

VETERINARY SURGEONS.

9° Elizabeth II., No. LXIV.

No. 64 of 1960.

AN ACT to Consolidate Certain Acts Regulating the Practice of Veterinary Surgery, by repealing those Acts and re-enacting them with Amendments, and for incidental and other purposes.

[Assented to 2nd December, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

Short title,
commence-
ment and
repeal.

1. (1) This Act may be cited as the *Veterinary Surgeons Act, 1960.*

(2) This Act shall come into operation on a day to be fixed by proclamation.

(3) The Veterinary Act, 1911, and the Veterinary Surgeons Act Amendment Act, 1923, are repealed.

2. In this Act unless the context requires otherwise— Interpre-
tation.

“Board” means the Veterinary Surgeons’ Board constituted under this Act;

“diploma” means any diploma, certificate, or other document granted by any college, corporation or other body that is recognised for the time being by the Board;

“member” means a member of the Board;

“Register” means the Register of Veterinary Surgeons, Western Australia, referred to in section seventeen of this Act;

“registered veterinary surgeon” means a person whose name appears in the Register and includes a person who is deemed to be registered as a veterinary surgeon under this Act;

“Registrar” means the Registrar appointed by the Board under this Act;

“veterinary surgery” means the art and science of veterinary surgery and medicine.

3. Subject to the Minister, this Act shall be administered by the Board. Adminis-
tration.

PART II.—THE VETERINARY SURGEONS’ BOARD.

4. (1) For the purposes of this Act there shall be a Board by the name of the Veterinary Surgeons’ Board. Establi-
shment of
Board.

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal; and

(b) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property and of suing and being sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

**Constitution
of Board.**

5. (1) The Board shall consist of five members, who shall be appointed by the Governor and shall be—

- (a) the person holding the office of Chief Veterinary Surgeon in the Government department known as the Department of Agriculture;
- (b) two persons who are registered veterinary surgeons and who shall be elected at such time and in such manner and subject to such conditions as may be prescribed, to be members, by the persons who are so registered;
- (c) one person nominated in writing to be a member by the Western Australian division of the body known as the Australian Veterinary Association and who shall be a registered veterinary surgeon; and
- (d) one person nominated in writing by the Minister.

(2) A member shall be appointed to hold office for three years but is eligible for re-appointment if at the time of his re-appointment he has the necessary qualifications.

(3) In the event of a member ceasing to hold office before the termination of the period of his appointment, another member may be appointed in his place for the remainder of that period.

(4) The exercise of a power or the performance of a function by the Board is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Board.

(5) The appointment of a member is not invalidated and shall not be called into question by reason of a defect or irregularity in or in connection with his election or his nomination.

6. (1) The Governor may appoint a person to be the deputy of a member during the pleasure of the Governor.

Deputies of
members.

(2) A person so appointed shall have the same qualifications as are required in the case of the member for whom he is deputy and in the event of the absence from a meeting of the Board of that member he is entitled to attend that meeting and, when so attending, shall be deemed to be a member.

7. (1) At the first meeting of the Board, the Board shall appoint one of its members to be chairman of the Board.

Chairman
of the
Board.

(2) In the event of a vacancy occurring in the office of chairman, the Board shall, at the next meeting of the Board, after the vacancy occurs, appoint one of its members to be chairman of the Board.

(3) Before or during any absence of the chairman of the Board, the Board may choose one of its members to perform the duties and exercise the powers of the chairman in his absence, as vice-chairman and while so acting the vice-chairman has the same powers as and is subject to the same duties as the chairman.

(4) A member of the Board appointed as chairman holds office until the appointment of a successor or until he ceases to be a member, whichever first happens, but is eligible for re-appointment if he is then otherwise qualified to be a member.

8. The Board may grant leave of absence to a member upon such terms and conditions as the Board determines.

Leave of
absence.

Fees,
allowances,
expenses.

9. Each member and deputy of a member is entitled to such remuneration and travelling expenses while engaged with the approval of the Board on business of the Board as are prescribed.

Vacation
of office.

10. If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Board, from three consecutive meetings of the Board;
- (c) becomes permanently incapable of performing his duties;
- (d) becomes a person who would not be qualified to be appointed a member;
- (e) dies or resigns his office by writing under his hand addressed to the Governor, and the resignation is accepted;
- (f) is convicted of any indictable offence or of an offence against this Act; or
- (g) is informed in writing by the Governor that for good cause, he has terminated his appointment as a member,

the Minister shall, by notice in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

Power of
Governor
to fill
vacancies
of elected
members.

