



Western Australia

Veterinary Practice Act 2021

Compare between:

[29 Mar 2022, 00-b0-00] and [18 Jun 2022, 00-c0-00]

Western Australia

Veterinary Practice Act 2021

An Act —

- **to provide for the regulation of the practice of veterinary medicine in Western Australia; and**
- **to facilitate the regulation of the practice of veterinary medicine on a national basis; and**
- **to repeal the *Veterinary Surgeons Act 1960* and the *Veterinary Surgeons Regulations 1979*; and**
- **to make consequential amendments to various Acts; and**
- **for related purposes.**

Part 1 — Preliminary

1. Short title

This is the *Veterinary Practice Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Terms used

In this Act —

animal means a vertebrate other than a human;

another jurisdiction means another State or a Territory;

approved means approved in writing;

authorised person means —

- (a) a person who is authorised by the Board, in accordance with the regulations, to carry out —
 - (i) an act of veterinary medicine; or
 - (ii) an act of veterinary medicine of a prescribed class;
- or
- (b) a person of a prescribed class who is authorised by the regulations to carry out —
 - (i) an act of veterinary medicine; or
 - (ii) an act of veterinary medicine of a prescribed class;

Board means the Veterinary Practice Board of Western Australia established by section 151(1);

Board member means a member of the Board;

category, in relation to registration, means a category listed in section 5(1);

certificate of registration means —

- (a) in relation to registration by the Board — a certificate of registration issued by the Board; or
- (b) in relation to interstate registration — a written form of evidence of interstate registration issued under a corresponding law;

chairperson means the chairperson of the Board;

committee means a committee established by the Board under section 177(a);

complainant has the meaning given in section 81(4)(a);

complaint means a complaint made under section 81(1);

condition includes a restriction;

corresponding law means a law of another jurisdiction that —

- (a) provides for the registration of veterinarians (however described); and
- (b) is prescribed to be a corresponding law for the purposes of this Act;

director has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9;

disciplinary action means —

- (a) an order made under Part 7; or
- (b) an order made in professional disciplinary proceedings by an interstate regulatory authority;

document —

- (a) means any record of information, irrespective of how the information is recorded or stored or able to be recovered; and

- (b) includes —
 - (i) any thing from which images, sounds or writings can be reproduced, with or without the aid of anything else; and
 - (ii) any thing on which information is recorded or stored, whether electronically, magnetically, mechanically or by some other means;

entry warrant means an entry warrant issued under section 120(1);

health assessment —

- (a) means an assessment of a person to determine whether the person has an impairment; and
- (b) includes a medical, physical, psychiatric or psychological examination or test of the person;

immediate action order means an immediate action order made under section 70(1);

impairment, in relation to a person, means a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect —

- (a) if the person is a veterinarian or an applicant for registration as a WA veterinarian — the person's capacity to practise veterinary medicine; or
- (b) if the person is a veterinary nurse or an applicant for registration as a veterinary nurse — the person's capacity to practise as a veterinary nurse;

inquiry means an inquiry into a complaint under section 88(1);

inspector means a person who is designated an inspector under section 109(1);

interstate registration has the meaning given in section 21;

interstate regulatory authority means a regulatory authority of another participating jurisdiction;

interstate veterinarian means —

- (a) a person who, under section 22(1), is taken to hold general registration as a WA veterinarian; or
- (b) a person who, under section 22(2), is taken to hold specialist registration as a WA veterinarian;

investigation means an investigation under Part 8 Division 2;

investigative purposes has the meaning given in section 112;

legal practitioner means an Australian legal practitioner as defined in the *Legal Profession Act 2008* section 3;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

notification means a notification made under section 124(1);

notifier has the meaning given in section 124(3)(a);

officer, of a body corporate —

- (a) means an individual who is an officer, as defined in the *Corporations Act 2001* (Commonwealth) section 9, of the body corporate; but
- (b) does not include an employee of the body corporate unless the employee is concerned in the management of the body corporate;

Part 2 application means an application made under Part 2 Division 1 for registration or renewal of registration;

Part 3 application means an application made under Part 3 Division 1 for registration or renewal of registration;

participating jurisdiction means this State or another jurisdiction in which a corresponding law is in force;

personal information has the meaning given in the *Freedom of Information Act 1992* in the Glossary clause 1;

practice owner —

- (a) means —
 - (i) in relation to a veterinary practice business — a person who carries on the business; or
 - (ii) in relation to premises — a person who carries on a veterinary practice business at or from the premises;

and

- (b) includes a person who is —
 - (i) a partner in a partnership that carries on a veterinary practice business; or
 - (ii) a director of a body corporate that carries on a veterinary practice business;

premises includes the following —

- (a) land;
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature);
- (c) a vehicle;

prescribed means prescribed by the regulations;

professional misconduct has the meaning given in section 79;

psychologist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession;

register means the register kept under section 52(1);

registered practice owner, for veterinary premises, means the person in whose name the veterinary premises are registered;

registrar means the person employed or engaged under section 161(1)(a);

registration —

- (a) in relation to a person —
 - (i) means registration under Part 2 as a WA veterinarian in 1 or more categories of registration or as a veterinary nurse; and
 - (ii) if the person is an interstate veterinarian — has a meaning affected by section 22;

or

- (b) in relation to premises — means registration under Part 3 as veterinary premises;

regulatory authority means —

- (a) in relation to this State — the Board or the Tribunal; or
- (b) in relation to another participating jurisdiction — a person or body whose functions under a law of that jurisdiction correspond closely to the functions of the Board or the Tribunal under this Act;

respondent means a person who is the subject of a complaint;

specialty means a branch of veterinary medicine that is accredited as a specialty under, or in the manner prescribed by, the regulations;

Tribunal means the State Administrative Tribunal;

unprofessional conduct has the meaning given in section 78;

veterinarian means —

- (a) a WA veterinarian; or
- (b) an interstate veterinarian;

veterinary medicine —

- (a) includes, but is not limited to, the following —
 - (i) diagnosing diseases or physiological conditions in, and injuries to, animals;
 - (ii) medical treatment of animals;
 - (iii) performing surgical procedures on animals;

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- (iv) administering anaesthetics to animals;
- (v) an act of a kind prescribed as being an act of veterinary medicine;

but

- (b) does not include an act of a kind prescribed as not being an act of veterinary medicine;

veterinary nurse means a person registered under Part 2 as a veterinary nurse;

veterinary practice business means a business that —

- (a) involves the practice of veterinary medicine by 1 or more veterinarians; and
- (b) may supply goods and services relating to the practice of veterinary medicine;

veterinary premises means premises registered under Part 3;

veterinary specialist means —

- (a) a person who holds specialist registration as a WA veterinarian; or
- (b) a person who, under section 22(2), is taken to hold specialist registration as a WA veterinarian;

veterinary supervisor means a WA veterinarian appointed to be the veterinary supervisor for veterinary premises;

WA veterinarian means a person registered under Part 2 as a WA veterinarian.

4. Act binds Crown

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

~~[Parts~~ **Part 2 — Registration of veterinarians and
veterinary nurses**

Division 1 — Applications for registration

5. Application for registration

(1) A person may apply to the Board for registration in 1 of the following categories —

- (a) general registration as a WA veterinarian;
- (b) specialist registration as a WA veterinarian in a particular speciality;
- (c) honorary registration as a WA veterinarian;
- (d) limited registration as a WA veterinarian;
- (e) registration as a veterinary nurse.

(2) The application must —

- (a) be made in writing in the form approved by the Board;
and
- (b) specify the category of registration that is being applied for; and
- (c) be accompanied by evidence that the applicant meets the requirements for registration described in Division 2 for the category of registration that is being applied for; and
- (d) be accompanied by —
 - (i) the prescribed application fee; and
 - (ii) the prescribed registration fee;and
- (e) comply with the prescribed requirements (if any).

6. Application for renewal of registration

(1) A person may apply to the Board for the renewal of registration.

(2) The application must —

(a) be made in writing in the form approved by the Board; and

(b) be made not later than 1 month after the day on which the registration to which it relates expires; and

(c) specify the registration to which it relates; and

(d) be accompanied by —

(i) the prescribed application fee; and

(ii) if it is made after the day referred to in paragraph (b) — the prescribed additional fee (which cannot be more than 50% of the prescribed application fee); and

(iii) the prescribed registration fee;

and

(e) comply with the prescribed requirements (if any).

7. Board's powers in relation to application

(1) The Board may, by written notice given to an applicant under this Division, require the applicant to do 1 or more of the following —

(a) give the Board, within a period specified in the notice, any further information relevant to the application that the Board requires;

(b) verify by statutory declaration any information given to the Board;

(c) give the Board, within a period specified in the notice, the applicant's written consent to seek, from another person or body specified by the Board, information relevant to the application;

(d) attend before the Board, at a place and time specified in the notice, for the purpose of satisfying the Board as to any matter relevant to the application.

(2) In addition, the Board may, under section 129(1), require the applicant to undergo a health assessment.

8. Refusal of application

(1) The Board may refuse a Part 2 application if —

(a) the application is not made in accordance with the requirements of this Division; or

(b) the applicant does not comply with a requirement under section 7(1) or 129(1).

(2) Subsection (1) does not limit the grounds on which the Board can refuse a Part 2 application.

(3) If the Board refuses a Part 2 application, the Board must refund the registration fee that accompanied it.

9. Non-standard application

(1) The Board may determine that a Part 2 application is a non-standard application if it is satisfied that consideration of the application will require substantially more time and resources than would usually be required for the consideration of a Part 2 application.

(2) If the Board makes a determination under subsection (1), it must —

(a) give the applicant written notice of the determination; and

(b) not give the application further consideration without the written agreement of the applicant.

(3) The notice under subsection (2)(a) must —

(a) be given as soon as practicable after the making of the determination; and

(b) contain short particulars of the reasons for the determination; and

(c) give details of any additional fee payable in respect of a non-standard application; and

(d) inform the applicant of the effect of subsection (2)(b) and specify the period within which the applicant's written agreement must be provided to the Board.

(4) The regulations may prescribe additional fees payable in respect of non-standard applications.

Division 2 — Requirements for registration

10. General registration as WA veterinarian

The requirements for general registration as a WA veterinarian are as follows —

(a) the person holds a veterinary qualification recognised by the Board for general registration;

(b) the person's principal place of residence is, or is proposed to be, in this State;

(c) the person has sufficient physical and mental capacity to practise veterinary medicine competently and safely;

(d) the person is sufficiently proficient in the English language, both written and oral, to practise veterinary medicine competently and safely;

(e) the person is a fit and proper person to hold registration as a WA veterinarian;

(f) the person meets the prescribed requirements (if any) for general registration.

11. Specialist registration as WA veterinarian

The requirements for specialist registration as a WA veterinarian in a particular specialty are as follows —

(a) the person holds general registration or honorary registration as a WA veterinarian;

(b) the person holds a veterinary qualification recognised by the Board for registration in the specialty;

(c) the person has sufficient practical experience in the specialty;

(d) the person meets the prescribed requirements (if any) for registration in the specialty.

12. Honorary registration as WA veterinarian

(1) The requirements for honorary registration as a WA veterinarian are as follows —

(a) the person meets the requirements for general registration as a WA veterinarian described in section 10;

(b) the person —

(i) has standing in the profession of veterinary science that justifies the honorary registration of the person; and

(ii) has held registration as a veterinarian for at least 40 years.

(2) The reference in subsection (1)(b)(ii) to registration includes registration or authorisation (however described) under —

(a) a corresponding law; or

(b) a law of another country that deals with the regulation of veterinary medicine (however described).

13. Limited registration as WA veterinarian

(1) The requirements for limited registration as a WA veterinarian are as follows —

(a) the person seeks registration for a purpose described in subsection (2);

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(b) the person holds —

(i) a veterinary qualification recognised by the Board for limited registration; or

(ii) a veterinary qualification that the Board considers equivalent to a qualification recognised under subparagraph (i) or that is otherwise acceptable to the Board;

(c) the person has sufficient physical and mental capacity to practise veterinary medicine competently and safely;

(d) the person is sufficiently proficient in the English language, both written and oral, to practise veterinary medicine competently and safely;

(e) the person is a fit and proper person to hold registration as a WA veterinarian;

(f) the person meets the prescribed requirements (if any) for limited registration.

(2) A person may be eligible for limited registration as a WA veterinarian for any of the following purposes —

(a) to undertake a postgraduate course, or other training, in veterinary medicine in this State;

(b) to teach, or demonstrate methods and techniques of, veterinary medicine in this State;

(c) to perform in this State a particular veterinary procedure, or procedures of a particular kind, for a limited period;

(d) to assist in controlling or managing a veterinary emergency, such as the outbreak of a disease in this State;

(e) any other purpose approved by the Board.

14. Registration as veterinary nurse

The requirements for registration as a veterinary nurse are as follows —

- (a) the person holds a qualification in veterinary nursing recognised by the Board;
- (b) the person has sufficient physical and mental capacity to practise as a veterinary nurse competently and safely;
- (c) the person is sufficiently proficient in the English language, both written and oral, to practise as a veterinary nurse competently and safely;
- (d) the person is a fit and proper person to hold registration as a veterinary nurse;
- (e) the person meets the prescribed requirements (if any) for registration as a veterinary nurse.

Division 3 — Grant or renewal of registration

15. Grant of registration

The Board, on an application under section 5(1), must grant registration in a particular category if the Board is satisfied that the applicant meets the requirements for registration described in Division 2 for registration in that category.

16. Interim registration

- (1) The Board, on an application under section 5(1), may grant interim registration in a particular category while assessing whether the applicant meets the requirements described in Division 2 for registration in that category.
- (2) The Board may only grant interim registration under subsection (1) if satisfied that it is highly likely that the applicant will meet the requirements described in Division 2 for registration in that category.

(3) Interim registration granted under subsection (1) has effect until whichever of the following occurs first —

(a) the person’s application for registration is granted or refused by the Board;

(b) the period, not exceeding 3 months, specified in the person’s certificate of interim registration expires.

17. Renewal of registration

(1) The Board, on an application under section 6(1), must renew the registration of a person in a particular category if the Board is satisfied that the person —

(a) continues to meet the requirements described in Division 2 for registration in that category; and

(b) is complying with the conditions (if any) to which the person’s registration is subject; and

(c) has met any requirements for the renewal of registration prescribed in respect of that category of registration.

(2) If a person applies under section 6(1) before the day on which the person’s registration expires but the Board does not give the person notice of its decision on the application on or before that day, the person’s registration is taken to continue in force from that day until the day on which the Board gives the person notice of its decision.

(3) If a person does not apply under section 6(1) before the day on which the person’s registration expires, the person’s registration is taken to continue in force until —

(a) the end of the period of 1 month after that day; or

(b) if the person applies under section 6(1) within the period referred to in paragraph (a), the day on which the Board gives the person notice of its decision on the application.

18. Fit and proper person

In determining whether a person is a fit and proper person to hold registration, the Board must have ~~not come into~~ regard to the following —

- (a) the person’s history of compliance with the following —
 - (i) this Act and the Acts referred to in section 80(c);
 - (ii) a corresponding law;
 - (iii) a law of another country that deals with the regulation of veterinary medicine (however described);
- (b) any decision under this Act or another Act or law referred to in paragraph (a) to refuse, refuse to renew, suspend or cancel a licence, approval, registration, certification or other authorisation (however described) granted to the person under the Act or law;
- (c) the person’s criminal history to the extent that it is relevant to the person’s suitability to practise as a veterinarian or veterinary nurse;
- (d) any behaviour of the person that shows that the person is not of good fame and character;
- (e) whether the person has contravened an order of a regulatory authority;
- (f) whether the person has engaged in conduct that is unprofessional conduct or professional misconduct;
- (g) whether the person has failed to pay any fines, fees, costs or expenses for which the person is liable under this Act.

19. Duration of registration

Subject to this Act, registration of a person (other than interim registration) has effect for the shorter of the following —

- (a) the prescribed period;

(b) the period (if any) specified in the person's certificate of registration.

20. Registration of WA veterinarians affected by decisions of interstate regulatory authorities

(1) If, under a corresponding law, the registration (however described) of a WA veterinarian is affected by a decision (however described) of an interstate regulatory authority, whether as a result of disciplinary action or otherwise, the registration of the WA veterinarian under this Act is taken to be affected in the same way.

(2) Without limiting subsection (1), a decision affects the registration of a WA veterinarian if it has any of the following effects —

(a) imposes a condition on registration;

(b) modifies or otherwise affects a condition on registration;

(c) cancels, suspends or amends registration;

(d) reinstates, modifies or otherwise affects registration that is, or was, cancelled or suspended;

(e) disqualifies the veterinarian from practising, or applying for registration, as a veterinarian.

Division 4 — Recognition of veterinarians registered in other jurisdictions

21. Terms used

In this Division —

corresponding specialty, in relation to a particular specialty (the *WA specialty*), means a branch of veterinary medicine that —

(a) is a specialty (however described) under a corresponding law; and

(b) is approved by the Board as corresponding to the WA specialty;

interstate registration means registration, or another form of authorisation, as a veterinarian (however described) under a corresponding law of a participating jurisdiction to practise veterinary medicine (however described) in that jurisdiction.

22. Recognition of veterinarians registered in other jurisdictions

(1) A person is taken to hold general registration as a WA veterinarian under this Act if —

(a) the person has interstate registration of a type that is recognised by the Board, in accordance with the regulations, as substantially the same as general registration granted under this Act; and

(b) the person practises veterinary medicine in this State; and

(c) subsection (3) applies in respect of the person or the person's principal place of residence is not in this State.

