

WESTERN AUSTRALIA

VETERINARY MEDICINES.

2° Elizabeth II., No. XXIX.

No. 29 of 1953.¹

(Affected by Act No. 113 of 1965)

[As amended by Act No. 56 of 1963, assented to 17th December, 1963 and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to regulate the sale of Veterinary Medicines.

[Assented to 18th December, 1953.]

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:—

1. This Act may be cited as the *Veterinary Medicines Act, 1953-1963.*

Short title.
Amended by
No. 56 of
1963, s. 1 (3).

2. This Act shall come into operation on a day to be fixed by proclamation.¹

Commence-
ment.

3. In this Act, unless the context or subject matter otherwise requires—

Interpre-
tation.
Cf. Vic. 4488,
s. 2.
Amended by
No. 56 of
1963, s. 2.

“analyst” means the person appointed to the office of Government Analyst or while that office is vacant the person acting in that office; and includes the person appointed to the office of Divisional Chief, Food, Drugs and Toxicological Division of the Government Chemical Laboratories;

¹ The date so fixed by proclamation was 1/6/54. See G.G. 11/6/54, p. 1055.

“biological product” means any vaccine, serum, or virus, whether living or dead, or any other product of bacterial growth;

“Committee” means The Veterinary Medicines Advisory Committee constituted pursuant to the provisions of this Act;

“dealer” means a person who carries on business or trade as a seller of or dealer in any veterinary medicine whether he is the manufacturer of the veterinary medicine or not and whether he carries on any other business or trade or not;

“inspector” means a person appointed as an inspector under and for the purposes of this Act;

“label” means a label, tag, brand, stamp, stencil, or writing affixed to or upon or inserted in or used or intended for use in connection with a package containing veterinary medicine, whether or not containing a trade mark or pictorial or other descriptive matter distinguishing or identifying the veterinary medicine: The term includes any legible brand, stamp, stencil or writing however effected upon a package;

“package” means anything by which a veterinary medicine is cased, covered, enclosed, contained or packed;

“primary dealer” means, in relation to a veterinary medicine, a person who whether as manufacturer, importer, distributor, seller, agent, or otherwise, is or will be primarily responsible for placing or causing to be placed the veterinary medicine on the market in the State and whether he carries on any other business or trade or not;

“sell” includes barter or exchange, and also includes dealing in, agreeing to sell, or offering or exposing for sale, or having in possession for sale, or sending, forwarding, or delivering for sale or on sale, or causing,

suffering or attempting any of those acts or things, and the derivatives of "sell" have a corresponding inclusive meaning;

"stock" includes any animal or bird of the following kinds or species:—Horse, ass, mule, cow, sheep, goat, pig, dog, cat, domestic fowl or turkey, any other domestic animal or bird, or any animal or bird kept in captivity;

"veterinary medicine" means any material, including a mixture, or compound of one or more drugs or ingredients in any form, or any biological product, including both living and dead organisms and sera, used or intended for administering or application to any stock by any means for the purpose of—

- (i) curing, alleviating, or treating an injury to stock;
- (ii) preventing, curing, alleviating, or treating a disease or ailment in stock;
- (iii) destroying any parasite or pest affecting stock;
- (iv) diagnosis in relation to stock; or
- (v) improving the health of, or increasing the capacity of stock for work, production, reproduction of progeny or show purposes—

The term includes—

- (a) aphrodisiacs and anaphrodisiacs;
and
- (b) dehorning preparations.

The term does not include—

a pest destroyer, other than the kind mentioned in subparagraph (iii) of this interpretation, stock food or testing re-agent;

"veterinary surgeon" means a person who is a registered veterinary surgeon within the meaning of the Veterinary Surgeons Act, 1960

Exemptions
from Act.
Cf. S.A. No.
26 of 1939,
s. 4.

4. (1) This Act does not apply to any veterinary medicine prescribed in the course of his profession by a veterinary surgeon nor to any veterinary medicine supplied by a veterinary surgeon for any stock for the time being under his professional care or charge.

(2) This Act does not apply to any veterinary medicine which is compounded in respect of any particular stock in the ordinary course of his business by a person registered as a pharmaceutical chemist under the Pharmacy and Poisons Act, 1910-1952,¹ but applies to any substance compounded by that person for general use in the State.

(3) The Governor may from time to time by proclamation declare that this Act shall not apply to any veterinary medicine either generally or when sold in any specified circumstances or quantities or part of the State, and may by subsequent proclamation from time to time revoke or vary the proclamation.