11. If at the time prescribed for holding an election to elect the two persons referred to in paragraph (b) of subsection (1) of section five of this Act to be members—

- (a) no election is held;
- (b) no candidates are nominated; or
- (c) the number of candidates nominated is less than the number of candidates required to be elected,

the Governor may appoint any person or persons, as the case requires, having the necessary qualifications to be a member or members to fill the existing vacancies in the membership of the Board for which purpose the election was to be held, and the persons so appointed shall be deemed to have been duly elected.

12. (1) Meetings of the Board shall be held at such times and places as the Board from time to time appoints.

Ordinary
and special
meetings
of the
Board.

(2) The chairman of the Board, or a majority of the members, may at any time call a special meeting of the Board.

(3) The chairman of the Board or the Registrar shall call a special meeting of the Board whenever he is requested so to do by a written requisition under the hands of the majority of the members.

Failure to comply with the provisions of this section: Penalty, ten pounds.

13. The Board may from time to time appoint on such terms and conditions as the Board determines a Registrar and such other officers as it may think necessary for the purpose of carrying this Act into effect, and may from time to time and at any time remove any person so appointed.

Officers.

14. A person who is or has been a member or Registrar is not personally liable for anything done or omitted in good faith, in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Board by or under this Act.

Exemption
from
personal
liability.

15. At a meeting of the Board—

Meetings
of Board.

(a) three members form a quorum;

(b) the chairman or, in his absence, the vice-chairman, shall preside;

- (c) all questions shall be deemed by a majority of votes of the members present and voting; and
- (d) the chairman or vice-chairman if presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**Funds
of Board.**

16. (1) The Board or the Registrar shall pay into the funds of the Board all moneys received by the Board, or the Registrar, under this Act.

(2) The Board shall pay or cause to be paid out of its funds the remuneration and travelling expenses of the members and the salary and expenses of the Registrar and other officers appointed by the Board under this Act, and all other costs and expenses of and incidental to the administration of this Act.

(3) If the funds of the Board are insufficient at any time for the proper administration of this Act by the Board, the Treasurer with the approval of the Governor, who is hereby authorised to grant the approval, may make, from the Public Account, advances of such amounts as the Governor approves and such amounts shall be repaid by the Board free of interest as soon as the funds of the Board are sufficient, after payment of all the other costs of the administration of this Act have been paid, to pay the amounts.

(4) Any surplus funds of the Board which are not required for the purposes of subsection (2) or (3) of this section may be expended by the Board for the purposes of the advancement of veterinary science in such manner as it may determine.

PART III.—REGISTER OF VETERINARY
SURGEONS.

Register.

17. (1) For the purposes of this Act, the Registrar shall keep in the prescribed form a register called the Register of Veterinary Surgeons, Western Australia.

(2) The Registrar may register a person having the necessary qualifications under this Act, by entering his name together with the other particulars referred to in subsection (3) of this section.

(3) On payment of the prescribed fee, the Registrar shall enter in the Register—

- (a) the full name and address of a person who is entitled to be registered under this Act;
- (b) the date and description of the qualifications in respect of which the registration is granted; and
- (c) such other particulars as may be prescribed.

(4) (a) In all questions under this Act and in any prosecution for any offence against this Act, a certificate under the hand of the Registrar is *prima facie* evidence of the truth of the matter contained therein.

(b) Courts, Judges and other persons acting judicially shall take judicial notice of the appointment and signature of the Registrar.

(5) (a) The Registrar shall in the month of January in each year transmit to the Minister a copy of the Register certified by him to be a correct copy of the Register as at the first day of January in that year.

(b) The Minister shall as soon as practicable after he receives the copy cause it to be published in the *Gazette* under the heading, "Roll of Veterinary Surgeons for Western Australia," followed by the year in which it is published.

(6) (a) A copy of the *Gazette* containing the roll for any year is *prima facie* evidence in all proceedings that the persons, other than a person referred to in subsection (3) of section twenty of this Act, named in the roll are registered under this Act and possess the qualifications therein mentioned.

(b) The absence of the name of a person from the roll is *prima facie* evidence that the person is not so registered; and the fact that the roll does not show that registration of a person has been granted in respect of any particular qualification is *prima facie* evidence that the person does not possess that qualification.

Roll fees.

18. Every person who is registered under this Act shall on or before the thirty-first day of December in the year in which he was first registered, and on or before that date in every year during which he continues to be so registered, pay to the Registrar the prescribed roll fee.