(2) A person is taken to hold specialist registration as a WA veterinarian in a particular specialty under this Act if —

(a) the person has interstate registration of a type that is recognised by the Board, in accordance with the regulations, as substantially the same as specialist registration granted under this Act; and

(b) the person holds that interstate registration in a corresponding specialty; and

(c) the person practises veterinary medicine in this State; and

(d) subsection (3) applies in respect of the person or the person's principal place of residence is not in this State.

(3) This subsection applies in respect of a person if —

(a) the person’s principal place of residence has been in this State for a period not exceeding 3 months; and

(b) the person’s interstate registration has not been renewed while the person’s principal place of residence has been in this State.

23. Registration of interstate veterinarians affected by decisions of interstate regulatory authorities

(1) If an interstate veterinarian’s interstate registration is affected by a decision (however described) of an interstate regulatory authority, whether as a result of disciplinary action or otherwise, the registration of the interstate veterinarian under section 22 is taken to be affected in the same way.

(2) Without limiting subsection (1), a decision affects the registration of an interstate veterinarian if it has any of the following effects —

(a) imposes a condition on registration;

(b) modifies or otherwise affects a condition on registration;

(c) cancels, suspends or amends registration;

(d) reinstates, modifies or otherwise affects registration that is, or was, cancelled or suspended;

(e) disqualifies the veterinarian from practising, or applying for registration, as a veterinarian.

(3) This Act applies in respect of the registration of an interstate veterinarian affected by a decision of an interstate regulatory authority under subsection (1) as if the decision had been made by a regulatory authority of this State.

Division 5 — Conditions on registration

24. Conditions generally

(1) The registration of a person is subject to any condition that —

- (a) under section 20(1) or 23(1) is taken to affect the registration; or
- (b) is imposed by the Board under section 25(1); or
- (c) is provided for in section 27 or in regulations referred to in subsection (2); or
- (d) is imposed by an order made under Part 7; or
- (e) is imposed by an immediate action order.

(2) The regulations may provide for —

- (a) conditions on the registration of a person as a veterinarian or veterinary nurse; and
- (b) different conditions in relation to registration in different categories.

25. Conditions imposed by Board

(1) The Board may, if it considers there are reasonable grounds for doing so, impose conditions on the registration of a person —

- (a) when granting or renewing the registration; or
- (b) during the currency of the registration.

(2) Without limiting subsection (1), the following are examples of conditions that can be imposed on a person's registration —

- (a) a condition requiring the person to complete a specified course of further veterinary education;
- (b) a condition requiring the person to undertake a specified period of practice or work under specified supervision;
- (c) a condition requiring the person to do or refrain from doing something in connection with veterinary medicine;

- (d) a condition requiring the person to undergo specified counselling or medical treatment or to act in accordance with specified medical advice concerning the person;
- (e) if the person is a veterinarian, a condition requiring that the practice by the person of veterinary medicine, or the person's veterinary practice business —

 - (i) be conducted for a specified period in a specified way or subject to specified conditions; or
 - (ii) be subject to periodic inspection for a specified period.
- (3) A decision under subsection (1) to impose a condition on a person's registration during the currency of the registration takes effect on the later of the following —

 - (a) the day on which notice of the decision is given to the person under section 33(1);
 - (b) the day (if any) specified in the notice.
- (4) A condition imposed on the registration of an interstate veterinarian must be —

 - (a) no more onerous than would be imposed on a WA veterinarian under this Act in the same or similar circumstances; and
 - (b) relevant to the practice of veterinary medicine by the interstate veterinarian in this State.

26. Modification or removal of conditions by Board

- (1) The Board may, if it considers there are reasonable grounds for doing so, modify or remove a condition imposed on the registration of a person.
- (2) The Board may exercise the power in subsection (1) —

 - (a) on the application of the person who holds the registration; or
 - (b) on its own initiative.

(3) The Board must not exercise the power in subsection (1) in relation to a condition imposed or modified by an interstate regulatory authority without the consent of that authority.

(4) A decision under subsection (1) to modify or remove a condition on a person's registration takes effect on the later of the following —

(a) the day on which notice of the decision is given to the person under section 33(1);

(b) the day (if any) specified in the notice.

27. Condition of limited registration

It is a condition of limited registration as a WA veterinarian that the person —

(a) must not practise veterinary medicine other than for the purpose described in section 13(2) for which the registration is granted; and

(b) must practise veterinary medicine in this State only.

Division 6 — Cancellation or suspension of registration

28. Cancellation of registration generally

(1) The registration of a veterinarian may be cancelled in any of the following ways —

(a) by a decision of an interstate regulatory authority that under section 20(1) or 23(1) is taken to affect the veterinarian's registration by cancelling it;

(b) by a decision of the Board under section 29(1) or (3);

(c) by an order made by the Tribunal under Part 7 Division 6.

(2) The registration of a veterinary nurse may be cancelled in either of the following ways —

(a) by a decision of the Board under section 29(1) or (3);

- (b) by an order made by the Tribunal under Part 7
Division 6.

29. Cancellation of registration by Board

(1) The Board must cancel the registration of a person as soon as possible after the Board becomes aware that the person is not entitled to be registered.

(2) A person is not entitled to be registered if —

- (a) a qualification that enabled the person to gain registration has been withdrawn or cancelled by the body that conferred the qualification; or
- (b) a qualification that enabled the person to gain registration was forged or fraudulently obtained; or
- (c) the person is in arrears in respect of fees due and payable under this Act.

(3) The Board must cancel the registration of a person at the written request of the person.

(4) A decision under subsection (1) or (3) to cancel a person's registration takes effect on the later of the following —

- (a) the day on which notice of the decision is given to the person under section 34(1);
- (b) the day (if any) specified in the notice.

30. Suspension of registration

(1) The registration of a veterinarian may be suspended in any of the following ways —

- (a) by a decision of an interstate regulatory authority that under section 20(1) or 23(1) is taken to affect the veterinarian's registration by suspending it;
- (b) by an order made by the Tribunal under Part 7 Division 6;
- (c) by an immediate action order.

(2) The registration of a veterinary nurse may be suspended in either of the following ways —

(a) by an order made by the Tribunal under Part 7 Division 6;

(b) by an immediate action order.

(3) If a person's registration is suspended, the person is taken not to be registered under this Act, other than for the purposes of Part 5 Division 5 and Part 7, for the period of the suspension.

Division 7 — Show cause process and notice of decisions

31. Show cause process for proposed decision

(1) This section applies to the following decisions —

(a) a decision on a Part 2 application —

(i) to refuse to grant or renew registration; or

(ii) to grant or renew registration in respect of a category of registration other than the category applied for;

(b) a decision under section 25(1) to impose a condition on a person's registration during the currency of the registration;

(c) a decision under section 26(1), on the Board's own initiative, to modify a condition on a person's registration.

(2) If the Board proposes to make a decision to which this section applies, the Board must give the applicant or person who holds the registration, as the case requires, written notice of the proposed decision.

(3) The notice must invite the person to whom it is given to make a written submission to the Board about the proposed decision within a reasonable period specified in the notice.

(4) The Board must have regard to any submission made in accordance with the notice in deciding whether to make the proposed decision.

32. Notice of decision on registration or renewal of registration

(1) The Board must give the applicant written notice of its decision on a Part 2 application as soon as practicable after making the decision.

(2) If the decision is to grant or renew registration, the notice must contain the following —

(a) the category of registration granted or renewed;

(b) the period for which registration is granted or renewed;

(c) the registration number;

(d) any conditions imposed by the Board on the registration;

(e) if a condition is imposed —

(i) the reasons for the imposition of the condition;
and

(ii) a statement that the applicant may apply under section 150(1) for a review of the decision to impose the condition.

(3) If the decision is to refuse to grant or renew registration, the notice must contain the following —

(a) the reasons for the decision;

(b) a statement that the applicant may apply under section 150(1) for a review of the decision.

33. Notice of decision to impose, modify or remove condition

(1) The Board must give a person written notice of any of the following decisions as soon as practicable after making the decision —

(a) a decision under section 25(1) to impose a condition on the person's registration during the currency of the registration;

(b) a decision under section 26(1) to modify or remove a condition on the person's registration.

(2) The notice must contain the following —

(a) the reasons for the decision;

(b) if the decision is to impose or modify a condition, a statement that the person may apply under section 150(1) for a review of the decision.

34. Notice of decision to cancel registration

(1) The Board must give a person written notice of a decision to cancel the person's registration under section 29(1) or (3) as soon as practicable after making the decision.

(2) In the case of a decision under section 29(1), the notice must contain the following —

(a) the reasons for the decision, with reference to the relevant paragraph of section 29(2);

(b) a statement that the person may apply under section 150(1) for a review of the decision.

Part 3 — Registration of veterinary premises

Division 1 — Applications for registration

35. Application for registration

(1) A person who is, or proposes to be, a practice owner in relation to premises may apply to the Board for registration of the premises as veterinary premises.

(2) The application must —

(a) be made in writing in the form approved by the Board; and

(b) specify the premises to which the application relates; and

(c) be accompanied by evidence that the applicant and the premises meet the requirements for registration described in Division 2; and

(d) be accompanied by —

(i) the prescribed application fee; and

(ii) the prescribed registration fee;

and

(e) comply with the prescribed requirements (if any).

36. Application for renewal of registration

(1) A person who is the registered practice owner for veterinary premises may apply to the Board for the renewal of registration of the premises.

(2) The application must —

(a) be made in writing in the form approved by the Board; and

(b) be made not later than 1 month after the day on which the registration to which it relates expires; and

- (c) specify the registration to which it relates; and
- (d) be accompanied by —
 - (i) the prescribed application fee; and
 - (ii) if it is made after the day referred to in paragraph (b) — the prescribed additional fee (which cannot be more than 50% of the prescribed application fee); and
 - (iii) the prescribed registration fee;
- and
- (e) comply with the prescribed requirements (if any).

37. Board's powers in relation to application

The Board may, by written notice given to an applicant under this Division, require the applicant to do 1 or more of the following —

- (a) give the Board, within a period specified in the notice, any further information relevant to the application that the Board requires;
- (b) verify by statutory declaration any information provided to the Board;
- (c) agree with the Board as to a mutually convenient time for the inspection of the proposed veterinary premises;
- (d) give the Board, within a period specified in the notice, the applicant's written consent to seek, from another person or body specified by the Board, information relevant to the application;
- (e) attend before the Board, at a place and time specified in the notice, for the purpose of satisfying the Board as to any matter relevant to the application.

38. Refusal of application

(1) The Board may refuse a Part 3 application if —

(a) the application is not made in accordance with the requirements of this Division; or

(b) the applicant does not comply with a requirement under section 37.

(2) Subsection (1) does not limit the grounds on which the Board can refuse a Part 3 application.

(3) If the Board refuses a Part 3 application, the Board must refund the registration fee that accompanied it.

Division 2 — Requirements for registration

39. Requirements for registration of premises

The requirements for the registration of premises as veterinary premises are as follows —

(a) the premises are in a satisfactory condition to be used for carrying on a veterinary practice business;

(b) the premises are designed, constructed and equipped in accordance with the prescribed requirements (if any);

(c) arrangements for the management, control and operation~~+~~ of the premises, in relation to the practice of veterinary medicine at or from the premises, are in accordance with the prescribed requirements (if any);

(d) there is a veterinary supervisor for the premises;

(e) the person in whose name the premises will be registered —

(i) is, or proposes to be, a practice owner in relation to the premises; and

(ii) is not a person who is, according to the Interpretation Act 1984 section 13D, a bankrupt or a person whose affairs are under insolvency laws.

Division 3 — Grant or renewal of registration

40. Grant of registration

(1) The Board, on an application under section 35(1), must grant registration of premises as veterinary premises if the Board is satisfied —

(a) that the requirements for registration described in section 39 are met; or

(b) in circumstances where the requirements for registration described in section 39(a), (b) or (c) are not met, that the premises, or the arrangements for the management, control and operation of the premises, can be altered so as to comply with those requirements and that the applicant will make those alterations; or

(c) that it is otherwise appropriate for the premises to be registered.

(2) Veterinary premises must be registered in the name of the applicant for registration of the premises.

41. Interim registration

(1) The Board, on an application under section 35(1), may grant interim registration of premises as veterinary premises while assessing whether the requirements for registration described in section 39 are met.

(2) The Board may only grant interim registration under subsection (1) if satisfied that it is highly likely that the requirements for registration described in section 39 will be met.

(3) Interim registration granted under subsection (1) has effect until whichever of the following occurs first —

(a) the application under section 35(1) is granted or refused by the Board;

(b) the period, not exceeding 3 months, specified in the certificate of interim registration for the premises expires.

42. Renewal of registration

(1) The Board, on an application under section 36(1), must renew the registration of veterinary premises if —

(a) the Board —

(i) is satisfied that the requirements for registration described in section 39 are met in respect of the premises; or

(ii) is satisfied in terms of section 40(1)(b) or (c) in respect of the premises;

and

(b) the Board is satisfied that any conditions to which the registration of the premises is subject are being complied with; and

(c) the Board is satisfied that the prescribed requirements (if any) are met.

(2) The regulations may prescribe different requirements for the purposes of subsection (1)(c) in relation to different kinds of veterinary premises.

(3) If a registered practice owner for veterinary premises applies under section 36(1) for the renewal of the registration of the premises before the day on which the registration expires but the Board does not give the registered practice owner notice of its decision on the application on or before that day, the registration is taken to continue in force from that day until the

day on which the Board gives the registered practice owner notice of its decision.

(4) If a registered practice owner for veterinary premises does not apply under section 36(1) for the renewal of the registration of the premises before the day on which the registration expires, the registration is taken to continue in force until —

(a) the end of the period of 1 month after that day; or

(b) if the registered practice owner applies under section 36(1) within the period referred to in paragraph (a), the day on which the Board gives the registered practice owner notice of its decision on the application.

43. Duration of registration

Subject to this Act, registration of veterinary premises (other than interim registration) has effect for the shorter of the following —

(a) the prescribed period;

(b) the period (if any) specified in the certificate of registration for the premises.

Division 4 — Conditions on registration

44. Conditions generally

(1) The registration of veterinary premises is subject to any condition that is —

(a) imposed by the Board under section 45(1); or

(b) provided for in regulations referred to in subsection (2).

(2) The regulations may provide for —

(a) conditions on the registration of veterinary premises; and

- (b) different conditions in relation to different kinds of veterinary premises.

45. Conditions imposed by Board

- (1) The Board may, if it considers there are reasonable grounds for doing so, impose conditions on the registration of veterinary premises —

(a) when granting or renewing the registration; or

(b) during the currency of the registration.

- (2) Without limiting subsection (1), the following are examples of conditions that can be imposed on the registration of veterinary premises —

(a) a condition requiring the premises to be used or equipped in a specified way or manner;

(b) a condition requiring the premises to be redesigned, reconstructed or altered in a specified way or manner;

(c) a condition requiring the premises to be managed, controlled or operated in a specified way or manner;

(d) a condition requiring the registered practice owner to do or refrain from doing something in connection with the premises.

- (3) A decision under subsection (1) to impose a condition on the registration of veterinary premises during the currency of the registration takes effect on the later of the following —

(a) the day on which notice of the decision is given to the registered practice owner for the premises under section 50(1);

(b) the day (if any) specified in the notice.

46. Modification or removal of conditions by Board

- (1) The Board may, if it considers there are reasonable grounds for doing so, modify or remove a condition on the registration of veterinary premises.
- (2) The Board may exercise the power in subsection (1) —
- (a) on the application of the registered practice owner for the premises; or
 - (b) on its own initiative.
- (3) A decision under subsection (1) to modify or remove a condition on the registration of veterinary premises takes effect on the later of the following —
- (a) the day on which notice of the decision is given to the registered practice owner for the premises under section 50(1);
 - (b) the day (if any) specified in the notice.

Division 5 — Cancellation of registration

47. Cancellation of registration by Board

- (1) The Board must cancel the registration of veterinary premises as soon as possible after the Board becomes aware that the premises are not entitled to be registered.
- (2) Premises are not entitled to be registered if —
- (a) a veterinary practice business is no longer carried on at or from the premises; or
 - (b) there is no veterinary supervisor for the premises; or
 - (c) the registration of the premises was obtained because of incorrect or misleading information; or
 - (d) fees due and payable under this Act in relation to the premises are in arrears.

(3) The Board must cancel the registration of veterinary premises at the written request of the registered practice owner for the premises.

(4) The Board may cancel the registration of veterinary premises if satisfied that —

(a) the requirements described in section 39 are not substantially met in respect of the premises; or

(b) a condition to which the registration is subject has been contravened.

(5) A decision under subsection (1), (3) or (4) to cancel the registration of veterinary premises takes effect on the later of the following —

(a) the day on which notice of the decision is given to the registered practice owner for the premises under section 51(1);

(b) the day (if any) specified in the notice.

Division 6 — Show cause process and notice of decisions

48. Show cause process for proposed decision

(1) This section applies to the following decisions —

(a) a decision on a Part 3 application —

(i) to refuse to grant or renew registration; or

(ii) to impose a condition on registration;

(b) a decision under section 45(1) to impose a condition on the registration of the premises during the currency of the registration;

(c) a decision under section 46(1), on the Board's own initiative, to modify a condition on the registration of the premises;

(d) a decision under section 47(4) to cancel the registration of the premises.

(2) If the Board proposes to make a decision to which this section applies, the Board must give the applicant or person who holds the registration, as the case requires, written notice of the proposed decision.

(3) The notice must invite the person to whom it is given to make a written submission to the Board about the proposed decision within a reasonable period specified in the notice.

(4) The Board must have regard to any submission made in accordance with the notice in deciding whether to make the proposed decision.