Adminis-
tration.

5. Subject to the direction and control of the Minister, this Act shall be administered by the person for the time being occupying the office having the title of Chief Veterinary Surgeon in the Department of Agriculture of the State.

The Veteri-
nary Medicines
Advisory
Committee.
Amended by
No. 58 of
1963, s.3.

6. (1) For the purpose of this Act, the Governor shall appoint a Committee to be called "The Veterinary Medicines Advisory Committee".

(2) The Committee shall consist of—

- (a) the person for the time being occupying the office of the Chief Veterinary Surgeon for the time being of the Department of Agriculture of the State, who shall be the Chairman of the Committee;
- (b) the person for the time being occupying the office of Divisional Chief, Food, Drugs, and Toxicological Division of the Government Chemical Laboratories of the State;
- (c) the person for the time being occupying the office of Chief Veterinary Pathologist of the Department of Agriculture of the State;

Members of
Committee.

¹ Now See Pharmacy Act, 1964.

(d) a veterinary surgeon selected by the Western Australian division of the Australian Veterinary Association and nominated by the Minister.

(2a) If at any time, in respect of an office referred to in paragraphs (a), (b) or (c) of subsection (2) of this section, there is not an office of that name, the person for the time being occupying the office substituted for that referred to in such paragraph shall by virtue of this subsection be the person who by that paragraph is constituted a member of the Committee.

(3) The member appointed pursuant to paragraph (d) of subsection (2) of this section shall hold office for a term not exceeding two years, but shall be eligible for re-appointment. The member shall not, by virtue of his appointment as a member of the Committee, be subject to the Public Service Act, 1904-1950.¹

(4) Subject to this Act, the Committee shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed.

Meetings
of the
Committee.

(5) The Committee has and may exercise the powers and authorities conferred by this Act, and such further powers as may be prescribed.

Powers and
Duties.

(6) Two members of the Committee shall constitute a quorum for the conduct of business.

Quorum.

(7) All matters shall be determined by a majority of the votes of the members present, and where there is an equality of votes, the Chairman has a second or casting vote in addition to his ordinary or deliberative vote.

Proceedings.

(8) The member appointed pursuant to paragraph (d) of subsection (2) of this section is entitled to such allowances and remuneration for his services as may be prescribed.

Allowances
and
remunera-
tion.

¹ Now Public Service Act, 1904-1966.

Minutes.

(9) The Committee shall cause to be kept minutes of all the proceedings in such manner and form as the Minister may direct or approve.

Functions of Committee.

7. The Committee shall in addition to the other powers conferred on it by this Act enquire into and report to the Minister on any matters referred to it by him or by the Chief Veterinary Surgeon in relation to the regulation of the sale of veterinary medicines, the carrying out of the provisions of this Act, or in relation to any matter arising out of the administration of this Act, and may advise the Minister and the Chief Veterinary Surgeon and make such recommendations to them in relation thereto as it thinks fit.

Appointment of inspectors.

8. The Governor may from time to time appoint persons to be inspectors for the purposes of this Act.

Application for registration of veterinary medicine.
 Cf. Vic. 4488, 1937, s.4.

9. (1) A primary dealer in any veterinary medicine shall within thirty days after the coming into operation of this Act or within thirty days after the date of his commencing in business or trade as such, whichever is the later date, and thereafter in every year on or before the thirtieth day of June of that year make to the Chief Veterinary Surgeon an application for registration of the veterinary medicine in writing in the prescribed form, setting out—

- (a) his name and place of business;
- (b) the distinctive name of the veterinary medicine.
- (c) the place of manufacture of the veterinary medicine and the name of the manufacturer;
- (d) (i) in the case of a veterinary medicine other than a biological product—the prescription of the veterinary medicine, that is to say, the actual prescription to which the veterinary medicine is made, stating all the constituent parts and their respective proportions and the constituents of the veterinary medicine which are claimed to be active constituents; and

(ii) in the case of a veterinary medicine which is a biological product—the composition thereof, that is to say, the specific organism or product or ingredient claimed to be the active principle of the biological product and the concentration of the organism, product or ingredient;

(e) full directions for the use and application of the veterinary medicine, and a statement of the diseases or injuries which it is intended or claimed to cure or alleviate or of the disease which it is intended or claimed to diagnose, cure, alleviate or prevent or of the parasite or pest affecting stock which it is intended or claimed to destroy or of the improvement in condition or increase in capacity of stock which it is intended or claimed to effect, as the case may be; and

(f) such other matters as are prescribed.