Power of Board to make necessary alterations in Register and to remove names.

19. (1) The Board may from time to time make any necessary alterations in the Register so as to ensure that the Register is kept correctly posted.

(2) The Board may from time to time cause the Registrar to send a prepaid registered letter to any person registered under this Act, addressed to him at his address as appearing in the Register, and if no answer to the letter is received from that person within two months after the date of the posting of that letter, then the Board may cause the name of that person to be removed from the Register.

(3) If the name of a person is removed from the Register under this section, the Board may restore his name to the Register upon the production of his certificate of registration or proof to the satisfaction of the Board of his former registration and payment of the prescribed fee for restoration.

PART IV.—VETERINARY SURGEONS: PRACTITIONERS AND PERMIT HOLDERS.

Qualifications and registration.

20. (1) Every person is entitled to be registered under this Act who proves to the satisfaction of the Board that he—

- (a) has attained the age of twenty-one years;
- (b) is a person of good fame and character;

(c) (i) holds a degree, diploma or license of competency in veterinary science from the University of Sydney, Melbourne, or of Queensland (or some other university, college or institution recognised by the Board) or is a member of the Royal College of Veterinary Surgeons of Great Britain; or

(ii) has passed through a regularly graded course of study in veterinary science of four or more years' duration at a university, college or institution recognised by the Board other than those specifically referred to in subparagraph (i) of this paragraph; or

(iii) has obtained from any university, college or institution outside the Commonwealth a degree, diploma or license of competency in veterinary science, which the holder thereof proves to the satisfaction of the Board is, or at the time of its issue was, accepted in the country in which it was issued, as sufficient evidence of the holder having the requisite knowledge of and skill in the practice of veterinary science, so as to permit him to practise that science in that country, and

(I) has at the time of making application for registration been resident in the Commonwealth for a continuous period of one year or more immediately preceding the date of the application; and

(II) has passed a prescribed examination to the satisfaction of the Board.

(2) Any person who, immediately before the coming into operation of this Act, was registered as a veterinary practitioner under the provisions of section twenty-one of the Veterinary Act, 1911, shall be deemed for the purposes of this Act, a registered veterinary surgeon.

(3) (a) Any person who, immediately before the coming into operation of this Act, held a current permit under the Veterinary Surgeons Act Amendment Act, 1923, shall be permitted to perform and give for reward any veterinary service, operation or advice.

(b) The provisions of section twenty-six of this Act, other than paragraph (b) thereof, do not apply to a person acting under authority of this subsection.

(4) Any permit referred to in subsection (3) of this section shall, subject to this Act, continue to operate as though it had been issued by the Board under this Act.

(5) The Registrar shall, on payment of the prescribed fee, include in the roll mentioned in section seventeen of this Act the name of any person referred to in subsection (2) or (3) of this section under the respective appropriate headings, "Veterinary Practitioner" or "Veterinary Permit Holder."

(6) If any person referred to in subsection (3) of this section is, after due enquiry by the Board, adjudged by it to be incompetent to perform or give any veterinary service, operation or advice, which he is authorised by the permit held by him to perform or give, or to have been guilty of conduct of such a nature that, if it were committed by a registered veterinary surgeon, would in the opinion of the Board justify it in removing the name of that surgeon from the Register, or if at any time a

registered veterinary surgeon resides and is in practice within the area to which the permit relates, the Board may cancel the permit.

21. (1) Application for registration under this Act— Application for registration.

- (a) shall be made in manner prescribed;
- (b) shall be supported by such evidence with respect to the applicant as the Board may require, including a statutory declaration verifying the fact that the applicant has not been refused registration or that his name has not been removed from the Register or other similar public document in any other place outside the State, and if such is the case, the reason therefor; and
- (c) shall be accompanied by the prescribed fee.

(2) When any person is registered under this Act, the Board may issue a certificate of registration in respect of that person, as prescribed. Certificates of registration.

(3) Every registered veterinary surgeon who obtains any degree, diploma or status of a higher standing than that shown opposite his name in the Register, or any qualification other than that in respect of which he is registered is entitled to have that degree, diploma, status or additional qualification inserted in the Register, on making application in that behalf to the Board and on paying the prescribed fee.

(4) Every registered veterinary surgeon on changing his place of business shall forthwith give notice of the fact by post to the Registrar.

22. (1) Where the application of any person to be registered under this Act as a veterinary surgeon is refused by the Board upon any ground other than the ground that he does not possess any of the Appeal against refusal to register.

required qualifications referred to in paragraph (c) of subsection (1) of section twenty of this Act, that person has the right of appeal against refusal to a Judge in accordance with Rules of Court.

