



Western Australia

## **Veterinary Surgeons Act 1960**

Compare between:

[28 Jun 2010, 03-h0-01] and [30 Aug 2010, 03-i0-01]



Western Australia

## **Veterinary Surgeons Act 1960**

**An Act to consolidate certain Acts regulating the practice of veterinary surgery, by repealing those Acts<sup>2</sup> and re-enacting them with amendments, and for incidental and other purposes.**

## Part I — Preliminary

### 1. Short title and commencement

- (1) This Act may be cited as the *Veterinary Surgeons Act 1960*<sup>1</sup>.
- (2) This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.
- [(3) Omitted under the Reprints Act 1987 s. 7(4)(f).]*

### 2. Interpretation

In this Act unless the context requires otherwise —

***animal*** includes bird and reptile;

***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 recognized for the time being by the Board;

***member*** means —

- (a) in relation to the Board, a member of the Board; and
- (b) in relation to a body corporate, a shareholder or a director or a person in accordance with whose directions or instructions the affairs of the body corporate are customarily conducted;

***practise***, in relation to veterinary surgery, includes the doing or performing, whether on one occasion or on more than one occasion, of any act, matter, procedure, or thing that is included within the interpretation of the term "**veterinary surgery**"; and ***practice*** shall be construed accordingly;

***Register*** means the Register of Veterinary Surgeons, Western Australia, referred to in section 17;

***registered veterinary surgeon*** means —

- (a) person who is registered as a veterinary surgeon or as an honorary veterinary surgeon under section 17; and

- (b) a person who holds a certificate of provisional registration as a veterinary surgeon under section 20B;

**Registrar** means the Registrar appointed by the Board under this Act;

**veterinary clinic** means any premises at which veterinary surgery is practised, but at which animals are not retained overnight;

**veterinary hospital** means any premises at which veterinary surgery is practised at which animals receive treatment, nursing care, and other services required for the reception, treatment and care of animals suffering from disease or injury or in need of surgical or medical treatment or assistance;

**veterinary nurse** means a person who is authorised to perform prescribed veterinary services pursuant to section 26E;

**veterinary surgery** means the art and science of veterinary surgery and veterinary medicine, and, without limiting the generality of the foregoing, includes —

- (a) the examination of any animal for the purpose of the diagnosis of disease in, or injury to, that animal, or the conduct of tests, whether physiological or pathological, on any animal for diagnostic purposes;
- (b) the provision of advice based upon diagnosis of disease of, or injury to, any animal;
- (c) the surgical or medical treatment of any animal;
- (d) the giving of any anaesthetic to, or the performance of surgical operations on, any animal; and
- (e) the doing or performing of any act, matter, procedure, or thing that is prescribed pursuant to section 31 as forming part of the practice of veterinary surgery.

*[Section 2 amended by No. 45 of 1977 s. 3; No. 8 of 1984 s. 3; No. 43 of 1988 s. 4; No. 55 of 2004 s. 1276.]*

**s. 3**

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**3. Administration**

Subject to the Minister, this Act shall be administered by the Board.

## **Part II — The Veterinary Surgeons' Board**

### **4. Establishment of the Board**

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

### **5. Constitution of the Board**

- (1) The Board shall consist of 5 members, who shall be appointed by the Governor and shall be —
  - (a) the person holding or for the time being acting in the office of Chief of Division, Animal Health Division<sup>3</sup>, in the Government department known as the Department of Agriculture;
  - (b) 2 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 and from amongst the persons, other than bodies corporate, 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.

**s. 6**

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- (2) A member shall be appointed to hold office for 3 years but is eligible for reappointment if at the time of his reappointment 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) Notwithstanding that a body corporate may be or become a registered veterinary surgeon, a body corporate is not —
  - (a) eligible to be appointed as, or to hold office as; or
  - (b) entitled to nominate, or to vote for, a person to be elected as,

a member of the Board.

