those powers.
- (7) An inspector may exercise in relation to a public place any of the powers conferred by this section in the same way as the inspector may exercise those powers in relation to premises entered in accordance with subsection (1).
- (8) In this section, "**premises**" includes any land, vehicle, vessel or aircraft.

## **Part 9A – Appeals against decisions of Tribunal**

### **91A Definitions**

In this Part:

"**original decision**" means an order made by the Tribunal under section 51.

"**review decision**" means a decision of the Tribunal made in proceedings commenced by an application made under this Act for the review of a decision of the Board.

### **91B Application of Administrative Decisions Tribunal Act 1997**

The provisions of Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997* do not apply to a review decision or original decision.

Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997* provides that certain decisions of the Tribunal may be appealed to an Appeal Panel of the Tribunal.

### **91C Right to appeal to Supreme Court against review decision of Tribunal**

- (1) A party to any proceedings in which the Tribunal has made a review decision may appeal to the Supreme Court against the decision of the Tribunal.
- (2) An appeal under this section to the Supreme Court:
  - (a) may be made on any question of law, and
  - (b) with the leave of the Supreme Court, may extend to a review of the merits of the order or other decision concerned.

### **91D Right to appeal to Supreme Court against original decision of Tribunal**

- (1) The following persons may appeal to the Supreme Court against an original decision of the Tribunal:
  - (a) the veterinary practitioner or former veterinary practitioner against whom the decision was made,
  - (b) the person who made the original complaint, but only:
    - (i) on a question of law, or
    - (ii) with respect to any penalty imposed.
- (2) Subject to subsection (1) (b), an appeal under this section to the Supreme Court:
  - (a) may be made on any question of law, and
  - (b) with the leave of the Supreme Court, may extend to a review of the merits of the decision concerned.

### **91E Appeals against interlocutory decisions**

An appeal does not lie to the Supreme Court under this Part against any of the following decisions of the Tribunal except by leave of the Supreme Court:

- (a) an interlocutory decision,
- (b) a decision made with the consent of the parties,
- (c) a decision as to costs.

### **91F Appeals on questions of law**

- (1) If an appeal under this Part is restricted to questions of law, the Supreme Court is to determine the appeal and may make such orders as it thinks appropriate in light of its determination.
- (2) The orders that may be made by the Supreme Court on appeal include (but are not limited to):
  - (a) an order affirming or setting aside the decision of the Tribunal, and
  - (b) an order remitting the case to be heard and decided again by the Tribunal (either with or without the hearing of further evidence) in accordance with the directions of the Supreme Court.
- (3) Without limiting subsection (2), in any appeal against an original decision the Supreme Court may, in respect of the veterinary practitioner concerned:
  - (a) make any order that could have been made under section 51, or
  - (b) vary any decision made by the Tribunal.

### **91G Appeals on the merits**

- (1) If an appeal under this Part extends to a review of the merits of a review decision or original decision, the Supreme Court is to decide what the correct and preferable decision is having regard to the material then before it, including the following:
  - (a) any relevant factual material,
  - (b) any applicable written or unwritten law.
- (2) The Supreme Court may exercise all the functions that are conferred or imposed by or under this Act or the *Administrative Decisions Tribunal Act 1997* on the Tribunal to make the decision concerned.

- (3) In determining any such appeal, the Supreme Court may decide:
- (a) to affirm the decision, or
  - (b) to vary the decision, or
  - (c) to set aside the decision and make a decision in substitution for the decision it set aside.

#### **91H Appeal does not stay decision appealed against**

Subject to any interlocutory order made by the Supreme Court, an appeal under this Part does not affect the operation of the review decision or original decision appealed against or prevent the taking of action to implement the decision.

#### **91I Procedure on appeal**

- (1) The provisions of section 75 of the *Administrative Decisions Tribunal Act 1997* apply (subject to the rules of the Supreme Court) in respect of the hearing of an appeal against an original decision in the same way as those provisions apply in respect of the hearing of a complaint by the Tribunal.
- (2) The Tribunal (or any of the members constituting the Tribunal) cannot be made a party to an appeal under this Part. Rules of court made under the *Supreme Court Act 1970* may make provision for the parties to any such appeal (including the designation of a respondent where the only party in the proceedings from which the appeal is brought was the appellant).
- (3) An appeal to the Supreme Court under this Part must be made:
  - (a) within such time and in such manner as is prescribed by rules of court made under the *Supreme Court Act 1970*, or
  - (b) within such further time as the Supreme Court may allow.