(2) The appeal shall be in the nature of a rehearing and the Board shall give effect to the decision of the Judge made on the appeal.

Removal
from
Register.

23. (1) The Board shall cause to be removed from the Register the name of any person who—

- (a) has died;
- (b) has ceased to possess, or does not possess, any of the qualifications referred to in section twenty of this Act;
- (c) has become permanently incapable of performing his duties as a registered veterinary surgeon;
- (d) has requested in writing that his name be so removed;
- (e) has failed to pay the prescribed fee payable under section eighteen of this Act.

(2) Where a registered veterinary surgeon—

- (a) has been convicted either in this State of an indictable offence or elsewhere of an offence of such a nature, which, if that offence were committed in this State, it would have been an indictable offence; or
- (b) has been adjudged by the Board after an enquiry as provided in this Act has been held by the Board, to have been guilty of unprofessional conduct as a registered veterinary surgeon,

the Board may remove his name from the Register or order the suspension of his registration for such period as the Board shall think fit.

(3) During the period that any registration is so suspended, the person in respect of which the order is made, shall be deemed not to be registered as a veterinary surgeon under this Act.

(4) Without limiting the meaning of the expression, "unprofessional conduct as a veterinary surgeon", a registered veterinary surgeon is guilty of such unprofessional conduct who—

- (a) is an habitual drunkard;
- (b) is habitually addicted to drugs;
- (c) contravenes any of the provisions of subsections (3) or (4) of section twenty-six of this Act; or
- (d) advertises in any way in respect of his profession as a veterinary surgeon otherwise than in accordance with the regulations, or so advertises in contravention of the regulations.

(5) Where a person has been convicted of any offence referred to in paragraph (a) of subsection (2) of this section, if in the opinion of the Board the offence does not, either from its nature or from the circumstances under which it was committed, render the person unfit, having regard to the interest of the public, to practise veterinary science, the Board shall not remove the name of that person from the Register or suspend his registration as a veterinary surgeon.

(6) Where a person is charged with unprofessional conduct as a veterinary surgeon, the Board, when holding the enquiry, which it is hereby authorised to do, shall hold it as an open and public enquiry, and the person whose conduct is the subject of the enquiry has the right to appear before the enquiry and be heard in person or by his counsel.

(7) (a) For the purposes of the enquiry, the Board has and may exercise the powers of a Royal Commission as if appointed under the provisions of

the Royal Commissioners' Powers Act, 1902, for the purpose, and the chairman of the Board or the member presiding at the enquiry has and may exercise the powers of the chairman of a Royal Commission as if so appointed.

(b) The provisions of that Act apply, with respect to the enquiry, as if repeated in this section.

(8) When the Board suspends the registration of a registered veterinary surgeon under the provisions of this section, the Registrar shall enter in the Register a memorandum of that fact and the date of and the reason for the suspension.

(9) (a) Any person aggrieved by the removal of his name from the Register or by the suspension of his registration as a veterinary surgeon may within one month after the date on which written notice is given to him by the Registrar that his name has been so removed or his registration so suspended, appeal to a Judge, in accordance with Rules of Court, against the removal or suspension.

(b) The appeal shall be in the nature of a rehearing and the Board shall give effect to the decision of the Judge made on the appeal.

Restoration
of name
to register.

24. (1) Subject to the provisions of subsection (2) of this section, where the Board removes the name of any person from the Register, the name of that person shall not again be entered therein except by order of a Judge on appeal or by the direction of the Board.

(2) The Board may direct the Registrar in any case where the circumstances appear to the Board to warrant it, to restore to the Register any name removed therefrom without payment of a fee or on payment of such fee, not exceeding the fee payable on registration, as the Board directs.

Prohibition
of unregis-
tered
persons from
recovering
fees.

25. (1) Subject to the provisions of subsection (2) of this section, no person is entitled to sue, counterclaim or set off, or recover any charge or

remuneration for any veterinary advice, attendance, service, operation or medicine, given, performed or supplied by him except—

- (a) a registered veterinary surgeon; or
- (b) a person who, immediately before the coming into operation of this Act, was the holder of a current permit under the Veterinary Surgeons Act Amendment Act, 1923.

(2) Nothing in this Act prohibits the performance and giving for reward of any veterinary service, operation or advice by any person, if and so long as no registered veterinary surgeon or any person who immediately before the coming into operation of this Act, held a current permit under the Veterinary Surgeons Act Amendment Act, 1923, resides and practises veterinary science within thirty miles of the place where such service, operation or advice is performed or given.