49. Notice of decision on registration or renewal of registration

(1) The Board must give the applicant written notice of its decision on a Part 3 application as soon as practicable after making the decision.

(2) If a Part 3 application is granted, the notice must contain the following —

(a) a description of the premises registered as veterinary premises;

(b) the period for which registration is granted or renewed;

(c) any conditions imposed by the Board on the registration;

(d) if a condition is imposed —

(i) the reasons for the imposition of the condition;
and

(ii) a statement that the applicant may apply under section 150(1) for a review of the decision to impose the condition.

(3) If a Part 3 application is refused, the notice must contain —

(a) the reasons for the refusal; and

(b) a statement that the applicant may apply under section 150(1) for a review of the decision to refuse the application.

50. Notice of decision to impose, modify or remove condition

(1) The Board must give the registered practice owner for veterinary premises written notice of any of the following decisions as soon as practicable after making the decision —

(a) a decision under section 45(1) to impose a condition on the registration of the veterinary premises during the currency of the registration;

(b) a decision under section 46(1) to modify or remove a condition on the registration of the veterinary premises.

(2) The notice must contain the following —

(a) the reasons for the decision;

(b) if the decision is to impose or modify a condition, a statement that the registered practice owner may apply under section 150(1) for a review of the decision.

51. Notice of decision to cancel registration

(1) The Board must give the registered practice owner for veterinary premises written notice of a decision to cancel the registration of the veterinary premises under section 47(1), (3) or (4) as soon as practicable after making the decision.

(2) In the case of a decision under section 47(1) or (4), the notice must contain the following —

(a) the reasons for the decision, with reference to the relevant paragraph of section 47(2) or (4);

(b) a statement that the registered practice owner may apply under section 150(1) for a review of the decision.

Part 4 — The register

52. Register to be kept

(1) The Board must keep an accurate and up-to-date register that records —

(a) information referred to in section 53 in respect of the following —

(i) WA veterinarians;

(ii) veterinary nurses;

(iii) veterinary premises;

and

(b) any other information the Board considers appropriate.

(2) The register may be kept in any way the Board considers appropriate, including by electronic means, and may form part of registers of veterinarians kept under corresponding laws.

53. Information to be recorded in register

(1) The following information must be recorded in the register in respect of each WA veterinarian —

(a) the person's name;

(b) the town or suburb in which the person's principal place of practice is located and the postcode of that town or suburb;

(c) the category of registration that the person holds;

(d) the person's registration number;

(e) the date of the commencement of the person's registration;

(f) any conditions to which the person's registration is subject under section 25(1) or Part 7;

- (g) if the person holds specialist registration as a WA veterinarian in a particular specialty — that specialty;
 - (h) if the person holds limited registration as a WA veterinarian — the purpose or purposes described in section 13(2) for which the person holds the registration;
 - (i) the title, name, words or letters indicating the person’s qualifications in veterinary science or as a veterinarian or a veterinary specialist in a particular specialty;
 - (j) any prescribed information.
- (2) The following information must be recorded in the register in respect of each veterinary nurse —
- (a) the town or suburb in which the person’s principal place of practice is located and the postcode of that town or suburb;
 - (b) the category of registration that the person holds;
 - (c) the person’s registration number;
 - (d) the date of the commencement of the person’s registration;
 - (e) any conditions to which the person’s registration is subject under section 25(1) or Part 7;
 - (f) the title, name, words or letters indicating the person’s qualifications as a veterinary nurse;
 - (g) any prescribed information.
- (3) If a condition is imposed on the registration of a veterinarian or veterinary nurse because the veterinarian or veterinary nurse has an impairment, the Board must omit from the register any part of the condition that includes the reason for the imposition of the condition or other information in relation to the impairment.

(4) The following information must be recorded in the register in respect of veterinary premises —

- (a) the address of the premises;
- (b) the name of the practice owner in whose name the premises are registered;
- (c) the date of the commencement of the registration of the premises;
- (d) the name of the veterinary supervisor for the premises;
- (e) any conditions to which the registration of the veterinary premises is subject under section 45(1);
- (f) any prescribed information.

54. Information about interstate veterinarians

Without limiting section 52(1)(b), the following information may be recorded in the register in respect of an interstate veterinarian —

- (a) the person's name;
- (b) if the person is taken under section 22(2) to hold specialist registration as a WA veterinarian in a particular specialty — that specialty;
- (c) the corresponding law under which the person is registered (however described);
- (d) any conditions to which the person's registration is subject;
- (e) any prescribed information.

55. Inspection of, and obtaining information from, register

(1) The Board —

- (a) must ensure that the register is available for inspection, free of charge, by members of the public —
 - (i) at the office of the Board or another place approved by the Board; and

Part 5 — Offences

Division 1 — Practice of veterinary medicine

56. Carrying out acts of veterinary medicine

(1) A person must not carry out an act of veterinary medicine unless the person is —

- (a) a veterinarian; or
- (b) a veterinary nurse; or
- (c) an authorised person.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(2) A veterinary nurse must not carry out an act of veterinary medicine other than an act that the veterinary nurse, or a veterinary nurse of a class to which the veterinary nurse belongs, is authorised under the regulations to carry out.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(3) An authorised person must not carry out an act of veterinary medicine other than an act that the person, or a person of a class to which the person belongs, is authorised under the regulations to carry out.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(4) It is a defence to a charge of an offence under subsection (1), (2) or (3) to prove that the act was carried out by the accused in an emergency situation for the purpose of administering first aid to save the life of an animal or relieve pain suffered by an animal.

57. Employing or engaging persons to carry out acts of veterinary medicine

(1) A person must not employ or engage another person to carry out an act of veterinary medicine unless the person employed or engaged is —

- (a) a veterinarian; or
- (b) a veterinary nurse; or
- (c) an authorised person.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(2) A person must not employ or engage a veterinarian to carry out an act of veterinary medicine that would be in contravention of a condition to which the veterinarian's registration is subject.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(3) A person must not employ or engage a veterinary nurse to carry out an act of veterinary medicine —

- (a) other than an act that the veterinary nurse, or a veterinary nurse of a class to which the veterinary nurse belongs, is authorised under the regulations to carry out; or
- (b) that would be in contravention of a condition to which the veterinary nurse's registration is subject.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
- (b) for a second or subsequent offence, a fine of \$20 000.

(4) A person must not employ or engage an authorised person to carry out an act of veterinary medicine —

(a) other than an act that the person, or a person of a class to which the person belongs, is authorised under the regulations to carry out; or

(b) that would be in contravention of a condition to which the person's authorisation is subject.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(5) It is a defence to a charge of an offence under subsection (1) to prove that the accused did not know, and could not reasonably be expected to have known, that the person employed or engaged was not —

(a) a veterinarian; or

(b) a veterinary nurse; or

(c) an authorised person.

(6) It is a defence to a charge of an offence under subsection (2), (3)(b) or (4)(b) to prove that the accused did not know, and could not reasonably be expected to have known, of the condition to which the person's registration or authorisation was subject.

(7) It is a defence to a charge of an offence under subsection (3)(a) or (4)(a) to prove that the accused did not know, and could not reasonably be expected to have known, that the veterinary nurse or authorised person was not authorised under the regulations to carry out the act of veterinary medicine.

58. Undue influence

(1) In this section —

circumstances of aggravation, in relation to an offence, means the offence was committed by any of the following persons —

(a) a practice owner;

(b) a person who manages, controls or operates a veterinary practice business on behalf of the practice owner;

(c) a person who employed or engaged the offending person;

(d) a veterinary supervisor;

(e) a veterinarian who was responsible at the time that the offence was committed for the supervision of the veterinarian, veterinary nurse or authorised person to whom the offence relates.

(2) A person must not direct, cause, induce or knowingly permit a veterinarian, veterinary nurse or authorised person to contravene this Act.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$30 000;

(c) if the offence is committed in circumstances of aggravation, a fine of \$30 000.

(3) A person must not direct, cause, induce or knowingly permit a veterinarian or veterinary nurse to do anything that would constitute unprofessional conduct or professional misconduct.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$30 000;

(c) if the offence is committed in circumstances of aggravation, a fine of \$30 000.

Division 2 — Conditions of registration or authorisation

59. Contravention of conditions

(1) A person who is a veterinarian or veterinary nurse must not contravene a condition to which the person's registration is subject.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(2) An authorised person must not contravene a condition to which the person's authorisation is subject.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(3) A registered practice owner for veterinary premises must ensure that a condition to which the registration of the veterinary premises is subject is not contravened.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

Division 3 — Carrying on a veterinary practice business

60. Veterinary practice businesses to be carried on at or from veterinary premises

(1) A person must not carry on a veterinary practice business at or from any premises other than veterinary premises.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(2) The regulations may exclude a veterinary practice business of a prescribed kind, or carried on in prescribed circumstances, from the application of subsection (1).

(3) A person must not carry on a veterinary practice business of a prescribed kind at or from veterinary premises unless the premises are prescribed for that kind of veterinary practice business.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

Division 4 — False representations and use of words and abbreviations

61. False representations about being veterinarian

(1) A person who is not a veterinarian must not —

(a) claim to be a veterinarian or to hold a qualification or authorisation that entitles the person to practise as a veterinarian; or

(b) claim to be entitled to practise as a veterinarian; or

(c) do anything that could reasonably be expected to cause another person to believe that the person is a veterinarian or is entitled to practise as a veterinarian.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(2) Without limiting subsection (1), a person who is not a veterinarian must not use a title —

(a) that is prescribed for the purposes of this paragraph; or

- (b) that otherwise indicates, or could reasonably be understood to indicate, that the person is a veterinarian or is entitled to practise as a veterinarian.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
(b) for a second or subsequent offence, a fine of \$20 000.

62. False representations about being veterinary specialist

(1) A person who is not a veterinary specialist must not —

- (a) claim to be a veterinary specialist or to be registered as a veterinary specialist; or
(b) claim to be entitled to practise as a veterinary specialist; or
(c) do anything that could reasonably be expected to cause another person to believe that the person is a veterinary specialist, is registered as a veterinary specialist or is entitled to practise as a veterinary specialist.

Penalty for this subsection:

- (a) for a first offence, a fine of \$10 000;
(b) for a second or subsequent offence, a fine of \$20 000.

(2) A person who is not a veterinary specialist in a particular specialty must not —

- (a) claim to be a veterinary specialist in that specialty or to be registered as a veterinary specialist in that specialty; or
(b) claim to be entitled to practise as a veterinarian in that specialty; or
(c) do anything that could reasonably be expected to cause another person to believe that the person is a veterinary specialist in that specialty, is registered as a veterinary

specialist in that specialty or is entitled to practise as a veterinarian in that specialty.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(3) Without limiting subsection (1) or (2), a person who is not a veterinary specialist, or a veterinary specialist in a particular specialty, must not use a title —

(a) that is prescribed for the purposes of this paragraph; or

(b) that otherwise indicates, or could reasonably be understood to indicate, that the person is, or is registered as, a veterinary specialist or a veterinary specialist in a particular specialty.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

63. False representations about being veterinary nurse

(1) A person who is not a veterinary nurse must not —

(a) claim to be a veterinary nurse or to be registered as a veterinary nurse; or

(b) claim to be entitled to practise as a veterinary nurse; or

(c) do anything that could reasonably be expected to cause another person to believe that the person is a veterinary nurse, is registered as a veterinary nurse or is entitled to practise as a veterinary nurse.

Penalty for this subsection:

(a) for a first offence, a fine of \$2 500;

(b) for a second or subsequent offence, a fine of \$5 000.

(2) Without limiting subsection (1), a person who is not a veterinary nurse must not use a title —

(a) that is prescribed for the purposes of this paragraph; or

(b) that otherwise indicates, or could reasonably be understood to indicate, that the person is a veterinary nurse, is registered as a veterinary nurse or is entitled to practise as a veterinary nurse.

Penalty for this subsection:

(a) for a first offence, a fine of \$2 500;

(b) for a second or subsequent offence, a fine of \$5 000.

64. False representations about being authorised person

(1) A person who is not an authorised person must not —

(a) claim to be an authorised person; or

(b) claim to be entitled to work as an authorised person; or

(c) do anything that could reasonably be expected to cause another person to believe that the person is an authorised person or is entitled to work as an authorised person.

Penalty for this subsection:

(a) for a first offence, a fine of \$2 500;

(b) for a second or subsequent offence, a fine of \$5 000.

(2) A person who is not an authorised person of a particular prescribed class must not —

(a) claim to be an authorised person of that class; or

(b) claim to be entitled to work as an authorised person of that class; or

(c) do anything that could reasonably be expected to cause another person to believe that the person is an authorised

person of that class or is entitled to work as an authorised person of that class.

Penalty for this subsection:

(a) for a first offence, a fine of \$2 500;

(b) for a second or subsequent offence, a fine of \$5 000.

(3) Without limiting subsection (1) or (2), a person who is not an authorised person, or an authorised person of a particular prescribed class, must not use a title that indicates, or could reasonably be understood to indicate, that the person is an authorised person or an authorised person of that class, as the case requires.

Penalty for this subsection:

(a) for a first offence, a fine of \$2 500;

(b) for a second or subsequent offence, a fine of \$5 000.

65. Use of certain words and abbreviations

(1) In this section —

veterinary qualifications means qualifications as a veterinarian, a veterinary specialist in a particular specialty or a veterinary nurse.

(2) A person must not, in connection with any business carried on by the person, use the term “veterinary” or any other grammatical form or abbreviation of that term unless the person is —

(a) a veterinarian; or

(b) a veterinary nurse; or

(c) a practice owner; or

(d) carrying on a business as a supplier of veterinary supplies or materials; or

(e) providing veterinary education under a written law; or

(f) a professional organisation of veterinarians or veterinary nurses; or

(g) a person of a prescribed class.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(3) A person must not, in connection with the practice of veterinary medicine, use a title, name, words or letters capable of being understood to indicate veterinary qualifications unless the title, name, words or letters used —

(a) are entered in the register in respect of the person; or

(b) are an abbreviation or derivative of an entry referred to in paragraph (a); or

(c) are approved by the Board.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

(4) A practice owner must not use a title, name, words or letters capable of being understood to indicate veterinary qualifications to describe a person employed or engaged in the veterinary practice business carried on by the practice owner unless the title, name, words or letters used —

(a) are entered in the register in respect of the person; or

(b) are an abbreviation or derivative of an entry referred to in paragraph (a); or

(c) are approved by the Board.

Penalty for this subsection:

(a) for a first offence, a fine of \$10 000;

(b) for a second or subsequent offence, a fine of \$20 000.

Division 5 — Notice requirements

66. Notice about events relevant to person's registration

(1) In this section —

relevant offence means —

- (a) an offence under this Act; or
 - (b) an offence under a corresponding law; or
 - (c) an offence under a law of another country that deals with the regulation of veterinary medicine (however described); or
 - (d) an offence under an Act referred to in section 80(c); or
 - (e) an indictable offence (whether or not the offence is or may be dealt with summarily) for which the penalty with which the offence is punishable on indictment is —
 - (i) imprisonment for life; or
 - (ii) imprisonment for more than 1 year;
- or
- (f) an offence arising out of the practice by a person of veterinary medicine or practice by a person as a veterinary nurse.

(2) A person who is a veterinarian or veterinary nurse must, within 14 days after becoming aware that any of the following events has occurred in relation to the person, give notice of the event to the Board in accordance with section 69 —

- (a) a qualification that enabled the person to gain registration is withdrawn or cancelled by the body that conferred the qualification;
- (b) criminal proceedings are commenced against the person for a relevant offence;
- (c) any proceedings referred to in paragraph (b) are withdrawn, dismissed or determined by the court in which they were brought;

(d) a finding that is the same as, or similar to, a finding of unprofessional conduct or professional misconduct is made against the person under a corresponding law or the law of another country that deals with the regulation of veterinary medicine (however described).

Penalty for this subsection: a fine of \$5 000.

(3) A veterinarian whose registration is affected by a decision of an interstate regulatory authority under section 20(1) or 23(1) must, within 14 days after becoming aware of the decision of the interstate regulatory authority, give notice of the decision to the Board in accordance with section 69.

Penalty for this subsection: a fine of \$5 000.

67. Notice about changes of ownership of veterinary practice business

A person must, within 14 days after the person becomes or ceases to be a practice owner, give notice of the change of ownership to the Board in accordance with section 69.

Penalty: a fine of \$5 000.

68. Notice about change of veterinary supervisor

The registered practice owner for veterinary premises must, within 14 days after a person becomes or ceases to be the veterinary supervisor for the premises, give notice of the change of veterinary supervisor to the Board in accordance with section 69.

Penalty: a fine of \$5 000.

69. Requirements for notice under this Division

Notice under this Division must —

(a) be in writing; and

(b) contain the details, or be in the form (if any), approved by the Board.

Part 6 — Immediate action orders

70. Board may make immediate action order

- (1) The Board may make an immediate action order in relation to a veterinarian or veterinary nurse if the Board is satisfied that there is an imminent risk of substantial injury or harm to a person (including the veterinarian or veterinary nurse) or animal because of —
- (a) conduct engaged in by the veterinarian or veterinary nurse; or
 - (b) an impairment of the veterinarian or veterinary nurse.
- (2) The Board may make an immediate action order even if a complaint being dealt with under Part 7 or a notification being dealt with under Part 9 —
- (a) deals with the same matter; or
 - (b) includes elements of the same matter.
- (3) An immediate action order may —
- (a) impose a condition on the registration of the person to whom the order relates; or
 - (b) modify an existing condition on the registration of the person to whom the order relates; or
 - (c) suspend the registration of the person to whom the order relates.