(2) An application shall be accompanied by—

(a) a statutory declaration by the primary dealer, or in the case of a body corporate its manager, verifying the statements and particulars contained in the application; and

(b) the prescribed fee in respect of each veterinary medicine.

(3) Where after the thirtieth day of June in any year a primary dealer—

(a) proposes to sell a veterinary medicine in addition to those registered under this Act; or

(b) alters in any way the prescription or composition of a veterinary medicine registered under this Act,

the primary dealer shall before commencing to sell the additional veterinary medicine or veterinary medicine as so altered, make with respect to it a like application for registration as prescribed in subsection (1) of this section.

(4) Where after registration of a veterinary medicine the primary dealer in the veterinary medicine proposes at any time to vary the directions for its use and application as contained in his application for registration of the veterinary medicine, he shall before commencing or continuing to sell it notify in writing the Chief Veterinary Surgeon of the proposed variation.

(5) The registration of a veterinary medicine shall, subject to this Act, continue in force until the thirtieth day of June next following the date of registration.

Information as to prescription or composition of veterinary medicine confidential. Cf. Vic. 4488, 1937, s. 6.

10. The information as to the prescription or composition of a veterinary medicine contained in an application for registration of the veterinary medicine is confidential and shall not be disclosed by any member of the Committee or any officer of the Department of Agriculture of the State to any other person without the authority in writing of the primary dealer in the veterinary medicine except in pursuance of this Act, or so far as in necessary in respect of any proceedings for an offence instituted or proposed to be instituted under this Act.

Application for registration to be submitted to Committee. Cf. Vic. 4488, 1937, s. 7.

11. (1) An application for registration of a veterinary medicine shall be submitted by the Chief Veterinary Surgeon to the Committee for its report and recommendation thereon.

(2) A veterinary medicine shall not be registered by the Chief Veterinary Surgeon except upon and in accordance with the recommendation of the Committee.

(3) Where the Committee recommends that an application should be refused, the recommendation shall be accompanied by a statement of the grounds upon which the recommendation is based.

(4) Where the committee refuses to approve of the claims made by a primary dealer as to the efficacy of or the quality of any ingredient of a veterinary medicine the subject of an application, he may appeal to the Minister in the prescribed manner against the decision of the Committee and the decision of the Minister is final.

12. (1) The Chief Veterinary Surgeon shall cause to be kept a register in the prescribed form of all veterinary medicines registered under this Act, showing—

Register of veterinary medicines.
Cf. Vic. 4488, 1937, s. 3.

- (a) the respective names of the veterinary medicines;
- (b) the respective prescriptions or compositions of the veterinary medicines as set out in the applications for registration of the veterinary medicine;
- (c) the respective purposes for which the veterinary medicines may in accordance with the report of the Committee be sold for use; and
- (d) such other matters as are prescribed.

(2) A copy of the register of registered veterinary medicines, omitting the prescriptions or compositions thereof, completed up to the first day of July in each year shall as soon as practicable after the first day of July in each year be published in the *Gazette*, and may at any time after the publication be published in the *Journal of Agriculture of Western Australia*.

13. (1) (a) A package of a registered veterinary medicine shall bear thereon or on a label securely and conspicuously affixed to the package the words "registered under the Veterinary Medicines Act, 1953".

Reference to registration under this Act to be upon packages containing veterinary medicines.

(b) If the Chief Veterinary Surgeon is satisfied that a registered veterinary medicine is also registered under an Act of any other State of the Commonwealth which provides for the registration of veterinary medicines, he may, by notice published in the *Gazette*, declare that, for the period specified in the notice, it shall be sufficient compliance with this subsection if a package of the registered veterinary medicine bears thereon words indicating that the veterinary medicine is registered under that Act.

Other references to this Act prohibited.
Cf. Vic. 4488, 1937, s. 9.
S.A. No. 29 of 1939, s. 11.
Amended by No. 113 of 1965, s. 8.¹

(c) The notice may be revoked by notice published in the *Gazette* and whilst the notice is in force it is sufficient compliance with this subsection if the provisions of the notice are complied with.

¹ Decimal Currency Act, 1965.

(2) A package of a registered veterinary medicine or label shall not bear thereon and a written or printed matter relating to a registered veterinary medicine shall not contain any reference to this Act other than the words "registered under the Veterinary Medicines Act, 1953".

Offences.