*[Section 5 amended by No. 45 of 1977 s. 4; No. 8 of 1984 s. 4.]*

**6. Deputies of members**

- (1) The Governor may appoint a person to be the deputy of a member during the pleasure of the Governor.
- (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. Chairman of the Board**

- (1) At the first meeting of the Board, the Board shall appoint one of its members to be 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 reappointment if he is then otherwise qualified to be a member.

**8. Leave of absence**

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

**9. Fees, allowances and expenses**

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.

**10. Vacation of office**

If a member —

- (a) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

**s. 11**

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- (b) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board; or
- (c) becomes permanently incapable of performing his duties; or
- (d) becomes a person who would not be qualified to be appointed a member; or
- (e) dies or resigns his office by writing under his hand addressed to the Governor, and the resignation is accepted; or
- (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.

*[Section 10 amended by No. 18 of 2009 s. 87.]*

**11. Power of Governor to fill vacancies of elected members**

If at the time prescribed for holding an election to elect the 2 persons referred to in section 5(1)(b) 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. Ordinary and special meetings of the Board**

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

*[Section 12 amended by No. 45 of 1977 s. 5.]*

**13. Officers**

The Board may from time to time appoint on such terms and conditions as the Board determines a Registrar, inspectors 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.

*[Section 13 amended by No. 8 of 1984 s. 5.]*

**14. Exemption from personal liability**

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 or the Registrar by or under this Act.

*[Section 14 amended by No. 45 of 1977 s. 6.]*

**15. Meetings of Board**

At a meeting of the Board —

- (a) 3 members form a quorum;
- (b) the chairman or, in his absence, the vice-chairman, shall preside;

**s. 16**

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- (c) all questions shall be decided 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.

*[Section 15 amended by No. 45 of 1977 s. 7.]*

**16. Funds of the Board**

- (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, inspectors 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) Where at any time the funds of the Board are insufficient for the proper administration of this Act, the Board may borrow moneys from the Treasurer on such terms and conditions as the Treasurer approves, including such conditions as to repayment and payment of interest as the Treasurer imposes.
- (4) Any surplus funds of the Board which are not required for the purposes of subsection (2) or (3) may be expended by the Board for the purposes of the advancement of veterinary science in such manner as it may determine.

*[Section 16 amended by No. 45 of 1977 s. 8; No. 8 of 1984 s. 6; No. 77 of 1987 s. 3.]*

**16AA. Accounts**

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare

financial statements in accordance with Australian Accounting Standards.

- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

*[Section 16AA inserted by No. 77 of 1987 s. 3.]*

**16AB. Audit**

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

*[Section 16AB inserted by No. 77 of 1987 s. 3.]*

**16AC. Annual report**

- (1) The Board shall on or before 31 December in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 30 June together with a copy of the financial statements and the auditor's report.
- (1a) The annual report is to include details of —
- (a) the number, nature, and outcome, of matters that have been brought before the State Administrative Tribunal by the Board;
  - (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
  - (c) any trends or special problems that may have emerged;
  - (d) forecasts of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the performance of the Board's functions.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1)

**s. 16AC**

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to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

*[Section 16AC inserted by No. 77 of 1987 s. 3; amended by No. 55 of 2004 s. 1277.]*

## **Part IIA — Powers of investigation**

*[Heading inserted by No. 8 of 1984 s. 7.]*

### **16A. Investigation and inquiry by Registrar and inspectors**

The Registrar may, of his own motion, and shall at the direction of the Board, and an inspector shall, at the direction of the Board or Registrar, make any investigation or inquiry that the Registrar or the Board considers necessary or expedient for the purpose of —

- (a) determining any application or any other matter before the Board;
- (b) determining whether or not persons are acting in conformity with any conditions as to registration or restrictions in the practice of veterinary surgery imposed under this Act;
- (c) determining whether or not registered veterinary surgeons, veterinary nurses or other persons subject to this Act are complying with the requirements of this Act;
- (ca) determining whether to make an allegation to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon; or
- (d) detecting offences against this Act.