71. Show cause process for proposed order

- (1) If the Board proposes to make an immediate action order in relation to a veterinarian or veterinary nurse, the Board must give the veterinarian or veterinary nurse notice of the proposed order.
- (2) The notice must invite the person to whom it is given to make a submission to the Board about the proposed order within a reasonable period specified in the notice.

(3) The notice, and any submission made in accordance with the notice, can be written or oral.

(4) The Board must have regard to any submission made in accordance with the notice in deciding whether to make the proposed order.

72. Notice of immediate action order

(1) The Board must give notice of an immediate action order to the person to whom the order relates.

(2) The notice must —

(a) be in writing; and

(b) be given as soon as practicable after the making of the order; and

(c) contain short particulars of the reasons for the order; and

(d) contain a statement that the person to whom the order relates may apply under section 150(1) for a review of the decision to make the order.

73. Duration of immediate action order

(1) An immediate action order takes effect —

(a) on the later of the following —

(i) the day on which notice of the order is given to the person to whom the order relates;

(ii) the day (if any) specified in the order;

and

(b) whether or not the person to whom the order relates has had an opportunity to make representations to the Board.

(2) An immediate action order has effect for the period, not exceeding 28 days, specified in the order, unless revoked under section 75.

74. Board to take other necessary or appropriate action

As soon as practicable after making an immediate action order, the Board must take any other action under this Act that the Board considers necessary or appropriate in relation to the person to whom the order relates.

75. Variation or revocation of immediate action order

- (1) The Board may vary or revoke an immediate action order unless the order was made in relation to a matter that is also the subject of a complaint referred to the Tribunal.
- (2) The Tribunal may vary or revoke an immediate action order in relation to a matter that is also the subject of a complaint referred to the Tribunal.

Part 7 — Complaints and discipline

Division 1 — When this Part applies

76. Application of Part

This Part applies in relation to unprofessional conduct or professional misconduct engaged in, or allegedly engaged in, by a person who —

- (a) is a veterinarian or veterinary nurse; or
- (b) is no longer a veterinarian or veterinary nurse, but was a veterinarian or veterinary nurse at the time that the conduct occurred or allegedly occurred.

77. Application to conduct of veterinarians

(1) Except as provided in subsection (3), this Part applies in relation to conduct of a veterinarian occurring in this State.

(2) This Part also applies to conduct of a veterinarian occurring outside this State but only if the conduct —

(a) is part of a course of conduct that occurred partly in this State and partly in another participating jurisdiction and —

(i) a regulatory authority of the other participating jurisdiction in which the conduct occurred consents to it being dealt with under this Act; or

(ii) the complainant and the veterinarian consent to it being dealt with under this Act;

or

(b) occurred wholly in another participating jurisdiction, and the veterinarian is a WA veterinarian, and the Board consents to it being dealt with under this Act, and —

(i) a regulatory authority of the other participating jurisdiction in which the conduct occurred consents to it being dealt with under this Act; or

(ii) the complainant and the veterinarian consent to it being dealt with under this Act;

or

(c) occurred wholly or partly outside all participating jurisdictions and the veterinarian is a WA veterinarian.

(3) This Part does not apply to conduct of a veterinarian occurring in this State if —

(a) the Board consents to it being dealt with under a corresponding law; or

(b) the complainant and the veterinarian consent to it being dealt with under a corresponding law.

(4) Subsection (3) does not apply if the conduct is not capable of being dealt with under the corresponding law.

(5) The Board may give consent for the purposes of subsection (2)(b) or (3) conditionally or unconditionally.

Division 2 — Key concepts

78. Unprofessional conduct

For the purposes of this Act, *unprofessional conduct* includes —

(a) doing, or omitting to do, something in connection with the practice of veterinary medicine in a manner, or to an extent, that falls short of the standard of competence, diligence and safety that a member of the public is entitled to expect of a reasonably competent veterinarian or veterinary nurse; and

(b) conduct that is prescribed to be unprofessional conduct.

79. Professional misconduct

For the purposes of this Act, *professional misconduct* includes —

- (a) unprofessional conduct if the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence, diligence and safety; and
- (b) conduct, whether occurring in connection with the practice of veterinary medicine or not, that is inconsistent with a person being a fit and proper person to hold registration as a WA veterinarian or veterinary nurse; and
- (c) conduct that is prescribed to be professional misconduct.

80. Conduct capable of constituting unprofessional conduct or professional misconduct

Without limiting section 78 or 79, the following conduct is capable of constituting unprofessional conduct or professional misconduct —

- (a) conduct consisting of a contravention of —
 - (i) this Act; or
 - (ii) a condition to which the person’s registration is subject; or
 - (iii) an order made by a regulatory authority;
- (b) practising veterinary medicine, or as a veterinary nurse, while affected by alcohol or a drug or other substance to such an extent that the person’s capacity to exercise reasonable care and skill is impaired;
- (c) conduct that results in conviction of an offence under any of the following —
 - (i) the *Animal Welfare Act 2002*;

(ii) the *Biosecurity and Agriculture Management Act 2007*;

(iii) the *Exotic Diseases of Animals Act 1993*;

(iv) the *Medicines and Poisons Act 2014*;

(v) the *Radiation Safety Act 1975*;

(vi) the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976*;

(d) conduct that results in conviction of an indictable offence (whether or not the offence is or may be dealt with summarily) for which the penalty with which the offence is punishable on indictment is —

(i) imprisonment for life; or

(ii) imprisonment for more than 1 year.

Division 3 — Complaints

81. Making complaint

(1) A complaint may be made to the Board that a person has engaged in unprofessional conduct or professional misconduct.

(2) If a complaint is about the conduct of a veterinarian occurring outside this State, the complaint must not be dealt with under this Part unless this Part is, or becomes, applicable to the conduct, as described in section 77(2).

(3) A complaint should be made in writing, but the Board may formulate in writing any oral complaint received.

(4) A complaint must —

(a) identify the person making the complaint (the *complainant*); and

(b) if possible, identify the person about whom the complaint is made; and

(c) describe the alleged conduct the subject of the complaint; and

(d) if the complainant does not want the complainant's identity disclosed to the person about whom the complaint is made, include reasons why the complainant's identity should not be disclosed.

(5) A complaint about a person may be made and dealt with even though the person is also the subject of proposed or current criminal or civil proceedings relating to the same subject matter as the complaint.

82. Time for complaint

(1) A complaint may be made about the conduct of a person irrespective of when the conduct the subject of the complaint occurred or allegedly occurred.

(2) However, the Board cannot deal with a complaint if the complaint is made more than 3 years after the conduct that is the basis of the complaint is alleged to have occurred unless the Board determines that —

(a) it is just and fair to deal with the complaint having regard to the delay and the reasons for the delay; and

(b) it is in the public interest to deal with the complaint.

(3) A determination under subsection (2) is final and cannot be challenged in any proceedings by the complainant or the respondent.

83. Respondent to be notified about complaint

(1) The Board must give written notice to a respondent that a complaint has been made about the respondent as soon as practicable after the complaint is made.

(2) The notice must —

(a) set out the nature of the complaint; and

(b) subject to subsection (3), identify the complainant.

(3) The Board may omit the complainant's identity from the notice if the Board considers it appropriate to do so, having regard to any reasons provided by the complainant under section 81(4)(d).

(4) The Board is not required to give notice under subsection (1) if the Board considers that giving the notice will or is likely to —

(a) prejudice the investigation of the complaint; or

(b) prejudice an investigation by the police or another investigatory or law enforcement body of any matter with which the complaint is concerned; or

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

(d) be prejudicial to the physical or mental health or wellbeing of the respondent; or

(e) prejudice proceedings pending or existing before a court or tribunal.

(5) In a case to which subsection (4) applies, the Board may —

(a) postpone giving the respondent notice of the complaint until the Board considers it appropriate to do so; or

(b) give the respondent a notice setting out the general nature of the complaint.

(6) Nothing in this section requires the Board to give notice to the respondent until the Board has had a reasonable opportunity to assess the complaint, seek further information about the complaint from the complainant or another person or otherwise undertake preliminary inquiries into the complaint, and properly prepare the notice.

84. Board may deal with matter as complaint

(1) The Board may determine that a matter is to be dealt with under this Part as if it were the subject of a complaint, despite no complaint having been made to the Board.

- (2) If a determination is made under subsection (1), this Part applies with any necessary modifications for the purposes of dealing with the matter.

Division 4 — Assessment of complaints

85. Board to assess complaint

- (1) The Board must assess each complaint as soon as practicable after it is made.
- (2) The Board may, for the purposes of assessing a complaint, do 1 or more of the following —
- (a) investigate the complaint in any way it considers appropriate;
 - (b) under section 112 direct an inspector to investigate the complaint;
 - (c) under section 129(1) require the respondent to undergo a health assessment.
- (3) When assessing a complaint, the Board may take into account the following —
- (a) any information obtained as a result of an investigation of the complaint;
 - (b) any report on a health assessment, or information provided, under section 132;
 - (c) any discussion with the respondent under section 133(4);
 - (d) any other information the Board considers relevant.

86. Ways in which Board deals with complaint

- (1) The Board must make a decision under subsection (2) in respect of a complaint as soon as practicable after it assesses the complaint.

(2) The Board must decide to deal with the complaint in 1 of the following ways —

(a) dismiss the complaint under section 87;

(b) if the complaint appears to be about unprofessional conduct, deal with the complaint under Division 5;

(c) refer the complaint to the Tribunal if —

(i) the complaint appears to be about professional misconduct; or

(ii) in the opinion of the Board, the Tribunal could more appropriately deal with the complaint;

(d) refer the complaint —

(i) to an interstate regulatory authority to be dealt with under a corresponding law, if the conduct is conduct that may be dealt with by that body; or

(ii) to another person or body that, in the opinion of the Board, could more appropriately deal with the complaint.

(3) Notice of a decision under subsection (2) must be given in accordance with section 108.

87. Dismissing complaint

(1) The Board must dismiss a complaint if the complaint is in respect of a matter that is not within the power of the Board or the Tribunal to deal with under this Act.

(2) The Board may dismiss a complaint if the Board considers that —

(a) the complaint is in respect of a matter that could more appropriately be dealt with by another person or body; or

(b) the conduct that is the basis of the complaint is the basis of a previous complaint that —

(i) is currently being dealt with by the Board; or

90. Parties to inquiry

The parties to an inquiry are the following —

- (a) the respondent;
- (b) the complainant;
- (c) any other person considered by the Board to have a sufficient interest in the matter to which the complaint relates.

91. Evidence and witnesses

(1) In conducting an inquiry, the Board must give the respondent an opportunity to —

- (a) call and give evidence; and
- (b) examine and cross-examine witnesses; and
- (c) make submissions.

(2) Subsection (1) does not apply if —

- (a) the Board has adopted any findings, decisions, judgment or reasons for judgment under section 93; and
- (b) the respondent has been given the opportunity referred to in subsection (1) by a court, tribunal or other body referred to in section 93.

92. Representation at inquiry

The parties to an inquiry may act in person or be represented by a legal practitioner.

93. Evidence and findings in other proceedings

(1) For the purposes of an inquiry, the Board may —

- (a) receive in evidence any transcript of evidence taken in any proceedings of a court, tribunal or other body constituted under the law of this State or any other place; or

(b) adopt any findings, decisions, judgment or reasons for judgment of such a court, tribunal or other body.

(2) The Board may draw such conclusions of fact from anything that it receives in evidence or adopts under subsection (1) as it considers appropriate.

94. Inquiry powers

(1) For the purposes of an inquiry, the Board may —

(a) by written direction given to a person, require the person —

(i) to attend at a place and time specified in the direction; or

(ii) to produce at a place and time specified in the direction a document or other thing that is in the person's possession or under the person's control;

and

(b) direct a person attending in response to a direction under paragraph (a)(i) —

(i) to give such information as is requested in relation to any matter; or

(ii) to answer a question put to the person.

(2) The Board may —

(a) inspect a document or other thing produced in response to a direction under subsection (1)(a)(ii) and retain it for any reasonable period that the Board considers appropriate; or

(b) make a copy of a document produced in response to a direction under subsection (1)(a)(ii); or

- (c) direct that any information or answer directed to be given under subsection (1)(b) be given on oath or affirmation or be verified by statutory declaration.
- (3) A Board member may administer an oath or affirmation for the purposes of this section.
- (4) If the Board gives a direction to a person under subsection (1)(a), the direction must state that —
- (a) under this Act, the person is required to comply with the direction; and
- (b) failure to do so may be an offence under section 95(1).
- (5) If the Board gives a direction to a person under subsection (1)(b), the Board must inform the person that —
- (a) under this Act, the person is required to comply with the direction; and
- (b) failure to do so may be an offence under section 95(1).

95. Failure to comply with direction

- (1) A person who fails to comply with a direction given to the person under section 94(1) commits an offence unless —
- (a) the person was not informed when the direction was given that a failure to comply with the direction may constitute an offence; or
- (b) the person has a reasonable excuse for failing to comply with the direction.
- Penalty for this subsection: a fine of \$5 000.
- (2) For the purposes of subsection (1)(b), it is not a reasonable excuse for a person to fail to comply with a direction under section 94(1)(a)(ii) or (b) on the ground that to do so might incriminate the person or render the person liable to a penalty.
- (3) However, any information or answer given by an individual, or the fact that a document or other thing was produced by an

individual, in compliance with a direction given to the individual under section 94(1)(a)(ii) or (b) is not admissible in evidence against the individual in any proceedings other than —

(a) disciplinary proceedings taken by a regulatory authority under this Act or a corresponding law; or

(b) proceedings for an offence under section 194; or

(c) proceedings for perjury.

(4) This section is in addition to, and does not affect the operation of, the *Evidence Act 1906* section 11.

96. Protection for compliance with direction

(1) A person must comply with a direction given to the person under section 94(1) despite the provisions of any other written law.

(2) However —

(a) no civil or criminal liability is incurred as a result of compliance with the direction; and

(b) compliance with the direction cannot be regarded as —

(i) a breach of any duty of confidentiality or secrecy imposed by law; or

(ii) a breach of professional ethics, professional standards or any principles of conduct applicable to the person's employment; or

(iii) unprofessional conduct (however described).

97. Disruption of inquiry

(1) A person must not hinder or obstruct the conduct of an inquiry.

Penalty for this subsection: a fine of \$5 000.

(2) A person must not insult the Board when it is conducting an inquiry.

Penalty for this subsection: a fine of \$5 000.

98. Immunity for person performing inquiry functions

A person who performs a function in relation to an inquiry, or is otherwise concerned in an inquiry, has the same protection and immunity as a member or officer of the Supreme Court, or a witness or party before the Supreme Court, would have in respect of a similar function or concern related to the jurisdiction of the Supreme Court.

Subdivision 2 — Dealing with complaint after inquiry

99. Board to decide how to deal with complaint

(1) After an inquiry into a complaint is completed, the Board must decide to deal with the complaint in 1 of the following ways —

- (a) dismiss the complaint under section 87(2);
- (b) make a finding of unprofessional conduct against the respondent;
- (c) refer the complaint to the Tribunal if the Board considers that the respondent may have engaged in professional misconduct.

(2) Notice of a decision under subsection (1) must be given in accordance with section 108.

100. Orders following finding by Board

(1) If a finding is made against a respondent under section 99(1)(b), the Board may do 1 or more of the following —

- (a) order that the respondent be reprimanded;
- (b) order that the respondent pay to the Board a fine of a specified amount not exceeding —
 - (i) if the respondent is or was a veterinarian —
\$2 000; or
 - (ii) if the respondent is or was a veterinary nurse —
\$1 000;

- (c) if the respondent is a veterinarian or veterinary nurse, order that —
 - (i) a condition be imposed on the registration of the respondent; or
 - (ii) an existing condition on the registration of the respondent be modified.
- (2) Notice of an order under subsection (1) must be given in accordance with section 108.
- (3) An order under subsection (1) takes effect on the later of the following —
 - (a) the day on which notice of the order is given to the respondent;
 - (b) the day (if any) specified in the order.

Division 6 — State Administrative Tribunal

101. Powers of Tribunal to deal with complaint

The Tribunal may deal with a complaint referred to it under section 86(2)(c) or 99(1)(c) in 1 of the following ways —

- (a) dismiss the complaint;
- (b) make a finding of unprofessional conduct against the respondent;
- (c) make a finding of professional misconduct against the respondent.

102. Orders following finding by Tribunal

- (1) If a finding is made against a respondent under section 101(b), the Tribunal may make any order that may be made by the Board under section 100(1).
- (2) If a finding is made against a respondent under section 101(c), the Tribunal may do 1 or more of the following —
 - (a) order that the respondent be reprimanded;

- (b) order that the respondent pay to the Board a fine of a specified amount not exceeding —
 - (i) if the respondent is or was a veterinarian — \$10 000; or
 - (ii) if the respondent is or was a veterinary nurse — \$5 000;
- (c) if the respondent is a veterinarian or veterinary nurse —
 - (i) order that a condition be imposed on the registration of the respondent; or
 - (ii) order that an existing condition on the registration of the respondent be modified; or
 - (iii) order the suspension of the respondent's registration for a period specified in the order; or
 - (iv) order the cancellation of the respondent's registration; or
 - (v) if an order is made under subparagraph (iv), order that the respondent be disqualified from applying for registration indefinitely or for a period specified in the order;
- (d) if the respondent is not a veterinarian or veterinary nurse, order that the respondent be disqualified from applying for registration indefinitely or for a period specified in the order.