### **Part 10 – Miscellaneous**

#### **92 Annual meeting of veterinary profession**

- (1) The Board must, in accordance with the regulations, hold an annual general meeting of the veterinary profession.
- (2) Every veterinary practitioner is entitled to attend a meeting under this section.
- (3) The regulations may make provision for or with respect to the calling and giving of notice of meetings under this section, the information to be provided in relation to such meetings and the procedure for conducting such meetings.

#### **93 Application of Criminal Records Act 1991**

For the purposes of the application of this Act to a criminal finding, the *Criminal Records Act 1991* applies in respect of a criminal finding as if section 8 (2) and (4) of that Act were omitted.

#### **94 How notice is to be given**

- (1) A requirement of this Act that a person be given notice is a requirement that the person be given notice in writing either personally or by post.
- (2) For the purposes of section 76 of the *Interpretation Act 1987*, a notice served by post on a person for the purposes of this Act is to be treated as being properly addressed if it is addressed to the address of the person last known to the Registrar or last recorded in the Register.

#### **95 Service of documents on Board**

A document (other than a complaint made under Part 5) may be served on the Board by leaving it at or sending it by post to any office of the Board. This section does not affect the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board in any other manner.

#### **96 Liability of members and others**

No matter or thing done by the Board or a committee of the Board, any member of the Board or of such a committee, any person acting under the direction of the Board or such a committee, or the Registrar, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subjects a member of the Board, a member of the committee, a person so acting or the Registrar, personally to any action, liability, claim or demand.

#### **97 Written statement of decisions**

- (1) If the Board, the President, a member authorised by the Board or a committee of the Board makes a decision concerning a person under any provision of this Act, the person may request in writing that the Board, President, member or committee provide the person with a written statement of the decision.
- (2) Any such request is to be made no later than 60 days after the decision to which it relates.
- (3) The Board, the President, member or committee is to provide a written statement of the decision within 30 days after receiving such a request.
- (4) A written statement of a decision:
  - (a) must give the reasons for the decision, and
  - (b) if the decision relates to a complaint, must include all relevant information on which the

decision was based.

(5) The Board, the President, member or committee is not required to include confidential information in the statement of a decision. If a statement would be false or misleading if it did not include the confidential information, the Board, the President, member or committee is not required to provide the statement.

(6) When confidential information is not included in the statement of a decision provided to a person or the statement is not provided to a person because of subsection (5), the Board, the President, member or committee must give a confidential information notice to the person.

(7) A "**confidential information notice**" is a notice that indicates that confidential information is not included or that the statement will not be provided (as appropriate) and gives the reasons for this. The notice must be in writing and must be given within one month after the decision is made.

(8) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

(9) In this section: "**confidential information**" means information that:

(a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared, or

(b) relates to the personal or business affairs of a person, other than a person to whom the Board, the President, the member or the committee is required (or would, but for subsection (5), be required) to provide a written statement of a decision, or

(c) is information:

(i) that was supplied in confidence, or

(ii) the publication of which would reveal a trade secret, or

(iii) that was provided in compliance with a duty imposed by an enactment, or

(iv) the provision of which by the Board, the President, the member or the committee would be in breach of any enactment, or

(d) is not directly relevant to the decision.

#### **98 Authentication of certain documents**

Every certificate of registration, licence, approval, summons, process, demand, order, notice, statement, direction or other document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by:

(a) the President or the Registrar, or

(b) any officer of the Board authorised to do so by the Registrar.

#### **99 Liability of directors and managers of corporations**

(1) If a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or has been convicted under the provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.

#### **100 Proceedings for offences**

(1) Proceedings for an offence against this Act or the regulations may be dealt with summarily before the Local Court.

(2) Proceedings for such an offence may be brought only within 12 months after the date on which the offence is alleged to have been committed.

#### **101 Penalty notices**

(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may:

(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and

(b) prescribe the amount of penalty payable for the offence if dealt with under this section, and

- (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, "**authorised officer**" means a person authorised in writing by the Board as an authorised officer for the purposes of this section or a police officer.