(3) A person who—

(a) sells a package of a registered veterinary medicine which—

(i) does not bear thereon the words prescribed by paragraph (a) of subsection (1) of this section; or

(ii) bears thereon a reference or statement in contravention of subsection (2) of this section; or

(b) publishes, circulates or distributes or causes to be published, circulated or distributed any written or printed matter relating to a registered veterinary medicine which contains any reference or statement in contravention of subsection (2) of this section,

is guilty of an offence.

Penalty: A fine not exceeding one hundred dollars.

Offences in relation to sale and advertisement of veterinary medicines.

Cf. Vic. 4488, 1937, s. 10.
Amended by No. 113 of 1965, s. 8.¹

14. (1) A person who after the expiration of a period of six months after the coming into operation of this Act—

(a) sells a veterinary medicine which is not registered under this Act;

(b) sells under the name of a registered veterinary medicine a veterinary medicine which does not conform with the registered prescription or composition of the registered prescription; or

(c) sells a registered veterinary medicine in respect of which any claim or statement as to its efficacy for use for any purpose, other than those in respect of which it is registered, has

¹ Decimal Currency Act, 1965.

been made by him or with his consent either verbally or in any written or printed matter relating thereto,

is guilty of an offence.

Penalty: For a first offence a fine not exceeding one hundred dollars and for any subsequent offence a fine not exceeding two hundred dollars.

(2) A person other than the primary dealer in a registered veterinary medicine is not guilty of an offence against paragraph (b) of subsection (1) of this section unless it is proved that he knew that the veterinary medicine sold did not conform with the registered prescription or composition.

15. (1) A primary dealer in a registered veterinary medicine who—

- (a) sells under the name of the registered veterinary medicine a veterinary medicine which does not conform with the registered prescription or composition of the registered veterinary medicine; or
- (b) publishes, circulates or distributes or causes to be published, circulated or distributed any written or printed matter containing any claim or statement as to the efficacy of the registered veterinary medicine for use for any purpose other than those in respect of which it is registered; or
- (c) publishes, circulates or distributes or causes to be published, circulated or distributed any written or printed matter containing any claim or statement with respect to the registered veterinary medicine which is false or misleading in any material particular,

is guilty of an offence.

Penalty: A fine not exceeding one hundred dollars for a first offence and a fine not exceeding two hundred dollars for any subsequent offence.

Offence by primary dealer and cancellation of registration. Cf. Vic. 4488, 1937, s. 11. Amended by No. 113 of 1965, s. 8.¹

¹ Decimal Currency Act, 1965.

(2) Where a primary dealer in a registered veterinary medicine is convicted of an offence against any of the provisions of subsection (1) of this section in respect of a veterinary medicine, the Chief Veterinary Surgeon may, upon the recommendation of the Committee, cause the registration of the veterinary medicine to be cancelled.

Notice by
dealers.

Cf. S.A. No. 26
of 1939, s. 14.

Amended by
No. 118 of
1965, s. 8.¹

16. (1) A dealer shall within thirty days after the coming into operation of this Act or within thirty days after the date of his commencing in business or trade as a dealer, whichever is the later date, and thereafter in every year on or before the thirtieth day of June of that year give notice in writing in the prescribed form to the Chief Veterinary Surgeon of his name and place of business.

(2) Where after the expiration of a period of six months after the coming into operation of this Act a person who has not given notice as required by subsection (1) of this section sells a veterinary medicine, is guilty of an offence.

Penalty: For a first offence a fine not exceeding forty dollars and for any subsequent offence a fine not exceeding one hundred dollars.

Powers of
inspector.

Cf. Q. 24,
Geo. V., No.
35, s. 11.

17. (1) For the purpose of ascertaining whether the provisions of this Act are being complied with an inspector may—

- (a) enter and search any land, building, premises or place which he has reasonable grounds for believing is used for the making, manufacture, sale, storage, delivery or preparation for sale of a veterinary medicine;
- (b) enter and search any vehicle, ship, vessel, aeroplane or any other conveyance of whatsoever kind which he has reasonable grounds for believing is used for the conveyance of a veterinary medicine in the course of trade, sale or delivery;

¹ Decimal Currency Act, 1965.

(c) examine a veterinary medicine found upon the land, building, premises, place, vehicle, ship, vessel, aeroplane or conveyance and open any package containing the veterinary medicine;

(d) take for analysis or examination samples of a veterinary medicine without payment.

(2) The quantity and nature of the samples and the proportion of the bulk from which the samples are to be taken shall be as prescribed.