103. Interlocutory or interim orders

- (1) In a proceeding on a complaint referred to it under section 86(2)(c) or 99(1)(c), the Tribunal may make any interlocutory or interim order it considers appropriate before making its final decision in relation to the complaint.
- (2) Without limiting subsection (1), the Tribunal may make an order —
 - (a) imposing a condition on the registration of the respondent; or

- (b) modifying an existing condition on the registration of the respondent; or
 - (c) suspending the registration of the respondent for a period specified in the order; or
 - (d) requiring the respondent to undergo a health assessment.
- (3) If the Tribunal makes an order under subsection (2)(d), the Tribunal may make an order requiring —
- (a) the Board to appoint a medical practitioner or psychologist to conduct the health assessment; and
 - (b) the person appointed under paragraph (a) to give a written report about the health assessment to the Tribunal; and
 - (c) the Board to pay the costs and expenses arising from, or incidental to, the health assessment and the provision of the report.

104. Board to give effect to orders of Tribunal

The Board must give effect to or enforce an order made by the Tribunal under section 102 or 103 to the extent that it is an order that is capable of being given effect to or enforced by the Board.

Division 7 — Other matters

105. Examples of conditions

- (1) In this section —
specified means specified in the order imposing the condition.
- (2) Without limiting sections 100(1)(c)(i), 102(2)(c)(i) and 103(2)(a), the following are examples of conditions that can be imposed under those provisions —
 - (a) a condition requiring the respondent to complete a specified course of relevant education;

- (b) a condition requiring the respondent to undertake a specified period of practice or work under specified supervision;
- (c) a condition requiring the respondent to do or refrain from doing something in connection with veterinary medicine;
- (d) a condition requiring the respondent to undergo specified counselling or medical treatment or act in accordance with specified medical advice concerning the respondent;
- (e) if the respondent is a veterinarian, a condition requiring that the practice by the respondent of veterinary medicine, or the respondent's veterinary practice business —
 - (i) be conducted for a specified period in a specified way or subject to specified conditions; or
 - (ii) be subject to periodic inspection for a specified period.

106. Records of action taken by Board

The Board must ensure that accurate records are kept of each decision or order made, or other action taken, by the Board under this Part in relation to a person.

107. Order to pay costs and expenses of investigation or inquiry

- (1) The Board may order that the respondent pay to the Board any costs and expenses of, arising from, or incidental to, the investigation of a complaint or an inquiry into a complaint, that the Board thinks fit.
- (2) However, the Board cannot make an order under subsection (1) unless a finding or order has been made against the respondent under this Part.

(3) Notice of an order under subsection (1) must be given in accordance with section 108.

(4) An order under subsection (1) takes effect on the later of the following —

(a) the day on which notice of the order is given to the respondent;

(b) the day (if any) specified in the order.

108. Notice of decisions or orders under this Part

(1) The Board must give notice of a decision or order under section 86(2), 99(1), 100(1) or 107(1) to —

(a) the respondent; and

(b) if the Board considers it appropriate, the complainant.

(2) The notice must —

(a) be in writing; and

(b) be given as soon as practicable after the making of the decision or order; and

(c) contain short particulars of the reasons for the decision or order; and

(d) if the decision or order is a reviewable decision under section 150, contain a statement that the respondent may apply for a review of the decision or order under that section.

Part 8 — Investigation

Division 1 — Inspectors

109. Designation of inspectors

- (1) The Board may, in writing, designate as an inspector any person employed or engaged by the Board.
- (2) A person may be designated as an inspector for a fixed or indefinite period or in relation to a particular matter, investigation or complaint.
- (3) The Board may, in writing, revoke a designation at any time.

110. Identity card

- (1) The Board must give an identity card to each inspector.
- (2) An identity card must —
 - (a) identify the person as an inspector under this Act; and
 - (b) contain a recent photograph of the person.
- (3) A person must, within 14 days after ceasing to be an inspector, return the person's identity card to the Board.

Penalty for this subsection: a fine of \$2 000.
- (4) Subsection (3) does not apply if the person has a reasonable excuse.
- (5) An inspector must carry the inspector's identity card at all times when exercising powers or performing functions as an inspector under this Act.

111. Production or display of identity card

- (1) An inspector may exercise a power in relation to a person only if —
 - (a) the inspector first produces the inspector's identity card for the person's inspection; or

(3) For the purposes of subsection (2)(a), an occupier of premises gives informed consent to the entry of the premises if the occupier consents to the entry after being informed by the inspector —

(a) of the powers that the inspector wants to exercise in respect of the premises; and

(b) of the reason why the inspector wants to exercise those powers; and

(c) that the occupier can refuse to consent to the inspector doing so.

114. Powers after entering premises

(1) In this section —

relevant purposes means —

(a) in the case of an entry under section 113(1) — either or both of the purposes referred to in section 112(d) and (e); or

(b) in the case of an entry under section 113(2) — investigative purposes.

(2) An inspector who enters premises under section 113(1) or (2) may, for relevant purposes, do 1 or more of the following —

(a) inspect the premises and any thing at the premises;

(b) search the premises and any thing at the premises;

(c) examine, measure, test, photograph or film any part of the premises or any thing at the premises;

(d) operate equipment, including (without limitation) a computer, or facilities at the premises or direct a person at the premises to do so;

(e) take any thing, or a sample of or from any thing, at the premises for analysis or testing;

(f) make a copy of, take an extract from, or download or print out, any document or other thing at the premises;

(g) take into or onto premises any person, equipment and materials the inspector reasonably requires;

(h) direct the occupier of the premises, or a person at the premises, to give the inspector such assistance as the inspector reasonably requires.

(3) If an inspector gives a direction to a person under subsection (2)(h), the inspector must inform the person that —

(a) under this Act, the person is required to comply with the direction; and

(b) failure to do so may constitute an offence under section 116(1).

115. Powers to obtain information

(1) In this section —

criminal record check means a document issued by the Police Force of Western Australia, the Australian Federal Police or another body or agency approved by the Board that sets out the criminal convictions (if any) of a person for offences under the law of this State, the Commonwealth, another State or a Territory.

(2) An inspector may, for investigative purposes, do 1 or more of the following —

(a) direct a person to produce a document or other thing that is in the person's possession or under the person's control;

(b) direct a person to produce a criminal record check for the person issued not more than 3 months before the date of the direction;

(c) direct a person —

(i) to give such information as is requested in relation to any matter; or

(ii) to answer a question put to the person.

(3) An inspector may —

(a) inspect a document or other thing produced in response to a direction under subsection (2)(a) or (b) and retain it for any reasonable period that the inspector considers appropriate; and

(b) make a copy of a document produced in response to a direction under subsection (2)(a) or (b).

(4) A direction under subsection (2)(a) or (b) —

(a) must specify the time at or within which the document or other thing must be produced; and

(b) may require that the document or other thing be produced —

(i) at a place specified in the direction; and

(ii) by any means specified in the direction.

(5) A direction under subsection (2)(c) —

(a) must specify the time at or within which the information or answer must be given; and

(b) may direct that the information or answer —

(i) be given orally or in writing; or

(ii) be given at, or sent or delivered to, a place specified in the direction; or

(iii) in the case of written information or a written answer, be sent or delivered by the means specified in the direction; or

(iv) in the case of written information or a written answer, be verified by statutory declaration.

(6) If an inspector gives a written direction to a person under subsection (2), the direction must state that —

(a) under this Act, the person is required to comply with the direction; and

(b) failure to do so may constitute an offence under section 116(1).

(7) If an inspector gives an oral direction to a person under subsection (2), the inspector must inform the person that —

(a) under this Act, the person is required to comply with the direction; and

(b) failure to do so may constitute an offence under section 116(1).

116. Failure to comply with direction

(1) A person who fails to comply with a direction given to the person under section 114(2)(h) or 115(2) commits an offence unless —

(a) the person was not informed when the direction was given that a failure to comply with the direction may constitute an offence under this subsection; or

(b) the person has a reasonable excuse for failing to comply with the direction.

Penalty for this subsection: a fine of \$5 000.

(2) For the purposes of subsection (1)(b), it is not a reasonable excuse for a person to fail to comply with a direction under section 115(2) on the ground that to do so might incriminate the person or render the person liable to a penalty.

(3) However, any information or answer given by an individual, or the fact that a document or other thing was produced by an individual, in compliance with a direction given to the individual under section 115(2) is not admissible in evidence against the individual in any proceedings other than —

(a) disciplinary proceedings taken by a regulatory authority under this Act, or a corresponding law; or

(b) proceedings for an offence under section 194; or

(c) proceedings for perjury.

(4) This section is in addition to, and does not affect the operation of, the *Evidence Act 1906* section 11.

117. Obstruction

A person must not hinder or obstruct an inspector exercising a power under this Division.

Penalty: a fine of \$10 000.

118. Assistance to person entering premises

The following persons must ensure that all reasonable assistance is provided to a person entering and inspecting veterinary premises under this Division —

(a) the registered practice owner for the premises;

(b) a veterinarian who practises veterinary medicine at the premises;

(c) a veterinary nurse who works at the premises.

Penalty: a fine of \$10 000.

Division 3 — Entry warrants

119. Application for entry warrant

(1) An inspector may apply to a magistrate for an entry warrant authorising the entry of premises for investigative purposes.

(2) An inspector may apply for an entry warrant for premises even if the inspector has power to enter the premises without a warrant.

(3) The *Criminal Investigation Act 2006* section 13 applies to and in respect of an application made under this section and section 13(8) of that Act applies in relation to an entry warrant.

(4) An application made under this section must —

(a) describe with reasonable particularity the premises to be entered; and

- (b) state that the inspector has reasonable grounds for believing that entry to the premises is necessary for investigative purposes; and
- (c) state the purposes for which entry to the premises is required; and
- (d) include any prescribed information.

120. Issue of entry warrant

- (1) A magistrate to whom an application is made under section 119 may issue an entry warrant if satisfied that there are reasonable grounds for believing that entry to the premises is necessary for investigative purposes.
- (2) An entry warrant must contain the following information —
 - (a) a reasonably particular description of the premises to be entered;
 - (b) a reasonably particular description of the purposes for which entry to the premises is required;
 - (c) the period, not exceeding 30 days, during which it may be executed;
 - (d) the name of the magistrate who issued it;
 - (e) the date and time when it was issued.

121. Duration of entry warrant

- (1) An entry warrant remains in force for the period specified under section 120(2)(c).
- (2) Subsection (1) is subject to section 122(3).

122. Effect of entry warrant

- (1) An entry warrant has effect according to its content and this section.
- (2) An entry warrant comes into force when it is issued by a magistrate.

(3) An entry warrant ceases to be in force when it is executed.

(4) An entry warrant authorises the inspector executing the warrant, during the period specified under section 120(2)(c), to —

(a) enter the premises described in the warrant; and

(b) exercise the powers referred to in section 114(2).

123. Execution of entry warrant

(1) An entry warrant may be executed by the inspector to whom it is issued or by any other inspector.

(2) An inspector executing an entry warrant must, at the reasonable request of a person apparently in charge of the premises, produce the warrant.

Part 9 — Notification of impairment

124. Notification

- (1) A person may notify the Board that a veterinarian or veterinary nurse has, or may have, an impairment that has placed, or may place, a person or animal at risk of substantial injury or harm in the course of the practice by the veterinarian or veterinary nurse of their profession.
- (2) A notification should be made in writing, but the Board may formulate in writing any oral notification received.
- (3) A notification must —
 - (a) identify the person making the notification (the *notifier*); and
 - (b) identify the person about whom the notification is made; and
 - (c) include particulars of the basis on which the notification is made; and
 - (d) if the notifier does not want the notifier's identity disclosed to the person about whom the notification is made, include reasons why the notifier's identity should not be disclosed.

125. Board to give notice of notification

- (1) The Board must give written notice to a veterinarian or veterinary nurse that a notification has been made about the veterinarian or veterinary nurse as soon as practicable after the notification is made.
- (2) The notice must —
 - (a) set out the nature of the notification; and
 - (b) subject to subsection (3), identify the notifier; and

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- (c) specify a reasonable period within which the veterinarian or veterinary nurse may give the Board a written response to the notification.
- (3) The Board may omit the notifier's identity from the notice if the Board considers it appropriate to do so, having regard to any reasons provided by the notifier under section 124(3)(d).
- (4) Despite subsection (1), the Board is not required to give notice under that subsection if the Board considers that giving the notice will or is likely to —

 - (a) place the notifier or another person at risk of intimidation or harassment; or
 - (b) be prejudicial to the physical or mental health or wellbeing of the veterinarian or veterinary nurse.
- (5) In a case to which subsection (4) applies, the Board may postpone giving the notice until the Board considers that it is appropriate to do.
- (6) For the purposes of preparing the notice, the Board —

 - (a) may request the notifier to give further information to the Board; but
 - (b) must not —

 - (i) request any other person to give information to the Board; or
 - (ii) disclose to any other person that the notification has been made.

126. Board to assess notification

- (1) The Board must assess each notification as soon as practicable after it is made.

(2) For the purposes of assessing a notification, the Board —

(a) may request —

(i) the notifier to give further information to the Board; or

(ii) the veterinarian or veterinary nurse to give information to the Board;

but

(b) must not —

(i) request any other person to give information to the Board; or

(ii) disclose to any other person that the notification has been made.

(3) When assessing a notification the Board must, if the veterinarian or veterinary nurse has been given notice of the notification under section 125(1), take into account any written response to the notification given within the period specified in the notice.

127. Ways in which Board deals with notification

(1) As soon as practicable after assessing a notification, the Board must deal with the notification by —

(a) requiring the veterinarian or veterinary nurse to undergo a health assessment; or

(b) deciding to take no further action in relation to the notification.

(2) Part 10 applies in relation to a requirement under subsection (1)(a) as if it were a requirement under section 129(1).

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(3) The Board may decide to take no further action in relation to the notification if it considers that —

(a) the matter that is the basis of the notification is —

(i) the basis of a previous notification that is being, or has been dealt with, under this Part; or

(ii) a matter that is being, or has been dealt with, under Part 7 in connection with a complaint;

or

(b) the notification is vexatious, trivial, unreasonable or lacking in substance.

Part 10 — Health assessments

128. Terms used

In this Part —

assessor means an assessor appointed under section 131(1);

veterinary practitioner means a person who is —

- (a) an applicant for registration, or renewal of registration, under Part 2; or
- (b) a veterinarian or veterinary nurse.

129. Health assessments

(1) The Board may require a veterinary practitioner to undergo a health assessment if the Board reasonably believes that the veterinary practitioner has, or may have, an impairment.

(2) A requirement under subsection (1) must —

- (a) be in writing given to the veterinary practitioner; and
- (b) inform the veterinary practitioner that the veterinary practitioner is required to undergo a health assessment; and
- (c) specify the basis for the Board’s belief that the veterinary practitioner has, or may have, an impairment; and
- (d) specify the nature of the health assessment; and
- (e) specify the time at or within which the health assessment must be undertaken; and
- (f) inform the veterinary practitioner that if the veterinary practitioner does not undergo the health assessment, the Board may continue to deal with any application, complaint or other matter relating to the veterinary practitioner.

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130. Show cause process for proposed requirement

- (1) If the Board proposes to impose a requirement under section 129(1), the Board must give the veterinary practitioner written notice of the proposed requirement.
- (2) The notice must invite the veterinary practitioner to make a written submission to the Board about the proposed requirement within a reasonable period specified in the notice.
- (3) The Board must have regard to any submission made in accordance with the notice in deciding whether to impose the proposed requirement.

131. Appointment of assessor

- (1) If the Board requires a veterinary practitioner to undergo a health assessment, the Board must appoint an assessor to conduct the assessment.
- (2) The assessor must be a medical practitioner or psychologist.
- (3) The Board must —
 - (a) consult the veterinary practitioner before appointing the assessor; and
 - (b) notify the veterinary practitioner in writing of the appointment of the assessor.

132. Report on health assessment

- (1) As soon as practicable after conducting a health assessment, the assessor must give a written report about the assessment to the Board.
- (2) The assessor may, on request, give the Board any additional written information in relation to the health assessment that the Board requires for the purposes of determining whether the veterinary practitioner has an impairment.

133. Copy of report and additional information to be given to veterinary practitioner

(1) As soon as practicable after receiving the assessor's report and any additional information under section 132 (the *assessment material*), the Board must give a copy of the assessment material to —

(a) the veterinary practitioner; or

(b) if the assessment material includes information the assessor considers may, if disclosed to the veterinary practitioner, be prejudicial to the veterinary practitioner's physical or mental health or wellbeing — a medical practitioner or psychologist nominated by the veterinary practitioner.

(2) Subsection (3) applies if —

(a) a medical practitioner or psychologist nominated by the veterinary practitioner is given a copy of the assessment material under subsection (1)(b); and

(b) in the view of the medical practitioner or psychologist, the assessment material is no longer prejudicial to the veterinary practitioner's physical or mental health or wellbeing.

(3) The medical practitioner or psychologist must give a copy of the assessment material to the veterinary practitioner as soon as practicable after forming the view mentioned in subsection (2)(b).

(4) After the veterinary practitioner has been given a copy of the assessment material under subsection (1)(a) or (3) a person nominated by the Board must discuss the contents of the assessment material with the veterinary practitioner if the assessment material —

(a) is critical of the veterinary practitioner's fitness to practise veterinary medicine or as a veterinary nurse; or

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(b) expresses the view that the veterinary practitioner has an impairment.

(5) A discussion referred to in subsection (4) may include a discussion about whether the veterinary practitioner is prepared to —

(a) cease practising veterinary medicine or as a veterinary nurse; or

(b) alter the way that the veterinary practitioner practises veterinary medicine or as a veterinary nurse.