Exception where no registered veterinary surgeon within certain area.

(3) The provisions of section twenty-six of this Act, other than paragraph (b) thereof, do not apply to that person.

PART V.—OFFENCES.

26. (1) No person other than a registered veterinary surgeon, and no firm or association other than a firm or association consisting wholly of registered veterinary surgeons, shall—

Penalty for practising veterinary science.

- (a) practise veterinary surgery; or
- (b) use the title of veterinary surgeon or registered veterinary surgeon.

Penalty: One hundred pounds.

(2) Nothing in this section applies to the performing by any person of the operation of spaying cattle, tailing lambs or the dehorning or castration of any animal or such other operation as may be prescribed.

(3) No registered veterinary surgeon shall practise veterinary surgery except in and under his own name without the written permission of the Board.

(4) No registered veterinary surgeon shall make known the place or places where and the fact that he is practising veterinary surgery, except in accordance with the regulations.

Prescription
of proof
of action
formalities.

27. (1) In a prosecution or in other legal proceedings instituted by or under the direction of the Board, under the provisions of this Act, until proof is given to the contrary, proof is not required of—

- (a) the constitution of the Board;
- (b) an order of the Board to prosecute;
- (c) any authorisation by which the Board authorises a person to make a complaint for an offence against this Act; or
- (d) the appointment of the chairman of, or of any other member or of the Registrar to the Board.

Power for
Board
to take
proceedings
by Registrar,
etc.

(2) In any proceedings by or on behalf of the Board—

- (a) the Registrar; or
- (b) any member or employee of the Board appointed for the purpose generally or in a particular case in writing by the chairman of the Board,

may represent the Board in all respects as if he were the party concerned.

Application.

28. Nothing in this Act extends to or applies to or in any manner affects the rights and privileges of—

- (a) any registered pharmaceutical chemist in supplying drugs, medicines, medical and surgical appliances used for any animals in the ordinary course of his business as such;

- (b) of the owner of any wholesale druggist or retail business supplying drugs, medicines, medical and surgical appliances, and vaccines for the treatment of any animals.

29. A person who does not do a thing which by or under this Act he is required or directed to do, and a person who does or attempts to do a thing which by or under this Act he is prohibited from doing, commits an offence against the provisions of this Act.

Penalties for offences.

30. A person who commits an offence against the provisions of this Act is liable on conviction to the penalty expressly mentioned as the punishment for the offence, or, if a penalty is not so expressly mentioned, to a penalty not exceeding fifty pounds.

General penalty.

31. The Governor may make regulations prescribing fees and forms and all matters required or permitted to be prescribed or necessary or convenient to be prescribed for facilitating the carrying out or giving effect to this Act and without limiting the generality of the foregoing provisions of this section may make regulations—

Regulations.

- (a) for regulating the meetings and proceedings of the Board;
- (b) for prescribing the form of the seal of the Board and the manner in which the seal may be affixed to documents and the manner in which documents issued by the Board may be authenticated;
- (c) for prescribing the course of training of and examinations to be passed by persons desiring to be registered as veterinary surgeons;
- (d) for regulating the manner of making any charge or complaint against a registered veterinary surgeon or a person who was

the holder of a permit under the Veterinary Surgeons Act Amendment Act, 1923, on the coming into operation of this Act, and the holding of an enquiry by the Board into the charge or complaint;

- (e) for prescribing the fees to be charged for any registration, certificate, examination, or other matter under this Act;
- (f) relating to the registration and deregistration of veterinary surgeons;
- (g) for prescribing qualifications of universities, colleges or institutions for the purposes of this Act;
- (h) relating to the issue, cancellation, renewal and replacement of certificates of registration;
- (i) for regulating and prohibiting the method and manner in which a registered veterinary surgeon may make known the place or places where and the fact that he is practising veterinary science;
- (j) for prohibiting a person who is not a registered veterinary surgeon from representing directly or indirectly or holding himself out as being a registered veterinary surgeon or practising veterinary science;
- (k) for regulating and prohibiting the method and manner in which a person who was the holder of a permit under the Veterinary Surgeons Act Amendment Act, 1923, on the coming into operation of this Act may carry out certain veterinary practice;
- (l) imposing for a breach of a regulation—
 - (i) a maximum penalty of fifty pounds with or without provisions for
 - (ii) a maximum daily penalty during the breach, of one pound per day.