### **102 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
  - (a) regulating the proceedings of the Board,
  - (b) regulating the duties of the staff of the Board,
  - (c) regulating the keeping of the Register,
  - (d) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations are to be held and the subjects of and fees for those examinations, including authorising the Board to determine fees in respect of those examinations,
  - (e) authorising the Board to determine and impose fees and charges for such other services provided by the Board as will assist the Board to operate on a cost-recovery basis, including fees or charges for the carrying out of any inspection for the purposes of this Act (whether or not the inspection is requested or agreed to),
  - (f) the exemption of any person, or class of persons, employed by the Crown from any provision of this Act or the regulations.
- (2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

### **103 Act to bind Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

### **104 Repeal of Veterinary Surgeons Act 1986 No 55 and related regulation**

The following are repealed:

- (a) the *Veterinary Surgeons Act 1986*,
- (b) the *Veterinary Surgeons Regulation 1995*.

### **105 (Repealed)**

### **106 Savings, transitional and other provisions**

Schedule 4 has effect.

### **107 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## **Schedule 1 Unrestricted acts of veterinary science**

(Section 7)

### **1 Unrestricted acts of veterinary science**

The following acts of veterinary science may not be declared under section 7 to be restricted acts of veterinary science:

- (a) the de-worming of any animal,
- (b) the performing of the Mules operation on sheep that are less than 12 months of age,
- (c) the de-horning of:
  - (i) cattle that are less than 12 months of age, or
  - (ii) goats that are less than 1 month of age,
- (d) the horn tipping of any animal,
- (e) the castrating of:
  - (i) cattle, sheep or goats that are less than 6 months of age, or

- (ii) pigs that are less than 2 months of age,
- (f) the tailing of sheep that are less than 6 months of age,
- (g) the carrying out, in respect of cattle, sheep, goats, pigs, deer, buffalo, poultry or any other animal prescribed by the regulations, of any artificial breeding procedure (within the meaning of the *Stock (Artificial Breeding) Act 1985*) other than a procedure involving surgery,
- (h) determining the sex of chickens,
- (i) the administration, under the immediate and direct supervision of a veterinary practitioner, of an anaesthetic to an animal,
- (j) diagnosing pregnancy in sheep by external ultrasonic techniques, subject to compliance with such conditions as may be prescribed by the regulations.

## **2 Definitions**

In this Schedule:

"**de-horn**" means remove the horn of an animal by methods which destroy or remove the keratin producing cells and structures at the base of the horn, but does not include horn tipping.

"**horn tip**" means remove the insensitive part of the horn of an animal.

# **Schedule 2 Provisions relating to the members and procedure of the Board**

(Section 77 (5))

## **1 Definition**

In this Schedule:

"**member**" means member of the Board.

## **2 Nomination of members**

If nominations of persons to constitute a panel for the purposes of section 77 (3) are not made within the time or in the manner specified by the Minister in a written notice given to the body or organisation entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed is taken to have been duly nominated.

## **3 President of the Board**

- (1) The President of the Board holds office for such period as is specified by the Board in writing on the election of the President.
- (2) The Board may remove a member from the office of President of the Board.
- (3) A person who is a member and President vacates office as President if the person:
  - (a) is removed from that office by the Board under subclause (2), or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member.

## **4 Acting members and acting President**

- (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member and the person, while so acting, has all the functions of the member and is taken to be a member.
- (2) The Governor may remove any person from any office to which the person was appointed under subclause (1).
- (3) The Board may, from time to time, appoint a member to act in the office of President of the Board during the illness or absence of the President and the member, while so acting, has all the functions of the President and is taken to be the President.
- (4) The Board may remove any person from any office to which the person was appointed under subclause (3).
- (5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board may from time to time determine in respect of the person and as is approved by the Minister.
- (6) For the purposes of this clause, a vacancy in the office of a member or the President of the Board is taken to be an absence from office of the member or President, as the case may be.

## **5 Terms of office**

Subject to this Schedule, a member holds office for such period, not exceeding 3 years, as may be specified in the

instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

## **6 Remuneration**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board may from time to time determine in respect of the member and as is approved by the Minister.

## **7 Filling of vacancy in office of member**

(1) If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

(2) If a person is appointed to fill a casual vacancy in the office of a member referred to in section 77 (2)

(a), the Minister may direct the manner in which nominations for the position are to be made.

## **8 Casual vacancies**

(1) A member vacates office if the member:

(a) dies,

(b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings,

(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,

(d) becomes a mentally incapacitated person,

(e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable,

(f) resigns the office by instrument in writing addressed to the Minister,

(g) in the case of a member referred to in section 77 (2) (a) or (b), ceases to be a veterinary practitioner, or

(h) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office.