134. Decision by Board

After considering the assessment material referred to in section 133(1) and any discussion with the veterinary practitioner under section 133(4), the Board may decide to —

(a) take any other action the Board considers necessary or appropriate under this Act, including the following —

(i) refuse the veterinary practitioner's application for registration, or renewal of registration, under Part 2;

(ii) impose conditions on the veterinary practitioner's registration under section 25(1);

(iii) make an immediate action order in relation to the veterinary practitioner;

(iv) determine under section 84(1) to deal with the matter as if it were the subject of a complaint;

or

(b) take no further action in relation to the matter.

135. Fees of assessor

Fees charged by an assessor for any of the following matters are payable by the Board —

(a) the conduct of a health assessment;

(b) the provision of a report under section 132(1);

(c) the provision of additional information under section 132(2).

Part 11 — Recording, disclosure or use of information

136. Term used: disclose

In this Part —

disclose, in relation to information, includes to divulge or communicate to any person and to publish.

137. Confidentiality

(1) A person must not (whether directly or indirectly) record, disclose or use any information that was obtained because of —

(a) the person’s office, position, employment or engagement under or for the purposes of this Act; or

(b) any disclosure made to the person under this Act.

Penalty for this subsection: a fine of \$10 000.

(2) Subsection (1) does not apply in relation to the recording, disclosure or use of statistical or other information that is not personal information.

(3) A person does not commit an offence under subsection (1) if the recording, disclosure or use of the information is authorised under section 138.

138. Authorised recording, disclosure or use of information

(1) The recording, disclosure or use of information is authorised if the information is recorded, disclosed or used in good faith in any of these circumstances —

(a) for the purposes of, or in connection with the performance of, a function under this Act;

(b) under this Act or another written law;

(c) under an order of a court or other person or body acting judicially;

- (d) in the case of personal information, with the consent of the person, or each person, to whom the information relates.
- (2) In addition to subsection (1), the disclosure of information is authorised if the information is disclosed to —
- (a) a court or other person or body acting judicially in the course of proceedings before the court or other person or body; or
- (b) an interstate regulatory authority with responsibility for administering a corresponding law in connection with the administration of that law.
- (3) Subsections (1) and (2) extend to the disclosure of information that was disclosed under a corresponding law to a regulatory authority of this State.
- (4) If the recording, disclosure or use of information is authorised under this section —
- (a) no civil or criminal liability is incurred in respect of the recording, disclosure or use; and
- (b) the recording, disclosure or use cannot be regarded as —
- (i) a breach of any duty of confidentiality or secrecy imposed by law; or
- (ii) a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or
- (iii) unprofessional conduct (however described).

139. Disclosure of information by Board to interstate regulatory authority

- (1) The Board may, subject to the regulations, disclose information to an interstate regulatory authority about any matter relating to or arising under this Act or a corresponding law.

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(2) The regulations may regulate the disclosure of information under subsection (1) to —

(a) a prescribed interstate regulatory authority; or

(b) an interstate regulatory authority of a prescribed class.

(3) This section is in addition to, and does not affect the operation of, section 193.

Part 12 — Legal proceedings

Division 1 — General provisions about legal proceedings

140. Commencing legal proceedings

(1) Proceedings for an offence under this Act or in respect of any other matter arising under this Act may be commenced in the name of the Board by —

(a) the Board; or

(b) a person authorised to do so by the Board.

(2) Proceedings for an offence under this Act must be heard by a court of summary jurisdiction constituted by a magistrate.

(3) In proceedings for an offence under this Act, unless evidence is given to the contrary, proof is not required —

(a) of the authority of a person to commence proceedings;
or

(b) that a signature on a prosecution notice is the signature of a person authorised to commence proceedings.

(4) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence under this Act if the person has authority at law to do so.

141. Time limit for commencing prosecutions

(1) A prosecution for an offence under this Act must be commenced within 2 years after the day on which the offence was allegedly committed.

(2) However, if a prosecution notice alleging an offence specifies the day on which evidence of the alleged offence first came to the attention of the Board —

(a) the prosecution may be commenced within 2 years after that day; and

(b) the prosecution notice need not contain particulars of the day on which the offence is alleged to have been committed.

(3) The day on which evidence of the alleged offence first came to the attention of the Board is, in the absence of evidence to the contrary, the day specified in the prosecution notice.

142. Liability of officers for offence by body corporate

(1) This section applies to an offence under a provision listed in the Table.

Table

<u>s. 57(1), (2), (3) and (4)</u>	<u>s. 58(2) and (3)</u>
<u>s. 60(1) and (3)</u>	<u>s. 65(2) and (4)</u>

(2) If a body corporate is guilty of an offence to which this section applies, an officer of the body corporate is also guilty of the offence if the officer failed to take all reasonable steps to prevent the commission of the offence by the body corporate.

(3) In determining whether things done or omitted to be done by the officer constitute reasonable steps, a court must have regard to —

(a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and

(b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and

(c) any other relevant matter.

143. Further provisions relating to liability of officers of body corporate

- (1) Section 142 does not affect the liability of a body corporate for any offence.
- (2) Section 142 does not affect the liability of an officer, or any other person, under *The Criminal Code* Chapters II, LVII, LVIII and LIX.
- (3) An officer of a body corporate may be charged with, and convicted of, an offence in accordance with section 142 whether or not the body corporate is charged with, or convicted of, the principal offence committed by the body corporate.
- (4) If an officer of a body corporate who is charged with an offence in accordance with section 142 claims that the body corporate would have a defence if it were charged with the offence —
- (a) the onus of proving the defence is on the officer; and
- (b) the standard of proof required is the standard that would apply to the body corporate in relation to the defence.
- (5) Subsection (4) does not limit any other defence available to the officer.

144. Act does not affect legal professional privilege

Nothing in this Act prevents a person from refusing to answer a question, give information or produce a document or other thing because the answer or information would relate to, or the document or thing contains, information in respect of which the person claims legal professional privilege.

145. Recovery of amounts due

The following amounts are recoverable by the Board in a court of competent jurisdiction as debts due to the Board —

- (a) fees payable under this Act;

- (b) fines, costs or expenses payable under an order made under Part 7.

Division 2 — Evidence in legal proceedings

146. Certain matters taken to be proved

- (1) In proceedings under this Act, in the absence of evidence to the contrary —

(a) an allegation in a prosecution notice of any of the matters described in subsection (2) is taken to be proved; and

(b) the following are taken to be proved —

(i) that a document purporting to have been given or executed by the Board was given or executed by the Board;

(ii) that a document purporting to have been signed or certified by a Board member, the registrar or an inspector was signed or certified by someone who was, at the time, such a person;

(iii) that a document purporting to have been signed by a delegate of the Board was signed by a person who was, at the time, a delegate and authorised to sign it;

and

(c) a document purporting to be a certificate of registration of a veterinarian, a veterinary nurse or veterinary premises is evidence of the matters stated in it.

- (2) It may be alleged that at a specified time or during a specified period a specified person was —

(a) a Board member or the deputy of a Board member; or

(b) the chairperson of the Board; or

(c) a member of a committee; or

(d) the registrar, an inspector or another person employed or engaged by the Board.

147. Evidence of certain matters may be stated in certificate

(1) In proceedings under this Act, a certificate under subsection (2) purportedly given by the Board or the registrar is sufficient evidence of the matters stated in it, except so far as the contrary is shown.

(2) A certificate may state 1 or more of the following —

(a) that a person is or was, or is not or was not —

(i) a veterinarian;

(ii) a WA veterinarian;

(iii) an interstate veterinarian;

(iv) a veterinary nurse;

(v) an authorised person;

(b) that a person does or does not, or did or did not, hold a specified category of registration;

(c) that a veterinarian is or was, or is not or was not, registered in a particular specialty as a veterinary specialist;

(d) any conditions to which the registration of a person is or was subject;

(e) that the registration of a person has or had been suspended or cancelled by a regulatory authority;

(f) that a person was disqualified from applying for registration or being registered as a veterinarian by a regulatory authority;

(g) that premises are or were, or are not or were not, veterinary premises;

(h) details of an entry in the register;

- (i) the day or days on which, or period during which, anything referred to in any of paragraphs (a) to (h) applied.

148. Evidence Act 1906 not affected

This Division is in addition to, and does not affect the operation of, the Evidence Act 1906.

Division 3 — Additional orders

149. Court may make additional orders

(1) A court sentencing a person convicted of an offence under this Act may, in addition to any penalty that may be imposed in respect of the offence, make an order under subsection (2).

(2) The court may make an order prohibiting the person convicted and, if that person is a body corporate, an officer of the body corporate from 1 or more of the following —

(a) carrying on or managing a veterinary practice business;

(b) having a financial interest in a veterinary practice business;

(c) entering into commercial arrangements (whether or not on behalf of another person) with a person who carries on or manages a veterinary practice business.

(3) An order under subsection (2) must specify —

(a) the period of the prohibition, which may be indefinite; and

(b) whether the prohibition is absolute or on conditions specified in the order.

(4) The court must ensure that a copy of an order under subsection (2) is given to the Board.

(5) An order under subsection (2) may be enforced as if it were a judgment of the court.

Division 4 — Review by State Administrative Tribunal

150. Review of certain decisions

- (1) A person aggrieved by a reviewable decision may apply to the Tribunal for a review of the decision.
- (2) For the purposes of subsection (1), the following decisions and orders of the Board are reviewable decisions —
- (a) a decision to refuse a Part 2 application or Part 3 application;
 - (b) a decision under section 25(1) to impose a condition on a person's registration;
 - (c) a decision under section 26(1) to modify a condition on a person's registration;
 - (d) a decision under section 29(1) to cancel a person's registration;
 - (e) a decision under section 45(1) to impose a condition on the registration of veterinary premises;
 - (f) a decision under section 46(1) to modify a condition on the registration of veterinary premises;
 - (g) a decision under section 47(1) or (4) to cancel the registration of veterinary premises;
 - (h) an immediate action order;
 - (i) a decision under section 99(1)(b) to make a finding of unprofessional conduct against a person;
 - (j) an order made under section 100(1) or 107(1) against a person.

Part 13 — Veterinary Practice Board of Western Australia

Division 1 — Establishment of Board

151. Board established

- (1) A body called the Veterinary Practice Board of Western Australia is established.
- (2) The Board is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Board in its corporate name.
- (4) The Board does not represent, and is not an agent of, the Crown.

152. Membership of Board

- (1) In this section —

professional body means each of the following —

- (a) the Western Australian Division of the Australian Veterinary Association Ltd or another body prescribed for the purposes of this paragraph;
- (b) the Western Australian Division of the Veterinary Nurses Council of Australia Inc. or another body prescribed for the purposes of this paragraph.

- (2) The Board consists of 8 members appointed by the Minister.
- (3) A person is eligible to be appointed to the Board only if the person's principal place of residence is in this State.
- (4) Of the Board members —

- (a) 3 must be WA veterinarians who between them have the experience, skills or qualifications the Minister considers appropriate to effectively carry out the functions of the Board under this Act; and

(b) 1 must be a WA veterinarian who is elected by WA veterinarians in accordance with the regulations; and

(c) 1 must be a veterinary nurse who is elected by veterinary nurses in accordance with the regulations; and

(d) 1 must be a person who is both —

(i) a WA veterinarian; and

(ii) an officer of the department of the Public Service principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*;

and

(e) 1 must be a person who has knowledge of and experience in representing the interests of consumers; and

(f) 1 must be a legal practitioner.

(5) Before making an appointment for the purposes of subsection (4)(a), the Minister must invite each professional body to recommend to the Minister persons the professional body considers suitable for appointment.

(6) The Minister must consider any recommendation made in response to an invitation under subsection (5), but may appoint a person for the purposes of subsection (4)(a) whether or not the person is recommended by a professional body.

(7) Subsection (4)(b) and (c) are subject to section 166.

(8) The regulations may provide for and regulate the conduct of elections for the purposes of subsection (4)(b) and (c).

153. Chairperson of Board

The Minister must appoint a Board member to be the chairperson of the Board.

154. Deputy members

- (1) The Minister may appoint a person as the deputy of a Board member.
- (2) Before making an appointment under subsection (1), the Minister must consult the Board.
- (3) A person appointed under subsection (1) must be eligible to be appointed as the Board member for whom the person is the deputy.
- (4) However, subsection (3) does not require —

 - (a) a person appointed as a deputy of a Board member referred to in section 152(4)(b) to be elected as provided for in that paragraph; or
 - (b) a person appointed as a deputy of a Board member referred to in section 152(4)(c) to be elected as provided for in that paragraph.
- (5) The deputy of a Board member is entitled to act in the Board member's place if the Board member is unable to act for any reason, including the following —

 - (a) illness;
 - (b) absence;
 - (c) the operation of section 184(1).
- (6) While acting in accordance with their appointment, the deputy of a Board member is taken to be, and to have any entitlement of, a Board member.
- (7) An act or omission of the deputy of a Board member cannot be questioned on the ground that the occasion for their appointment or acting had not arisen or had ceased.

155. Remuneration and allowances of Board members

A Board member is entitled to be paid any remuneration and allowances that the Minister may determine on the recommendation of the Public Sector Commissioner.

156. Leave of absence

The Board may grant leave of absence to a Board member on any terms and conditions the Board determines.

157. Execution of documents by Board

(1) The Board must have a common seal.

(2) A document is duly executed by the Board if —

(a) the common seal of the Board is affixed to it in accordance with subsections (3) and (4); or

(b) it is signed on behalf of the Board by a person or persons authorised to do so under subsection (5).

(3) The common seal of the Board must not be affixed to any document except as authorised by the Board.

(4) The common seal of the Board must be affixed to a document in the presence of 2 Board members, each of whom must sign the document to attest that the common seal was so affixed.

(5) The Board may, by writing under its common seal, authorise 1 or more of the following persons to sign documents on behalf of the Board, either generally or subject to the conditions that are specified in the authorisation —

(a) a Board member; or

(b) a person employed or engaged by the Board.

(6) A document purporting to be executed in accordance with this section must be presumed to be duly executed unless the contrary is shown.

- (7) When a document is produced bearing a seal purporting to be the common seal of the Board, it must be presumed that the seal is the common seal of the Board unless the contrary is shown.

Division 2 — Functions, powers and delegation

158. Functions of Board

The Board has the following functions —

- (a) to regulate the practice of veterinary medicine in this State;
- (b) to cooperate with other participating jurisdictions to further a common and harmonious approach to the administration of legislation relating to veterinarians;
- (c) to liaise with and, if the Board considers it appropriate, become a member of professional organisations of veterinarians or veterinary nurses, or of associations of veterinary boards (however described);
- (d) to provide information to veterinarians and veterinary nurses, including information about regulatory requirements, and professional and ethical standards, for veterinarians and veterinary nurses;
- (e) to provide general information to consumers of veterinary services about regulatory requirements, and professional and ethical standards, for veterinarians and veterinary nurses;
- (f) to provide advice to the Minister on matters to which this Act applies;
- (g) any other function conferred on the Board under this Act or any other Act.

159. Powers of Board

- (1) In this section —

acquire includes to take on lease or licence or in any other way in which real property may be acquired;

dispose of includes to dispose of by lease or licence or in any other way in which real property may be disposed of.

- (2) The Board has all the powers it needs to perform its functions.
- (3) However, the Board must not acquire, hold, dispose of or otherwise deal in real property other than premises used, to be used, or previously used, by it as office premises.

160. Delegation by Board

- (1) Except as provided in subsection (2), the Board may delegate any power or duty of the Board under another provision of this Act to —
- (a) a Board member; or
 - (b) a committee; or
 - (c) a member of a committee; or
 - (d) a person employed or engaged by the Board.
- (2) The Board cannot delegate its powers to make, vary or revoke an immediate action order under Part 6.
- (3) A delegation must be in writing executed by the Board.
- (4) A person or committee to whom or which a power or duty is delegated under this section cannot delegate that power or duty.
- (5) A person or committee exercising or performing a power or duty that has been delegated to the person or committee under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the Board to perform a function through an agent or a person employed or engaged by the Board.
- (7) This section does not apply to the execution of documents but authority to execute documents on behalf of the Board can be given under section 157(5).

Division 3 — Staff

161. Registrar and other staff

(1) The Board —

(a) must employ or engage a person to be the registrar; and

(b) may employ or engage any other persons the Board considers necessary to enable it to perform its functions.

(2) The functions conferred by subsection (1) —

(a) include powers to —

(i) determine remuneration and other terms and conditions of service; and

(ii) remove, suspend and discipline staff; and

(iii) terminate the employment of staff;

and

(b) do not preclude the delegation of any matter under section 160.

(3) Subject to any relevant award, order or industrial agreement under the *Industrial Relations Act 1979*, the terms and conditions of employment of persons employed under subsection (1) are the terms and conditions the Board determines.

Division 4 — Accountability provisions

162. Minister may give directions to Board

(1) The Minister may give written directions to the Board with respect to the performance of its functions, either generally or in relation to a particular matter.

(2) However, a direction given under subsection (1) cannot be about the performance of the Board's functions in respect of —

(a) a particular person; or

(b) a particular application, complaint, investigation or proceeding.

(3) The Board must give effect to a direction given under subsection (1).

(4) The Minister must cause the text of a direction given under subsection (1) to be laid before each House of Parliament within 14 sitting days after the direction is given.

(5) The text of a direction given under subsection (1) must be included in the annual report of the Board under section 192.

163. Minister to have access to information

(1) In this section —

information means information specified, or of a description specified, by the Minister that relates to the functions of the Board.

(2) The Minister is entitled —

(a) to have information in the possession of the Board; and

(b) if the information is in or on a document, to have, and make and retain copies of, that document.