(3) Any samples taken under the provisions of subsection (1) of this section shall if possible be taken in the presence of the vendor of the veterinary medicine, or of the person apparently in charge of the veterinary medicine from which the sample was taken.

(4) (a) The samples of any one kind of veterinary medicine which are taken shall be thoroughly mixed by the inspector and then divided into three approximately equal parts.

(b) Where the veterinary medicine is made up in packages, three of the packages may be taken by the inspector and dealt with as if they were the three parts into which the samples are to be divided.

(c) Each of the parts shall be sealed or fastened up by the inspector in such manner as its nature permits and a label shall be placed by him on each part stating the name of the vendor or the person in whose presence the sample was taken as provided in subsection (3) of this section, and the time and place of taking.

(d) The label shall be signed by the inspector taking the samples and also where practicable by the vendor or person in whose presence the same was taken if he so desires.

(e) (i) The inspector taking the samples shall deliver one of the parts to the vendor or the person in whose presence the sample was taken, retain one of the parts, and deliver the remaining part to the analyst for analysis or in the case of a veterinary

medicine which is a biological produce to a bacteriologist for examination.

(ii) The delivery of the remaining part to the analyst or the bacteriologist may be effected either personally or in such other manner as may be prescribed.

(f) Where the inspector takes any samples in the absence of the vendor or person mentioned in subsection (3) of this section he shall—

- (i) give notice in writing of the taking to the vendor or person; and
- (ii) deliver or forward one part of the sample to the vendor or person.

(5) Where in a prosecution or proceeding under this Act a contravention of any of the provisions of this Act is proved with respect to any part of samples taken in pursuance of this section, the contravention is deemed to have been proved with respect to the whole lot from which the samples were taken.

(6) Where a part of a sample which has been taken and dealt with in accordance with the provisions of this section is delivered to the analyst or bacteriologist as the case may be, the certificate of the analyst or bacteriologist is at the hearing of a prosecution or proceeding for an offence against this Act with respect to the article sampled sufficient evidence of the facts therein stated.

18. A person who improperly tampers with a sample or part of a sample taken under the provisions of this Act is guilty of an offence.

Penalty: A fine not exceeding one hundred dollars.

19. A person who prevents, delays, obstructs or hinders an inspector from or in the execution of his powers and duties under this Act is guilty of an offence.

Penalty: A fine not exceeding forty dollars.

Tampering with samples.
Amended by No. 113 of 1965, s. 8.¹

Offence of hindering inspector in his duties.
Cf. Vic. 4488, 1937, s. 13.
Amended by No. 113 of 1965, s. 8.¹

¹ Decimal Currency Act, 1965.

20. A dealer in veterinary medicine shall when and as often as required by the Chief Veterinary Surgeon so to do forward without payment to the Committee for analysis a sample of the veterinary medicine.

Duty of dealers to provide samples when required by Chief Veterinary Surgeon.
Cf. Vic. 4488, 1937, s. 14.

21. No member of the Committee or inspector is, except in respect of wilful misconduct or neglect, liable to any legal proceedings for anything done or omitted to be done in the exercise or execution or purported exercise or execution of any of his powers or duties under this Act.

Savings of inspectors and Committee from liability.
Cf. Vic. 4488, 1937, s. 15.

22. The Governor may make regulations providing for all or any purposes whether general or to meet particular cases, that may be convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act.

Regulations.
Amended by No. 113 of 1965, s. 8.¹

Without limiting the generality of the foregoing power, the regulations may provide for all or any of the following matters:—

- (a) Prescribing the times and places of meeting of the Committee and the conduct of the business thereof.
- (b) Prescribing subject to this Act the form and manner of applications for registration of veterinary medicines and notices by dealers under section sixteen of this Act.
- (c) Prescribing subject to this Act the form of the register of veterinary medicines and the particulars to be recorded therein.
- (d) The fees and allowances that may be paid to a member of the Committee for his services.
- (e) The forms to be used under this Act.
- (f) Fees which are to be paid in respect of any matter under this Act.

¹ Decimal Currency Act, 1965.

- (g) Regulating the manner of labelling any veterinary medicine and subject to this Act, the matter which shall or may be contained in any label thereon.
- (h) Prescribing standards of strength, quality, or quantity to which a veterinary medicine, or a constituent part of a veterinary medicine, is to conform and prohibiting the sale of veterinary medicine which does not conform to any standard so prescribed.
- (i) Imposing penalties, not exceeding forty dollars in respect of a breach of any regulation.