*[Section 16A inserted by No. 8 of 1984 s. 7; amended by No. 55 of 2004 s. 1278.]*

### **16B. Power to require and obtain information**

- (1) For the purposes of carrying out any investigation or inquiry in the course of carrying out functions under this Act, the Registrar or an inspector may —
  - (a) require any person —

**s. 16B**

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- (i) to give such information as the Registrar or inspector requires; and
    - (ii) to answer any question put to him,  
in relation to any matter the subject of such investigation or inquiry;
  - (b) require any person to produce any document relating to any such investigation or inquiry;
  - (c) enter at all reasonable times and search any premises and inspect any documents found thereon; and
  - (d) make a copy or abstract of any document produced to, or inspected by, the Registrar or inspector in pursuance of this section, or of any entry made therein and in the absence of proof to the contrary any such copy certified as correct by the Registrar or an inspector shall be received in all courts as evidence of, and of equal validity as, the original.
- (2) A requirement made under subsection (1)(a) —
- (a) may be made orally or by notice in writing served on the person required to give information or answer a question, as the case may be;
  - (b) shall specify the time at or within which the information is to be given or the question is to be answered, as the case may be; and
  - (c) may, by its terms, require that the information or answer required —
    - (i) be given orally or in writing;
    - (ii) be given at or sent or delivered to any place specified in the requirement;
    - (iii) in the case of written information or answers, be sent or delivered by any means specified in the requirement; and
    - (iv) be given on oath or affirmation or by statutory declaration for which purpose the Registrar or an



inspector may administer an oath or affirmation  
and may witness a statutory declaration.

- (3) A requirement made under subsection (1)(b) —
  - (a) shall be made by notice in writing served on the person required to produce a document;
  - (b) shall specify the time at or within which the document is to be produced; and
  - (c) may, by its terms, require that the document be produced —
    - (i) at any place specified in the requirement; and
    - (ii) by any means specified in the requirement.
- (4) Where, under subsection (1)(a) the Registrar or an inspector orally requires a person to give any information or answer any question, the Registrar or the inspector shall inform that person that he is required under this Act to give the information or answer the question, as the case may be.
- (5) Where under subsection (1)(a) or (b) a person is required by notice in writing to give any information, answer any question, or produce any document, the notice shall state that he is required under this Act to give the information, answer the question, or produce the document, as the case may be.
- (6) Before entering any premises pursuant to this section the Registrar or an inspector —
  - (a) shall obtain a warrant to do so from a magistrate or Justice of the Peace which warrant the magistrate or Justice of the Peace is authorised to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out any investigation or inquiry under this Act; and
  - (b) shall display to the person, if any, affording him entry —

**s. 16B**

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- (i) in the case of the Registrar, a document signed by the Minister and certifying that he is the Registrar; and
  - (ii) in the case of an inspector, a document signed by the Registrar and certifying that he is an inspector.
- (7) Without prejudice to the provisions of section 11 of the *Evidence Act 1906*, where under this section a person is required to —
- (a) give any information;
  - (b) answer any question; or
  - (c) produce any document,

he shall not refuse to comply with that requirement on the ground that the information, answer, or document may tend to incriminate him or render him liable to any penalty, but the information or answer given, or document produced, by him shall not be admissible in evidence in any proceedings against him other than proceedings in respect of an offence against subsection (8)(b).

- (8) Where under this section a person is required by the Registrar or an inspector to give any information, answer any question, or produce any document and that person, without reasonable excuse (proof of which shall lie on him) —
- (a) fails to give that information or answer that question at or within the time specified in the requirement;
  - (b) gives any information or answer that is false in any particular; or
  - (c) fails to produce that document at or within the time specified in the requirement,

the person commits an offence.

Penalty: \$1 000.