## **9 Disclosure of pecuniary interests**

(1) A member who has a direct or indirect pecuniary interest:

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Board, or

(b) in a thing being done or about to be done by the Board,

must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member:

(a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) The Board must ensure that particulars of any disclosure made under this clause are recorded in a book kept for the purpose and that the book is kept open at all reasonable hours for inspection by any person.

(4) After a member has disclosed the nature of an interest in any matter or thing in accordance with this clause, the member must not, unless the Board otherwise determines:

(a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to the matter, or

(b) exercise any functions under this Act or the regulations with respect to that thing.

(5) For the purposes of the making of a determination by the Board under subclause (4), if a member has a direct or indirect pecuniary interest in a matter to which the disclosure relates, he or she must not:

(a) be present during any deliberation of the Board for the purpose of making the determination, or

(b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board or the exercise of any function under this Act or the regulations.

(7) This clause does not apply to or in respect of an interest of a member in a matter or thing that arises merely because the member is a veterinary practitioner or is engaged in a veterinary science practice.

(8) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

(9) This clause does not apply to the determination of the remuneration of members of the Board.

## **10 Effect of certain other Acts**

- (1) The *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.
- (2) Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.
- (3) The office of a member is for the purposes of any Act taken not to be an office or place of profit under the Crown.

## **11 General procedure**

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board.

## **12 Transaction of business outside meetings or by telephone**

- (1) Without limiting clause 11, the Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the person presiding at the meeting of the Board and each member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

## **13 Quorum**

The quorum for a meeting of the Board is 5 members, at least one of whom is a member referred to in section 77 (2) (c).

## **14 Presiding member**

- (1) The President of the Board or, in the absence of the President, another member elected as chairperson for the meeting by the members present is to preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **15 Voting**

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

## **16 Minutes**

The Board is to cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

# **Schedule 3 (Repealed)**

# **Schedule 4 Savings, transitional and other provisions**

(Section 106)

## **Part 1 – Preliminary**

### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
  - this Act
  - Veterinary Practice Amendment Act 2010*

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 – Provisions consequent on the enactment of this Act**

### **2 Definitions**

In this Part:

"**former Act**" means the *Veterinary Surgeons Act 1986*.

"**former Board**" means the body corporate constituted by section 4 of the former Act.

### **3 Board**

(1) The Board is a continuation of, and the same legal entity as, the former Board.

(2) A person who was, immediately before the commencement of this clause, a member of the former Board, ceases to hold that office but is eligible for re-appointment as a member of the Board.

(3) A person who was, immediately before the commencement of this clause, the President of the former Board ceases to hold that office but is eligible for re-appointment as President of the Board.

(4) A person is not entitled to any compensation for ceasing to hold an office because of the operation of this clause.

### **4 Investigating Committee**

(1) The Investigating Committee constituted under section 24 of the former Act is dissolved.

(2) The persons holding office as members of the Investigating Committee immediately before the commencement of this clause:

(a) cease to hold office as such on that commencement, and

(b) are not entitled to any compensation for ceasing to hold office because of the operation of this clause.

### **5 Registrar and other staff**

The Registrar of the Board and any other person holding office under section 7 of the former Act immediately before the commencement of this clause are taken to be employed under section 80.

### **6 Inspectors**

An inspector appointed under section 55 of the former Act and holding that office immediately before the commencement of this clause is taken to have been appointed under section 90.

### **7 Registers of veterinary surgeons**

The registers kept under sections 8 and 9 of the former Act immediately before the commencement of this clause are taken to be the Register kept under section 28.

### **8 Applications for registration under former Act**

An application for registration or provisional registration as a veterinary surgeon pending under the former Act at the commencement of this clause is taken to be an application under this Act for full registration or provisional registration, as the case requires.

### **9 Existing registration**

(1) A person who held registration under section 12 of the former Act immediately before the commencement of this subclause is taken to hold full registration.

(2) A person who held registration under section 13 of the former Act immediately before the commencement of this subclause is taken to hold honorary registration.

(3) A person who held registration under section 14 of the former Act immediately before the commencement of this subclause is taken to hold limited registration.

(4) A person who held registration under section 17 of the former Act immediately before the commencement of this subclause is taken to hold provisional registration.

(5) A person who held registration under section 15 of the former Act immediately before the commencement of this subclause is taken to hold specialist registration.

(6) Subject to subclause (7), a person who is taken to hold registration because of the operation of this

clause holds the registration on the same terms and conditions that applied to the relevant registration of the person immediately before the commencement of this subclause.