(3) For the purposes of subsection (2), the Minister may —

(a) request the Board to give information to the Minister; and

(b) request the Board to give the Minister access to information; and

(c) for the purposes of paragraph (b), make use of the services of any person employed or engaged by the Board and any facilities of the Board.

(4) The Board must comply with a request under subsection (3) and make staff and facilities available to the Minister for the purposes of subsection (3)(c).

- (5) This section does not entitle the Minister to have personal information unless the information is about a person who consents to the Minister having the information.

Division 5 — Constitution and procedures of Board

Subdivision 1 — General provisions

164. Term of office

- (1) A Board member —

- (a) holds office for the term, not exceeding 3 years, specified in the Board member's instrument of appointment; and
(b) is eligible for reappointment.

- (2) A Board member whose term of office expires without a person having been appointed to fill the vacancy continues in office until whichever of the following occurs first —

- (a) a person is appointed to fill the vacancy;
(b) a period of 3 months elapses after the expiry of the term of office.

- (3) Subsection (2) ceases to apply if the Board member resigns or is removed from office.

165. Vacancy in office

- (1) In this section —

misconduct includes conduct that renders a Board member unfit to hold office as a Board member even though the conduct does not relate to a duty of the office.

- (2) The office of a Board member becomes vacant if the Board member —

- (a) dies, resigns or is removed from office under this section; or

- (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
 - (c) is convicted of an offence punishable by imprisonment for more than 12 months; or
 - (d) is no longer a person who is qualified under section 152(4) to be a Board member; or
 - (e) has their registration cancelled or suspended or has their name removed from the register by a regulatory authority.
- (3) A Board member may at any time resign from office by written resignation given to the Minister.
- (4) A Board member's resignation takes effect on the later of the following —
- (a) the day on which the resignation is received by the Minister;
 - (b) the day specified in the resignation.
- (5) The Minister may remove a Board member from office on any of the following grounds —
- (a) neglect of duty;
 - (b) misconduct or incompetence;
 - (c) permanent incapacity to perform the Board member's duties;
 - (d) absence, without leave, from 3 consecutive meetings of the Board of which the Board member has had notice.

166. Minister may fill vacancy in office of elected member in certain circumstances

- (1) In this section —
- elected member* means a Board member appointed for the purposes of a relevant provision;

relevant provision means section 152(4)(b) or (c).

- (2) If the office of an elected member becomes vacant under section 165(2), the Minister may appoint a person, being a person who is eligible to be elected, as a Board member for the balance of the term of the elected member.
- (3) Subsection (4) applies if at the time an election is due to be held for the purposes of a relevant provision —
- (a) no election is held; or
 - (b) no candidates are nominated for the election.
- (4) The Minister may appoint a person, being a person who is eligible to be elected, as a Board member for the purposes of the relevant provision.

167. Holding meetings

- (1) Meetings of the Board, unless convened under subsection (2) or (3), must be held at times and places determined by the Board.
- (2) A special meeting of the Board may at any time be convened by —
- (a) the chairperson; or
 - (b) a majority of the Board members.
- (3) The first meeting of the Board must be convened by the registrar.

168. Meetings generally closed to public

- (1) A meeting of the Board must be closed to members of the public.
- (2) Despite subsection (1), the Board may, on its own initiative or on the application of any person, allow a meeting or part of a meeting of the Board to be open to members of the public.

169. Quorum

The quorum for a meeting of the Board is 5 Board members, at least 3 of whom are WA veterinarians.

170. Presiding at meetings

- (1) The chairperson, if present, must preside at a meeting of the Board.
- (2) If the chairperson is not presiding under subsection (1), the Board members present at the meeting must elect one of their number to preside.

171. Procedure at meetings

The Board must determine its own meeting procedures to the extent that they are not fixed by this Act.

172. Voting

- (1) At a meeting of the Board, each Board member present has a deliberative vote unless section 184(1) prevents the Board member from voting.
- (2) In the case of an equality of votes, the Board member presiding has a casting vote in addition to a deliberative vote.
- (3) A question is resolved according to how a majority of the votes are cast.

173. Inviting consultant to participate in meeting

The Board may arrange for a person who is not a Board member to participate in a meeting of the Board in a consultative capacity, but that person is not entitled to vote at the meeting.

174. Holding meetings remotely

The presence of a person at a meeting of the Board need not be by attendance in person but may be by that person and each

other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

175. Resolution without meeting

A resolution in writing signed or otherwise assented to in writing by at least 5 Board members, at least 3 of whom are WA veterinarians, has the same effect as if it had been passed at a meeting of the Board.

176. Minutes

The Board must cause accurate minutes to be kept of the proceedings at each of its meetings.

Subdivision 2 — Committees

177. Establishment of committees

The Board may —

- (a) establish committees to assist it to perform its functions; and
- (b) discharge or alter any committee it has established.

178. Membership of committee

(1) A committee —

- (a) must consist of at least 3 persons; and
- (b) must include at least 1 Board member; and
- (c) may include persons who are not Board members.

(2) The Board must appoint a member of a committee to be the committee's chairperson.

179. Board may give directions to committee

(1) The Board may give written directions to a committee on the following matters —

- (a) the functions to be performed by the committee;

(b) the procedures of the committee;

(c) reporting by the committee on the performance of its functions.

(2) A committee must give effect to a direction given to it under subsection (1).

180. Procedures and minutes

(1) A committee may determine its own procedures but they must be consistent with any direction given to it under section 179(1) and the terms of any delegation under which it is acting.

(2) A committee must —

(a) cause accurate minutes to be kept of the proceedings at each of its meetings; and

(b) give the Board a copy of the minutes for each of its meetings.

181. Remuneration and allowances of committee members

A member of a committee is entitled to be paid any remuneration and allowances that the Minister may determine on the recommendation of the Public Sector Commissioner.

Subdivision 3 — Disclosure of material personal interests

182. Term used: member

In this Subdivision —

member means a person who is —

(a) a Board member; or

(b) a member of a committee.

183. Disclosure of interests

(1) A member who has a material personal interest in a matter being considered or about to be considered by the Board or a

committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board or committee.

Penalty for this subsection: a fine of \$5 000.

(2) Subsection (1) applies to a person who is a member of a committee and also a Board member even though the person has already disclosed the nature of the interest at a meeting of the Board.

(3) A disclosure under this section must be recorded in the minutes of the meeting.

184. Voting by interested member

(1) A member who has a material personal interest in a matter that is being considered by the Board or a committee —

(a) must not vote, whether at a meeting or otherwise, on the matter; and

(b) must not be present while the matter is being considered at a meeting or when a vote is taken on the matter.

(2) A reference in subsection (1)(a) or (b) to a matter includes a reference to a proposed resolution under section 185 in respect of the matter, whether relating to that member or a different member.

185. Section 184 may be declared inapplicable

Section 184 does not apply if —

(a) a member has disclosed under section 183 an interest in a matter; and

(b) the Board or committee, as the case requires, has at any time passed a resolution that —

(i) specifies the member, the interest and the matter; and

- (ii) states that the members voting for the resolution are satisfied that the interest is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct and should not disqualify the member from considering or voting on the matter.

186. Quorum where s. 184 applies

- (1) Despite section 169, if a Board member is disqualified under section 184(1) in relation to a matter, a quorum is present during the consideration of the matter if at least 4 members, at least 2 of whom are WA veterinarians, who are entitled to vote on any motion that may be moved at the meeting in relation to the matter are present.
- (2) If a member of a committee is disqualified under section 184(1) in relation to a matter and as a result a quorum is not present during the consideration of the matter, the committee cannot deal with that matter.
- (3) The Minister may deal with a matter to the extent that the Board cannot deal with the matter because of subsection (1).
- (4) The Board may deal with a matter to the extent that a committee cannot deal with the matter because of subsection (2).

187. Minister may declare s. 184 and 186 inapplicable

- (1) The Minister may, in writing, declare that section 184 or 186 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause the text of a declaration made under subsection (1) to be laid before each House of Parliament within 14 sitting days after the declaration is made.

Division 6 — Financial and reporting provisions

188. Funds of Board

(1) The funds available to the Board to enable it to perform its functions consist of the following —

(a) fees, fines, costs and other money received or recovered by the Board under this Act;

(b) other money lawfully received by, made available to, or payable to, the Board in connection with the performance of its functions;

(c) any other money lawfully received by the Board.

(2) Those funds must be applied in payment of the following —

(a) the remuneration and allowances of Board members and members of a committee;

(b) the remuneration of the registrar, inspectors and other persons employed or engaged by the Board;

(c) all other expenditure lawfully incurred by the Board in the performance of its functions.

189. Borrowing powers

(1) In this section —

acquire has the meaning given in section 159(1).

(2) The Board may borrow money to enable it —

(a) to perform its functions; or

(b) to acquire, or improve, premises used, or to be used, by it as office premises.

(3) Without limiting subsection (2), the Board may borrow from the Treasurer any amounts the Treasurer approves on the conditions relating to repayment and the payment of interest imposed by the Treasurer.

190. Accounts and records

(1) The Board must —

- (a) cause to be kept proper accounts of the financial transactions and affairs of the Board; and
- (b) cause to be kept proper records of the business of the Board; and
- (c) prepare financial statements in accordance with Australian Accounting Standards.

(2) The financial statements must be prepared on an accrual basis unless the Board determines otherwise.

191. Audit

The accounts and financial statements of the Board must be audited at least once a year, at the expense of the Board, by a registered company auditor as defined in the *Corporations Act 2001* (Commonwealth) section 9.

192. Annual report of Board

(1) The Board must prepare and submit to the Minister, not later than 30 September in each year, a report for the financial year ending on the preceding 30 June together with a copy of the financial statements and the auditor's report.

(2) The report must include the following —

- (a) a report on the operations of the Board during the financial year;
- (b) information about —
 - (i) how complaints made to the Board, and prosecutions for offences under this Act, have been dealt with during the financial year; and
 - (ii) any trends or special problems that may have emerged during the financial year; and

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- (iii) forecasts of the workload of the Board for the next financial year; and
- (iv) any proposals for improving the operation of the Board;
- (c) any other matters arising out of the performance of the Board's functions that are, in the opinion of the Board, of such significance as to require reporting.
- (3) The Minister must cause a copy of the report to be laid before each House of Parliament within 14 sitting days after the report is received by the Minister.
- (4) As soon as practicable after subsection (3) has been complied with, the Board must —
 - (a) publish a copy of the report on a website maintained by the Board; and
 - (b) ensure that the report is available for inspection on request at the office of the Board.

Part 14 — Miscellaneous

193. Arrangements between Board and interstate regulatory authorities

- (1) The Board may enter into arrangements with an interstate regulatory authority having a function under a corresponding law of registering persons as veterinarians (however described) for the purpose of establishing a national register of veterinarians and for other purposes related to the recognition of veterinarians with interstate registration.
- (2) The arrangements may, without limitation, involve the establishment of a national register of veterinarians (however described) by a body prescribed for the purposes of this subsection.

194. False or misleading information

A person commits an offence if the person —

- (a) in, or in connection with, a Part 2 application or Part 3 application, provides information that the person knows is false or misleading in a material particular; or
- (b) in purporting to comply with a direction under section 94(1)(b) or 115(2)(c), gives an answer or provides information that the person knows is false or misleading in a material particular; or
- (c) in purporting to comply with a direction under section 94(1)(a)(ii) or 115(2)(a), produces a document that the person knows is false or misleading in a material particular —
 - (i) without indicating that the document is false or misleading and, to the extent the person can, how the document is false or misleading; and
 - (ii) if the person has or can reasonably obtain the correct information, without providing the correct information;

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_____ or

- _____ (d) in purporting to give notice under Part 5 Division 5, provides information that the person knows is false or misleading in a material particular.

_____ Penalty:

- _____ (a) for a first offence, a fine of \$10 000;
_____ (b) for a second or subsequent offence, a fine of \$20 000.

195. Protection from liability for persons performing functions

- _____ (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- _____ (2) The State is also relieved of any liability that it might otherwise have had for a person having done anything as described in subsection (1).
- _____ (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- _____ (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

196. Protection from liability for complainants, notifiers and other persons

- _____ (1) This section applies to a person (the *protected person*) who, in good faith —
- _____ (a) makes a complaint or notification; or
- _____ (b) gives information to the Board, an inspector or any other person under or for the purposes of this Act.
- _____ (2) The protected person does not incur any civil or criminal liability for making the complaint or notification or giving the information.

- (3) The making of the complaint or notification, or the giving of information, by the protected person cannot be regarded as —
- (a) a breach of any duty of confidentiality or secrecy imposed by law; or
 - (b) a breach of professional ethics, professional standards or any principles of conduct applicable to the protected person's employment; or
 - (c) unprofessional conduct (however described).
- (4) The protection given by this section extends to a person who, in good faith —
- (a) gives the protected person any information on the basis of which the complaint or notification is made or the information is given; or
 - (b) is otherwise concerned in the making of the complaint or notification or the giving of the information.

197. Regulations

- (1) The Governor may make regulations prescribing matters that are —
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting subsection (1), regulations may be made about any of the following matters —
- (a) veterinary medicine;
 - (b) the practice of veterinary medicine, including restrictions on that practice and the supervision of that practice;
 - (c) veterinarians and veterinary nurses;
 - (d) authorised persons, including —
 - (i) applications for, and the grant of, authorisations; and

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- (ii) conditions of authorisations; and
- (iii) the renewal, suspension or cancellation of authorisations;
- (e) registered practice owners for veterinary premises;
- (f) the branches of veterinary medicine accredited as specialties or the manner in which branches of veterinary medicine must be accredited as specialties;
- (g) records to be kept by veterinarians, veterinary nurses, practice owners and authorised persons;
- (h) the possession, use, supply or sale by a veterinarian of any medicine or poison as those terms are defined in the *Medicines and Poisons Act 2014* section 3;
- (i) requirements for veterinary premises, including requirements relating to their design, construction, management, control and operation;
- (j) the appointment and functions of veterinary supervisors;
- (k) acts of veterinary medicine that may be carried out, and the circumstances or conditions under which they may be carried out, by veterinary nurses and authorised persons;
- (l) professional standards for veterinarians and veterinary nurses, including in relation to advertising;
- (m) arrangements for the continuing professional development of veterinarians and veterinary nurses;
- (n) procedures in relation to the making of complaints;
- (o) the conduct of investigations;
- (p) maintaining the register, including the provision of information to the Board to assist in maintaining the accuracy of the register;
- (q) the issue, display and use of certificates of registration;

- (r) notices and other information to be given to the Board by veterinarians, veterinary nurses, practice owners or authorised persons, and the manner in which the notices or information must be given;
- (s) a requirement for information supplied to the Board or a committee to be verified by statutory declaration;
- (t) fees for the purposes of this Act.

(3) The regulations may provide that contravention of a regulation is an offence, and prescribe, for an offence under the regulations, a penalty not exceeding a fine of \$10 000 and a daily penalty not exceeding a fine of \$5 000.

198. Codes of practice

(1) The Board may issue codes of practice for the purpose of providing guidance about any of the following matters —

- (a) the practice of veterinary medicine by veterinarians;
- (b) work carried out by veterinary nurses involving veterinary medicine;
- (c) work carried out by authorised persons involving veterinary medicine;
- (d) the conduct of veterinarians, veterinary nurses and authorised persons in the practice of their profession or the carrying out of their work;
- (e) the management, control and operation of veterinary premises.

(2) The Board may amend or revoke a code of practice issued under this section.

(3) A code of practice issued under this section must be made publicly available in any manner the Board considers appropriate, including (without limitation) by means of a website maintained by the Board.

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(4) A code of practice issued under this section may apply, adopt or incorporate any matter contained in a document issued or published by a person or body —

(a) with or without modification; and

(b) whether in force at a particular time or from time to time.

(5) The Board must publish a notice in the *Gazette* giving details of —

(a) the issue, amendment or revocation of a code of practice under this section; and

(b) where copies of the code, including any revision of the code and any document incorporated in it by reference, have been made available under subsection (3).

(6) A code of practice issued under this section is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.

(7) If there is a conflict or inconsistency between a provision of the regulations and a provision of a code of practice issued under this section, the provision of the regulations prevails.

199. Breach of code of practice

(1) A breach of a code of practice issued under section 198 does not of itself constitute unprofessional conduct or professional misconduct but in any proceedings under Part 7 such a breach may be asserted and may be taken into account in dealing with the complaint.

(2) However, no civil or criminal liability attaches to a person by reason only that the person has committed a breach of a code of practice issued under section 198.

200. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
- (a) as soon as practicable after the 5th anniversary of the day on which this section comes into operation; and
 - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years, as the case may be.

Part 15 — Repeals

201. Written laws repealed

(1) The *Veterinary Surgeons Act 1960* is repealed.

(2) The *Veterinary Surgeons Regulations 1979* are repealed.

Part 16 — Transitional and validation provisions

Division 1 — Preliminary

202. Terms used

In this Part —

assets —

- (a) means legal or equitable estates or interests (whether present or future, whether vested or contingent and whether personal or assignable) in property; and
- (b) includes money, securities, choses in action and documents;

former Board means the Veterinary Surgeons' Board constituted under the repealed Act;

liabilities means liabilities, duties or obligations, whether actual, contingent or prospective, liquidated or unliquidated or whether owed alone or jointly or jointly and severally with other persons;

new Board means the Veterinary Practice Board of Western Australia established by section 151(1);

repealed Act means the *Veterinary Surgeons Act 1960*;

rights means rights, powers, privileges or immunities, whether actual, contingent or prospective;

transition day means the day fixed under section 2(b).