- (9) It is a defence in any proceeding for an offence under subsection (8)(a) or (c) for the accused to show —
- (a) that, in the case of an alleged offence arising out of a requirement made orally under this section, the Registrar or the inspector did not, when making the requirement, inform him that he was required under this Act to give the information or answer the question, as the case may be;
  - (b) that, in the case of an alleged offence arising out of a requirement made by notice in writing under this section, the notice did not state that he was required under this Act to give the information, answer the question, or produce the document, as the case may be;
  - (c) that the time specified in the requirement did not afford him sufficient notice to enable him to comply with the requirement; or
  - (d) that, in any case, the Registrar or the inspector did not, before making the requirement, have reasonable grounds to believe that compliance with the requirement would materially assist in the investigation or inquiry being carried out.
- (10) A person shall not prevent or attempt to prevent the Registrar or an inspector from entering premises or otherwise obstruct or impede the Registrar or an inspector in the exercise of his powers under this section.

*[Section 16B inserted by No. 8 of 1984 s. 7; amended by No. 20 of 1989 s. 3; No. 55 of 2004 s. 1279; No. 84 of 2004 s. 82; No. 24 of 2005 s. 63.]*

## **Part III — Register of Veterinary Surgeons**

### **17. Register**

- (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 shall, at the direction of the Board, and on payment of the prescribed fee —
  - (a) where a person, not being a body corporate, has the necessary qualifications or prerequisites under this Act, register that person as a veterinary surgeon, an honorary veterinary surgeon or a specialist by entering his name together with the other particulars referred to in subsection (3); and
  - (b) where, in relation to a body corporate, the Board approves the application pursuant to section 20(3), register that body corporate by entering the name by which it is incorporated and any other name by reference to which it carries on business, together with such other particulars as may be prescribed,

in the Register.

- (3) The Registrar shall enter in the Register —
  - (a) the full name and address of a person who is entitled to be registered under subsection (2)(a);
  - (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 as soon as practicable 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 1 March 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 named in the roll are registered pursuant to subsection (2) and that in the case of a person who is registered under paragraph (a) of that subsection the person possesses the qualifications or the prerequisites 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 or prerequisite is *prima facie* evidence that the person does not possess that qualification or prerequisite.

*[Section 17 amended by No. 45 of 1977 s. 9; No. 8 of 1984 s. 8; No. 43 of 1988 s. 5.]*

## **18. Roll fees**

Every person registered as a veterinary surgeon under this Act shall on or before 31 December in the year in which that person was first registered, and on or before that date in every year during which that person continues to be so registered, pay to the Registrar the prescribed roll fee for the ensuing year.

*[Section 18 amended by No. 45 of 1977 s. 10; No. 8 of 1984 s. 9; No. 43 of 1988 s. 6.]*

**s. 19**

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

- (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 that person at the address appearing in the Register, and if no answer to the letter is received from that person within 2 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 the name to the Register upon the production of a relevant current certificate of registration or proof to the satisfaction of the Board of the former registration and payment of the prescribed fee for restoration.

*[Section 19 amended by No. 8 of 1984 s. 10.]*

## **Part IV — Veterinary surgeons**

*[Heading inserted by No. 45 of 1977 s. 11.]*

### **20. Qualifications**

- (1) Subject to the provisions of section 20A, a person, not being a body corporate, who satisfies the Board that he is of good fame and character is entitled to be registered under this Act as a veterinary surgeon if he proves to the satisfaction of the Board that he —
- (a) holds a degree, diploma or licence of competency in veterinary surgery prescribed, or in a class prescribed, by the regulations; or
  - (b) is a member of the Royal College of Veterinary Surgeons of Great Britain who has passed the membership examination of that College; or
  - (c) holds a degree, diploma or licence of competency in veterinary surgery from a university in the United Kingdom of Great Britain and Northern Ireland which would entitle the holder on application to become a member of the Royal College of Veterinary Surgeons of Great Britain; or
  - (d) holds a degree, diploma or licence of competency in veterinary surgery by virtue of having satisfactorily completed a regularly graded course of study of not less than 5 years' duration at a university, college or institution recognized by the Board; or
  - (e) has —
    - (i) satisfactorily completed a regularly graded course of study in veterinary surgery of not less than 4 years' duration at a university, college or institution approved by the Board (not being a university, college or institution recognized by the Board for the purposes of paragraph (d)) and holds a degree, diploma or licence of