(7) Registration held by a person because of this clause ceases to have effect, unless sooner cancelled or suspended, on 30 June next occurring after the commencement of this subclause.

(8) Registration that is, immediately before the commencement of this subclause, suspended under the former Act is taken to have been suspended under this Act.

#### **10 Failure to pay fee or fine under former Act**

The Board may exercise its powers under section 27 to cancel the registration of a person for failure to pay a fee or fine under the former Act that has not been paid as if it were a fee or fine payable under this Act.

#### **11 Pending complaints against veterinary surgeons**

(1) A complaint against a veterinary surgeon made under section 26 of the former Act that has not been finally determined before the commencement of this clause is taken to have been made under section 38.

(2) Any such complaint that is, immediately before the commencement of this clause, being investigated by the Investigating Committee under the former Act may continue to be investigated and determined under this Act by the Board.

(3) Any complaint referred to the Tribunal under the former Act before the commencement of this clause and not finally determined by the Tribunal before that commencement may continue to be dealt with by the Tribunal in accordance with this Act.

(4) Despite subclause (3), the Tribunal dealing with a complaint at the commencement of this clause may continue to deal with the complaint as constituted immediately before that commencement.

#### **12 Continuation of orders and decisions under former Act**

An order or decision of the former Board or the Tribunal under the former Act is taken to have been made under the relevant provisions of this Act.

#### **13 Veterinary hospitals**

(1) A licence for a veterinary hospital in force under Part 6 of the former Act immediately before the commencement of this clause is taken to be a licence for that hospital issued under Part 6 of this Act.

(2) An application for a licence for a veterinary hospital pending under Part 6 of the former Act at the commencement of this clause is taken to have been made under Part 6 of this Act.

(3) A licence for a veterinary hospital that is, immediately before the commencement of this clause, suspended under the former Act is taken to have been suspended under this Act.

#### **14 Pending appeals and reviews**

(1) An appeal or review under the former Act and pending at the commencement of this clause is taken to be an appeal or review under the corresponding provision of this Act.

(2) An appeal or application for review that could have been made in relation to a decision under the former Act may be made under the relevant provision of this Act as if the decision were made under this Act but only if the period for making the appeal or application for review under the former Act has not expired.

#### **15 Account**

The account established by the former Board under section 54D of the former Act is taken to have been established under section 83 of this Act.

#### **16 References to veterinary surgeon**

Subject to the regulations, a reference in any Act (other than this Act), regulation or instrument to a veterinary surgeon or a registered veterinary surgeon is to be read as a reference to a veterinary practitioner.

#### **17 References to former Act**

Subject to the regulations, a reference in any Act (other than this Act), regulation or instrument to the former Act is to be read as a reference to this Act.

#### **18 References to former Board**

Subject to the regulations, a reference in any Act (other than this Act) to the former Board is to be read as a reference to the Veterinary Practitioners Board.

#### **19 Electronic applications for registration**

(1) Despite Part 3 of the *Licensing and Registration (Uniform Procedures) Act 2002* (as applied by section 17 of this Act) an application referred to in section 41 of that Act may not be made by means of electronic communication.

(2) Despite Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (as applied by section 69 of this Act) an application referred to in section 12 of that Act may not be made by means of electronic communication.

(3) Subclauses (1) and (2) do not limit the effect of the *Electronic Transactions Act 2000*.

(4) This clause ceases to have effect on a day to be appointed by proclamation published on the NSW legislation website.

## 20 Annual returns

Despite section 33 and subject to the regulations, the first annual return submitted to the Board under that section by a veterinary practitioner after the commencement of this clause is to relate to a return period of 3 years immediately preceding the return date specified in that section.

# Part 3 – Provisions consequent on enactment of Veterinary Practice Amendment Act 2010

## 21 Definition

In this Part, "**amending Act**" means the *Veterinary Practice Amendment Act 2010*.

## 22 Complaints

(1) An amendment made to this Act by the amending Act does not apply in respect of a complaint made before the commencement of the amendment.

(2) In the case of a complaint about conduct that is alleged to have occurred before the commencement of section 38A, the 3 years referred to in section 38A (2) date from the commencement of section 38A and not from the date the conduct is alleged to have occurred.

## 23 Membership of Board

The amendment made to section 77 by the amending Act applies only to a member of the Board appointed after the commencement of the amending Act.

## Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cl	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Veterinary Practice Act 2003 No 87*. Second reading speech made: Legislative Council, 29.10.2003; Legislative Assembly, 2.12.2003. Assented to 5.12.2003. Date of commencement of Parts 1 and 2 and Sch 1, 1.3.2004, sec 2 and GG No 47 of 27.2.2004, p 825; date of commencement of secs 11, 12, 14, 15, 91, 99, 100, 102 and 103 and Part 1 of Sch 4, and sec 106 in its application to that Part, 9.5.2005, sec 2 and GG No 51 of 6.5.2005, p 1601; date of commencement of the remainder (except Sch 3.17 and 3.21), 1.9.2006, sec 2 and GG No 111 of 1.9.2006, p 7064; Sch 3.17 and 3.21 were not commenced and were repealed by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2006 No 120*. This Act has been amended as follows:

2004	No 55	<i>Statute Law (Miscellaneous Provisions) Act 2004</i> . Assented to 6.7.2004. Date of commencement of Sch 2.43, assent, sec 2 (2).
	No 81	<i>Administrative Decisions Tribunal Amendment Act 2004</i> . Assented to 3.11.2004. Date of commencement of Sch 2.4, 1.1.2005, sec 2 (1) and GG No 200 of 17.12.2004, p 9302.
	No 89	<i>Stock Medicines Amendment Act 2004</i> . Assented to 30.11.2004. Date of commencement of Sch 2.3, assent, sec 2 (3).
	No 91	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2004</i> . Assented to 10.12.2004. Date of commencement of Sch 2.85, assent, sec 2 (2); date of commencement of Sch 3, assent, sec 2 (1).
2006	No 120	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2006</i> . Assented to 4.12.2006. Date of commencement of Sch 4, assent, sec 2 (1).
2007	No 27	<i>Statute Law (Miscellaneous Provisions) Act 2007</i> . Assented to 4.7.2007. Date of commencement of Sch 3, assent, sec 2 (2).
	No 94	<i>Miscellaneous Acts (Local Court) Amendment Act 2007</i> . Assented to 13.12.2007. Date of commencement of Sch 2, 6.7.2009, sec 2 and 2009 (314) LW 3.7.2009.
2009	No 106	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2009</i> . Assented to 14.12.2009. Date of commencement of Sch 3, 8.1.2010, sec 2 (2).
2010	No 87	<i>Veterinary Practice Amendment Act 2010</i> . Assented to 1.11.2010. Date of commencement, assent, sec 2.

Table of amendments

Sec 4	Am 2010 No 87, Sch 1 [1] [2].
Sec 15	Am 2010 No 87, Sch 1 [3] [4].
Sec 18	Am 2010 No 87, Sch 1 [5].
Sec 19	Am 2010 No 87, Sch 1 [6].
Sec 21	Am 2010 No 87, Sch 1 [7].
Sec 33	Am 2010 No 87, Sch 1 [8] [9].
Sec 35	Am 2010 No 87, Sch 1 [10] [11].
Sec 38A	Ins 2010 No 87, Sch 1 [12].
Sec 40A	Ins 2010 No 87, Sch 1 [13].
Sec 44A	Ins 2010 No 87, Sch 1 [14].
Sec 45A	Ins 2010 No 87, Sch 1 [15].
Sec 46	Am 2010 No 87, Sch 1 [16].
Sec 47	Am 2010 No 87, Sch 1 [17].
Sec 48	Am 2010 No 87, Sch 1 [18] [19].
Sec 49	Am 2007 No 27, Sch 3.9.
Sec 51	Am 2004 No 55, Sch 2.43; 2004 No 81, Sch 2.4 [1].
Sec 52	Rep 2004 No 81, Sch 2.4 [2].
Sec 54	Am 2004 No 81, Sch 2.4 [3].
Sec 56A	Ins 2010 No 87, Sch 1 [20].
Sec 63	Am 2010 No 87, Sch 1 [21].
Sec 77	Am 2010 No 87, Sch 1 [22].
Sec 79	Am 2010 No 87, Sch 1 [23].
Part 9A (secs 91A-91I)	Ins 2004 No 81, Sch 2.4 [4].
Sec 100	Am 2007 No 94, Sch 2.
Sec 105	Rep 2006 No 120, Sch 4.
Sch 3	Am 2004 No 89, Sch 2.3; 2004 No 91, Schs 2.85 [1] [2], 3. Rep 2006 No 120, Sch 4.
Sch 4	Am 2009 No 106, Sch 3.43; 2010 No 87, Sch 1 [24] [25].