Division 2 — Transitional matters

Subdivision 1 — Registration, approvals and authorisations

203. Registration of veterinary surgeons and specialists

- (1) A person who, immediately before transition day, was registered under section 17(2)(a) of the repealed Act as a

veterinary surgeon is taken to hold general registration as a WA veterinarian under and subject to this Act.

(2) A person who, immediately before transition day, was registered under section 17(2)(a) of the repealed Act as an honorary veterinary surgeon is taken to hold honorary registration as a WA veterinarian under and subject to this Act.

(3) A person who, immediately before transition day, was registered under section 17(2)(a) of the repealed Act as a specialist in a particular specialty is taken to hold specialist registration as a WA veterinarian under and subject to this Act in the corresponding specialty.

(4) A person to whom subsection (1), (2) or (3) applies is taken to hold registration —

(a) until 30 June immediately following transition day; and

(b) otherwise on the same terms and conditions as applied immediately before transition day to the person's registration under the repealed Act.

204. Provisional registration of veterinary surgeons

(1) A person who, immediately before transition day, held a certificate of provisional registration as a veterinary surgeon granted under section 20B(1) of the repealed Act is taken to hold interim registration as a WA veterinarian under and subject to this Act.

(2) A person to whom subsection (1) applies is taken to hold interim registration —

(a) until the date stated or fixed in relation to the person under section 20B(2) of the repealed Act; and

(b) otherwise on the same terms and conditions as applied immediately before transition day to the person's provisional registration under the repealed Act.

205. Registration of bodies corporate ceases

If a body corporate was, immediately before transition day, registered under section 17(2)(b) of the repealed Act as a veterinary surgeon —

- (a) the body corporate’s registration ceases on transition day; and
- (b) the body corporate is entitled, on application to the Board, to a pro rata refund of any fees paid by the body corporate in respect of a period after transition day to a maximum of 50% of the fee.

206. Veterinary clinics and veterinary hospitals

- (1) Premises that, immediately before transition day, were registered under section 24A of the repealed Act as a veterinary clinic or veterinary hospital are taken to be registered as veterinary premises under and subject to this Act.
- (2) A registered veterinary surgeon (as defined in section 2 of the repealed Act) who, immediately before transition day, had the management of premises referred to in subsection (1) is taken to be the veterinary supervisor for those premises under and subject to this Act.

207. Approved veterinary nurses

- (1) A person who, immediately before transition day, was approved under section 26E of the repealed Act to carry out the duties of a veterinary nurse is taken to hold registration as a veterinary nurse under and subject to this Act.
- (2) A person to whom subsection (1) applies is taken to hold registration —
 - (a) until 30 June immediately following transition day; and
 - (b) otherwise on the same terms and conditions as applied immediately before transition day to the person’s approval under section 26E of the repealed Act.

208. Authorised persons

A person who, immediately before transition day, was authorised under section 26(4)(b) of the repealed Act is taken to be an authorised person under and subject to this Act on the same terms and conditions as applied immediately before transition day to the person's authorisation under the repealed Act.

209. Applications for registration or approval

- (1) An application for registration, or renewal of registration, as a veterinary surgeon under section 20, 20AA or 20AB of the repealed Act that was made but not decided before transition day is taken to be an application for registration as a WA veterinarian under section 5(1) of this Act, or renewal of registration as a WA veterinarian under section 6(1) of this Act, as the case requires, in the appropriate category of registration.
- (2) An application for approval, or renewal of approval, as a veterinary nurse for the purposes of section 26E of the repealed Act that was made but not decided before transition day is taken to be an application for registration as a veterinary nurse under section 5(1) of this Act, or renewal of registration as a veterinary nurse under section 6(1) of this Act, as the case requires.
- (3) An application for registration, or renewal of registration, of premises as a veterinary clinic or veterinary hospital under section 24A of the repealed Act that was made but not decided before transition day is taken to be an application for registration of premises under section 35(1) of this Act, or renewal of registration of premises under section 36(1) of this Act, as the case requires.

210. Certificates of registration and approval

- (1) A certificate of registration issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of registration as a WA veterinarian under this Act in the category of general registration.
- (2) A certificate of honorary registration issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of registration as a WA veterinarian under this Act in the category of honorary registration.
- (3) A certificate of registration as a specialist issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of registration as a WA veterinarian under this Act in the category of specialist registration in the particular specialty.
- (4) A certificate of provisional registration issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of interim registration as a WA veterinarian under this Act.
- (5) A certificate of approval as a veterinary nurse issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of registration as a veterinary nurse under this Act.
- (6) A certificate of registration of a veterinary clinic or veterinary hospital issued under the repealed Act and in effect immediately before transition day is taken to be a certificate of registration in respect of veterinary premises under this Act.

Subdivision 2 — Investigations, inquiries and proceedings

211. Investigation and inquiries under repealed Act

An investigation or inquiry under the repealed Act that was commenced but not completed before transition day must be

continued and dealt with as if it were an investigation of, or inquiry into, a complaint under this Act.

212. Current proceedings before Tribunal

Proceedings that were commenced by allegation made to the Tribunal under the repealed Act but not finally determined before transition day —

(a) are taken to have been commenced under this Act; and

(b) must be dealt with under this Act.

Subdivision 3 — The Board

213. Board a continuation of former Board

(1) The new Board is a continuation of, and the same legal entity as, the former Board, and the assets, rights and liabilities of or in relation to the former Board continue as assets, rights and liabilities of the new Board.

(2) A reference to the former Board in a written law or other document or instrument is, where the context so requires, to be read as if it had been amended to be a reference to the new Board.

214. Members of former Board go out of office

On transition day the members of the former Board go out of office.

215. Initial membership of new Board

(1) In this section —

former elected member means a person who, immediately before transition day, held office as a member of the former Board under section 5(1)(b) of the repealed Act;

transition period means the period beginning on transition day and ending on the day before the day on which the Minister appoints a Board member for the purposes of section 152(4)(c).

(2) Despite section 152(2) and (4)(c), during the transition period the new Board consists of 7 members appointed by the Minister.

(3) Those Board members are —

(a) the Board members appointed for the purposes of section 152(4)(a), (d), (e) and (f); and

(b) the Board member appointed under subsection (4)(a).

(4) The Minister must appoint —

(a) a former elected member as a Board member; and

(b) a former elected member as a deputy of the Board member referred to in paragraph (a).

(5) The former elected member appointed under subsection (4)(a) is taken to be the Board member appointed for the purposes of section 152(4)(b).

(6) The former elected member appointed under subsection (4)(b) is taken to be a deputy appointed under section 154(1).

(7) An election for the purposes of section 152(4)(c) must be held as soon as practicable after transition day.

216. Staff of former Board

(1) The person who, immediately before transition day, held office as registrar of the former Board continues in office, under and subject to this Act, as registrar of the new Board.

(2) Other persons who, immediately before transition day, held office as officers of the former Board continue in office, under and subject to this Act, as staff of the new Board.

(3) A person mentioned in subsection (1) or (2) is taken to have been employed or engaged, according to the terms of the person's appointment, under this Act.

(4) Except as otherwise agreed by a person mentioned in subsection (1) or (2), the operation of this section does not —

(a) affect the person's remuneration, existing or accruing rights under a superannuation scheme or in respect of annual leave, long service leave, sick leave or parental leave; or

(b) interrupt the continuity of the person's service.

217. Current proceedings involving former Board

Proceedings that were commenced by or against the former Board but not finally determined before transition day must be dealt with and determined as if the proceedings had been commenced by or against the new Board.

218. Completion of things commenced

Anything commenced to be done by the former Board before transition day may be continued by the new Board after transition day so far as the doing of that thing is a function of the new Board.

219. Continuing effect of things done

Any act, matter or thing done or omitted to be done before transition day by, to or in respect of the former Board is taken to have been done or omitted by, to or in respect of the new Board —

(a) to the extent that the act, matter or thing is relevant to the new Board; and

(b) so far as the act, matter or thing —

(i) has any force or significance; and

(ii) is not governed by another provision of this Division.

220. First annual report of Board

In its first annual report under section 192(1) the new Board must also report on the proceedings of the former Board for the period beginning on 1 July in the preceding year and ending immediately before transition day.

Subdivision 4 — Miscellaneous matters

221. Register

The register referred to in section 17(1) of the repealed Act continues, under and subject to this Act, as the register under this Act.

222. Certain references to this Act include repealed Act

The references to this Act in the provisions listed in the Table include the repealed Act.

Table

<u>s. 18(a)(i), (b) and (g)</u>	<u>s. 29(2)(c)</u>
<u>s. 47(2)(d)</u>	<u>s. 80(a)(i)</u>

223. Interpretation Act 1984 not affected

Except to the extent that this Division or regulations made under section 224(2) expressly provide differently, the *Interpretation Act 1984* applies in relation to the repeal of the written laws referred to in section 201.

224. Transitional regulations

(1) In this section —

publication day, for transitional regulations, means the day on which those regulations are published in the *Gazette*;

specified means specified or described in transitional regulations;

transitional matter —

(a) means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the written laws repealed by section 201 to the provisions of this Act; and

(b) includes a saving or application matter;

transitional regulations means regulations made under subsection (2).

(2) If there is no sufficient provision in this Division for dealing with a transitional matter, the Governor may make regulations prescribing matters —

(a) required to be prescribed for the purpose of dealing with the transitional matter; or

(b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.

(3) Transitional regulations may provide that specified provisions of this Act —

(a) do not apply to or in relation to a specified matter; or

(b) apply with specified modifications to or in relation to a specified matter.

(4) If transitional regulations provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than publication day for the transitional regulations but not earlier than transition day, the transitional regulations have effect according to their terms.

(5) If transitional regulations contain a provision referred to in subsection (4), the provision does not operate so as to —

(a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that person existing before publication day for the transitional regulations; or

(b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day for the transitional regulations.

Division 3 — Validation

225. Validation provision

(1) Regulations made, or purported to be made, under the repealed Act imposing a fee payable to the former Board in respect of the registration, or renewal of registration, of premises as a veterinary clinic or veterinary hospital were, and are taken always to have been, valid and effective even if they were inconsistent with or repugnant to a provision of the repealed Act.

(2) A fee imposed under regulations referred to in subsection (1) was, and is taken always to have been, validly imposed under the repealed Act.

Part 17 — Other Acts amended

226. Animal Welfare Act 2002 amended

(1) This section amends the *Animal Welfare Act 2002*.

(2) In section 5(1) delete the definition of *veterinary surgeon*.

(3) In section 5(1) insert in alphabetical order:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3.

(4) In section 21 delete “veterinary surgeon,” (each occurrence) and insert:

veterinarian,

(5) Delete section 48(4) and insert:

(4) Subject to subsection (5), if an inspector is permitted under this Act to do an act in relation to an animal that is an act of veterinary medicine, the inspector must ensure that the act is done by a veterinarian.

(4A) In subsection (4) —

veterinary medicine has the meaning given in the *Veterinary Practice Act 2021* section 3.

(6) In section 48(5) delete “veterinary surgeon” and insert:

veterinarian

(7) In section 54(1) delete “veterinary surgeon” and insert:

veterinarian

227. Biosecurity and Agriculture Management Act 2007 amended

(1) This section amends the *Biosecurity and Agriculture Management Act 2007*.

(2) In section 6 delete the definition of *veterinary surgeon*.

(3) In section 6 insert in alphabetical order:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3;

(4) In section 6 in the definition of *veterinary chemical product*:

(a) in paragraph (a)(i) delete “veterinary surgeon” and insert:

veterinarian

(b) delete paragraph (a)(ii) and insert:

(ii) prepared by a veterinarian in the course of practising veterinary medicine as defined in the *Veterinary Practice Act 2021* section 3;

(5) In section 26(3) delete “veterinary surgeon,” and insert:

veterinarian,

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(6) In section 118(1)(m) delete “veterinary surgeon” and insert:

veterinarian

(7) In Schedule 1 item 26 delete “veterinary surgeons” and insert:

veterinarians

228. Cat Act 2011 amended

(1) This section amends the *Cat Act 2011*.

(2) In section 3(1) delete the definition of *veterinarian* and insert:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3.

229. Constitution Acts Amendment Act 1899 amended

(1) This section amends the *Constitution Acts Amendment Act 1899*.

(2) In Schedule V Part 3 delete the item for the Veterinary Surgeons’ Board.

(3) In Schedule V Part 3 after the item for the Urban Lands Council insert:

The Veterinary Practice Board of Western Australia established by the *Veterinary Practice Act 2021*.

230. Dog Act 1976 amended

(1) This section amends the *Dog Act 1976*.

(2) In section 3(1) delete the definitions of:

registered veterinary surgeon
veterinarian

(3) In section 3(1) insert in alphabetical order:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3;

(4) In section 3(1) in the definition of *person liable for the control of the dog* delete paragraph (e) and insert:

(e) a veterinarian, or a person acting on a veterinarian's behalf, in the course of the veterinarian's professional practice; or

(5) Delete section 7(3)(c)(i) and insert:

(i) a veterinarian, or a person acting on a veterinarian's behalf, in the course of the veterinarian's professional practice;
or

(6) In section 10A(1):

(a) in paragraph (a) delete "registered veterinary surgeons" and insert:

veterinarians

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(b) in paragraph (b) delete “veterinary surgeons” and insert:

veterinarians

(7) In section 10A(2) delete “veterinary surgeon” (each occurrence) and insert:

veterinarian

(8) In section 29(12) delete “registered veterinary surgeon,” and insert:

veterinarian

(9) In section 33A(2)(a) delete “premises used for the practice of a registered veterinary surgeon; or” and insert:

veterinary premises as defined in the *Veterinary Practice Act 2021* section 3; or

Note: The heading to amended section 10A is to read:

Payments to veterinarians towards cost of sterilisation

231. *Exotic Diseases of Animals Act 1993* amended

(1) This section amends the *Exotic Diseases of Animals Act 1993*.

(2) In section 8(a)(iii) delete “veterinary surgeon,” and insert:

veterinarian.

232. Medicines and Poisons Act 2014 amended

(1) This section amends the *Medicines and Poisons Act 2014*.

(2) In section 3 delete the definition of *veterinary surgeon*.

(3) In section 3 insert in alphabetical order:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3.

(4) In section 3 in the definition of *health professional* delete paragraph (b) and insert:

(b) a veterinarian; or

(5) In section 31(1) in the definition of *relevant regulatory authority* delete paragraph (b) and insert:

(b) in the case of a veterinarian, the *Veterinary Practice Board of Western Australia* established by the *Veterinary Practice Act 2021*.

(6) In section 77(1) in the definition of *client* paragraph (b):

(a) delete “veterinary surgeon —” and insert:

veterinarian —

(b) delete “veterinary surgeon” and insert:

veterinarian

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(7) Delete section 126(f)(ii) and insert:

(ii) a veterinarian;

233. Oaths, Affidavits and Statutory Declarations Act 2005 amended

(1) This section amends the *Oaths, Affidavits and Statutory Declarations Act 2005*.

(2) Delete Schedule 2 item 44 and insert:

44. A veterinarian as defined in the *Veterinary Practice Act 2021* section 3. Veterinarian

234. Retail Trading Hours Act 1987 amended

(1) This section amends the *Retail Trading Hours Act 1987*.

(2) Delete section 4(3)(c) and insert:

(c) veterinary premises as defined in the *Veterinary Practice Act 2021* section 3; or

235. Sentencing Act 1995 amended

(1) This section amends the *Sentencing Act 1995*.

(2) In Schedule 1 insert in alphabetical order:

Veterinary Practice Act 2021 *Veterinary Practice Board of Western Australia*

236. State Administrative Tribunal Act 2004 amended

(1) This section amends the *State Administrative Tribunal Act 2004*.

(2) In Schedule 1 delete “*Veterinary Surgeons Act 1960*” and insert:

Veterinary Practice Act 2021

237. Veterinary Chemical Control and Animal Feeding Stuffs Act 1976 amended

(1) This section amends the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976*.

(2) In section 5(1) delete the definition of *veterinary surgeon*.

(3) In section 5(1) insert in alphabetical order:

veterinarian has the meaning given in the *Veterinary Practice Act 2021* section 3;

(4) In section 5(1) in the definition of *veterinary chemical product*:

(a) in paragraph (a)(i) delete “*veterinary surgeon*” and insert:

veterinarian

(b) in paragraph (a)(ii) delete “*veterinary surgeon*,” and insert:

veterinarian,

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(5) In section 15(2)(c) delete “veterinary surgeons” and insert:

veterinarians

(6) In section 16(2)(a)(ii):

(a) delete “veterinary surgeon” and insert:

veterinarian

(b) delete “veterinary surgeon’s” and insert:

veterinarian’s

(7) In section 65:

(a) in paragraph (c) delete “veterinary surgeon” and insert:

veterinarian

(b) delete paragraph (c)(ii) and insert:

(ii) in the case of a veterinarian, by the registrar as defined in the *Veterinary Practice Act 2021* section 3; and

Notes

This is a compilation of the *Veterinary Practice Act 2021*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Veterinary Practice Act 2021</i> Pt. 1	19 of 2021	27 Oct 2021	Pt. 1 : 27 Oct 2021 (see s. 2(a)); Act other than Pt. 1 : 18 Jun 2022 (see s. 2(b) and SL 2022/81 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Veterinary Practice Act 2021 Pt. 2-17</i>	19 of 2021	27 Oct 2021	To be proclaimed (see s. 2(b))
<i>Mutual Recognition (Western Australia) Amendment Act 2022 Pt. 3 Div. 14</i>	7 of 2022	29 Mar 2022	To be proclaimed 1 Jul 2022 (see s. 2(b)) and SL 2022/80 cl. 2