**s. 20**

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- competency in veterinary surgery which he 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 surgery, so as to permit him to practise veterinary surgery in that country;
- (ii) been continuously resident in the Commonwealth of Australia for the period of one year immediately preceding the date of his application for registration; and
  - (iii) passed a prescribed examination to the satisfaction of the Board.
- (2) Where a person, not being a body corporate, satisfies the Board that he has such qualifications in veterinary surgery as to justify the Board in exempting him from all or any of the requirements of subsection (1)(e)(ii) and (iii), the Board may —
- (a) exempt him from all or any of those requirements; or
  - (b) if the Board thinks fit, impose conditions as to his registration or restrictions on the practice of veterinary surgery by that person notwithstanding his registration; or
  - (c) so exempt him, and impose such conditions.
- (3) A person, being a body corporate, may at the discretion and direction of the Board be registered under this Act as a veterinary surgeon if it is proved to the satisfaction of the Board that the body —
- (a) is comprised entirely of members, not being bodies corporate, who are entitled to be and are registered under this Act; or
  - (b) comprises 2 members, neither of whom is a body corporate, of whom one is entitled to be and is registered



under this Act and the other is a person of good fame and character,

and the Board is satisfied as to the terms of the constituent documents by reference to which the body is incorporated and approves the application for registration.

- (4) The Board shall not approve the application for registration of a body corporate where the Board is of the opinion that —
- (a) the control of the affairs of the body corporate is vested in a person who is not a registered veterinary surgeon or that the power of persons to exercise, or to control the exercise of, the rights to vote attached to shares in the body corporate, or to dispose of, or to exercise control over the disposal of, such shares is such that the personal supervision and management of the affairs of the body corporate might become vested in a person who is not a registered veterinary surgeon;
  - (b) full personal professional responsibility for the conduct of the affairs of the body corporate in relation to veterinary activities does not remain an obligation of each member who is a registered veterinary surgeon, or if any person not having appropriate professional qualifications has authority over professional matters;
  - (c) proper and adequate provision is not made for disclosure to the Board of the affairs of the body corporate, on request in writing by the Board to any member who is a registered veterinary surgeon, or that an undertaking to that effect will not be satisfactory to the Board;
  - (d) the members are not properly and adequately covered by professional indemnity insurance, or capital or other security is not maintained, in amounts thought by the Board to be sufficient to offer adequate protection to the public, for acts or omission on the part of the members, the body corporate or any employees giving rise to a claim for compensation or damages; or

**s. 20AA**

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- (e) that there are other grounds upon which the application ought to be refused.
- (5) Any civil liability in connection with veterinary science or the practice of veterinary surgery incurred by a body corporate that is a registered veterinary surgeon under this Act is enforceable jointly and severally against the body corporate and any person who, at the time the liability was incurred, was as a registered veterinary surgeon a member of that body corporate.
- (6) In relation to a body corporate, the Board may impose conditions as to the registration or restrictions on the practice of veterinary surgery, and a failure to comply with any such condition or restriction may be taken to constitute unprofessional conduct as a veterinary surgeon.

*[Section 20 amended by No. 45 of 1977 s. 12; No. 8 of 1984 s. 11; No. 43 of 1988 s. 7; No. 9 of 2009 s. 4.]*

**20AA. Entitlement to registration as an honorary veterinary surgeon**

Subject to section 20A, a person who is entitled to be, or is, registered under this Act as a veterinary surgeon is entitled to be registered as an honorary veterinary surgeon if the Board is satisfied that the person's standing in the profession of veterinary science justifies the person's registration as an honorary veterinary surgeon and —

- (a) the person is a veterinary surgeon of not less than 40 years standing; or
- (b) the person is a veterinary surgeon of long standing and is of or above the age of 65 years.

*[Section 20AA inserted by No. 43 of 1988 s. 8.]*

**20AB. Entitlement to registration as a specialist**

- (1) The Board may register a registered veterinary surgeon, not being a body corporate, as a specialist in a prescribed branch of

veterinary surgery if the Board is satisfied that the veterinary surgeon has qualifications in veterinary surgery and experience in the practice of veterinary surgery to justify the registration.

- (2) Prerequisites for registration as a specialist in a branch of veterinary surgery may be prescribed.

*[Section 20AB inserted by No. 43 of 1988 s. 8.]*

**20A. Board may impose conditions on registration, or require examination**

Notwithstanding sections 20, 20AA and 20AB where, after due inquiry, the Board is of the opinion that an individual registered under any of those sections may, by reason of his prolonged absence from the practice of veterinary surgery or from some other cause, not be possessed of the knowledge and skills considered by the Board to be necessary for the practice of veterinary surgery, or practise as a specialist in a branch of veterinary surgery as the case may be, the Board may —

- (a) require that person to pass an examination conducted by or on behalf of the Board in such subjects as the Board considers requisite; or
- (b) if the Board thinks fit, impose conditions as to his registration or restrictions on the practice of veterinary surgery by that person notwithstanding his registration; or
- (c) so require, and impose such conditions.

*[Section 20A inserted by No. 45 of 1977 s. 13; amended by No. 8 of 1984 s. 12; No. 43 of 1988 s. 9.]*

**20B. Provisional registration**

- (1) Where a person, pursuant to section 20(1) or (2), applies to the Board to be registered as a veterinary surgeon the chairman, or in the absence of the chairman a member of the Board authorised generally in that behalf by the Board, upon being satisfied that the applicant appears to be entitled to be registered

**s. 21**

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as a veterinary surgeon, may grant to him a certificate of provisional registration as a veterinary surgeon.

- (2) A person to whom a certificate of provisional registration as a veterinary surgeon is granted is deemed to be registered under this Act as a veterinary surgeon and this Act, subject to subsection (3), applies to and with respect to that person accordingly —
- (i) until the date stated in the certificate; or
  - (ii) until such later date as may be fixed by the Board,
- but the date so stated or fixed shall not in any case be a date later than 3 months from the date on which the certificate was granted.
- (3) The Board may, at any time before the date so stated or fixed, cancel a certificate of provisional registration and thereupon the person to whom the certificate was granted shall cease to be deemed to be registered as a veterinary surgeon under this Act, and the cancellation shall, for the purpose of this Act, be deemed to be a refusal by the Board of the application of that person to be registered as a veterinary surgeon.
- (4) If a person to whom a certificate of provisional registration is granted becomes registered as a veterinary surgeon while that certificate is still in force his registration shall, unless otherwise determined by the Board, be deemed to have effect from the date of the grant of the provisional certificate.

*[Section 20B inserted by No. 45 of 1977 s. 14; amended by No. 8 of 1984 s. 13.]*

**21. Registration generally**

- (1) Application for registration under this Act, including application for registration as an honorary veterinary surgeon under section 20AA and registration as a specialist under section 20AB —
- (a) shall be made in manner prescribed;

- (b) should be supported by such evidence with respect to the application as the Board may require including —
    - (i) in the case of an applicant who is not a body corporate, 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, or if such is the case, the reason; and
    - (ii) in the case of an applicant that is a body corporate, particulars as to any person who is a member;
- and
- (c) shall be accompanied by the prescribed fee.
- (2) When any person is registered, or is by virtue of the grant of a provisional certificate of registration deemed to be registered, under this Act, the Board may issue a certificate of registration, honorary registration or registration as a specialist in respect of that person, as prescribed.
  - (3) Every registered veterinary surgeon, not being a body corporate, 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 or residence shall forthwith give notice of the fact by post to the Registrar.

*[Section 21 amended by No. 45 of 1977 s. 15; No. 8 of 1984 s. 14; No. 43 of 1988 s. 10.]*

**s. 22**

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**22. Review of refusal to register**

- (1) Where the application of any person to be registered under this Act as a veterinary surgeon under section 20 or as a specialist under section 20AB is refused by the Board upon any ground other than the ground that that person, not being a body corporate, does not possess any of the required qualifications or prerequisites under section 20 or section 20AB, that person may apply to the State Administrative Tribunal for a review of the decision.

*[(2) deleted]*

*[Section 22 amended by No. 45 of 1977 s. 16; No. 8 of 1984 s. 15; No. 43 of 1988 s. 11; No. 55 of 2004 s. 1280.]*

**23. Removal from Register**

- (1) The Board shall cause to be removed from the Register the name of any person who, not being a body corporate —
- (a) has died;
  - (b) does not possess, or has ceased to possess, any qualification or prerequisite that entitled him to registration under section 20, 20AA or 20AB; or
  - (c) has become permanently incapable of performing his duties as a registered veterinary surgeon,

or if, being a body corporate, the person would by reason of the circumstances then prevailing not have been approved for registration had an application been made at that time, or if the Board is requested in writing by that person to remove the name from the Register or if the person fails to pay any prescribed fee payable under section 18.

- (2) Where a registered veterinary surgeon or, where that person is a body corporate, a person who is a member of that body corporate has been convicted either in this State of an indictable offence or elsewhere of an offence of a nature, which, if that offence were committed in this State, would have constituted an indictable offence, the Board may remove the name of that

veterinary surgeon from the Register or order the suspension of the registration of that veterinary surgeon for such period not exceeding 12 months as the Board thinks fits.

- (2a) The Board may allege to the State Administrative Tribunal that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon.
- (2aa) If, in a proceeding commenced by an allegation under subsection (2a), the State Administrative Tribunal is satisfied that a registered veterinary surgeon is guilty of unprofessional conduct as a veterinary surgeon, the Tribunal may —
- (a) reprimand the veterinary surgeon;
  - (b) require the veterinary surgeon to give an undertaking to refrain from such conduct as may be specified by the Board;
  - (c) fine the veterinary surgeon an amount not exceeding \$1 000;
  - (d) order the suspension of the registration of that veterinary surgeon for such period not exceeding 12 months, as the Tribunal thinks fit;
  - (e) order the removal of the name of that veterinary surgeon from the Register;
  - (f) order the imposition of conditions as to the registration of that veterinary surgeon or restrictions on the practice of veterinary surgery by that person.
- (2b) Where, pursuant to a determination of an authority lawfully exercising in any place outside the State powers which in the opinion of the Board are substantially similar to the powers conferred on the Board or the State Administrative Tribunal by this Act, a person is suspended from practice as a veterinary surgeon or the name of that person is removed from the register or other record maintained by that authority by reason of unprofessional conduct as a veterinary surgeon, the Board —

**s. 23**

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- (a) where the person is so suspended from practice, may suspend the registration of that person under this Act for a like period; or
  - (b) where the name is so removed, may remove the name from the Register maintained pursuant to this Act,
- as the Board thinks fit.
- (3) A person suspended from practice as a veterinary surgeon under this Act or by the State Administrative Tribunal in proceedings commenced under this Act is not a registered veterinary surgeon for the period of suspension.
  - (4) Without limiting the meaning of the expression, ***unprofessional conduct as a veterinary surgeon***, a registered veterinary surgeon is guilty of such unprofessional conduct if that person —
    - (a) is an habitual drunkard;
    - (b) is habitually addicted to drugs;
    - (c) contravenes any of the provisions of section 26A(2) or (3);
    - (d) advertises in any way in respect of the profession of a veterinary surgeon otherwise than in accordance with the regulations, or so advertises in contravention of the regulations;
    - (e) does not observe the standards of professional conduct as prescribed; or
    - (f) contravenes any condition or restriction imposed on or in relation to the registration of that person as a veterinary surgeon.
  - (5) Where a person has been convicted of any offence referred to in subsection (2), 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 the registration of that person as a veterinary surgeon.

*[(6)-(9) deleted]*

- (10) The Registrar shall enter in the Register against the entry relating to the person details of any order made against a person in proceedings commenced before the State Administrative Tribunal by an allegation under this section.
- (11) Where the Board makes any decision in relation to a person that would result in the removal of the name of that person from the Register otherwise than at the request, or by reason of the death, of that person, the Registrar shall as soon as is practicable give notice in writing thereof to the person concerned.
- (12) A person aggrieved by a decision or order of the Board made in respect of that person under this section, other than a decision to make an allegation to the State Administrative Tribunal, may apply to the State Administrative Tribunal for a review of the decision.

*[Section 23 amended by No. 45 of 1977 s. 17; No. 8 of 1984 s. 16; No. 43 of 1988 s. 12; No. 55 of 2004 s. 1281.]*

#### **24. Restoration of name to Register**

- (1) Subject to the provisions of subsection (2), where the Board or the State Administrative Tribunal causes or orders the removal of the name of any person from the Register, the name of that person shall not again be entered therein except by order of the State Administrative Tribunal upon application for review or by the direction of the Board.
- (2) The Board cannot direct that the name of a person be again entered in the Register if the State Administrative Tribunal ordered the removal of the person's name from the Register but otherwise may direct the Registrar in any case where the circumstances appear to the Board to warrant it, to restore to the

**s. 24**

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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.

*[(3) deleted]*

- (4) A person whose name has been removed from the Register or whose registration is suspended may apply to the Board for the restoration of the name of that person to the Register or for the order for suspension to be varied —
- (a) if the name of that person was so removed or the registration was suspended by reason of —
    - (i) conviction of an offence; or
    - (ii) a determination of an authority outside the State, after the expiration of 12 months from the date of the order concerned or of a previous such application whichever is the later; and
  - (b) in any other case, at any time.
- (4a) An application under subsection (4) cannot be made without first applying for and obtaining the leave of the State Administrative Tribunal if the person's name was removed or the suspension was imposed as a result of a proceeding before the State Administrative Tribunal commenced by an allegation under section 23.
- (5) The provisions of this Act relating to the making and consideration of applications for registration apply, with such modification as is necessary, to an application made to the Board under this section.

*[Section 24 amended by No. 45 of 1977 s. 18; No. 8 of 1984 s. 17; No. 55 of 2004 s. 1282; No. 8 of 2009 s. 129.]*

## **Part IVA — Veterinary clinics and veterinary hospitals**

*[Heading inserted by No. 45 of 1977 s. 19.]*

### **24A. Veterinary clinics and veterinary hospitals**

- (1) A person who conducts or carries on any veterinary clinic or veterinary hospital commits an offence unless that veterinary clinic or veterinary hospital is registered under this section.  
Penalty: \$2 000.
- (2) No veterinary clinic or veterinary hospital shall be registered, or if registered shall continue to be registered, under the provisions of this section unless —
  - (a) the premises are constructed, equipped, controlled, managed, and operated in such manner as is prescribed, or, where no such requirement is prescribed, as the Board approves;
  - (b) it is under the management of a registered veterinary surgeon;
  - (c) every person who performs duties of the nature of veterinary surgery in or in connection with that clinic or hospital is either a registered veterinary surgeon, a veterinary nurse or a student from a school of veterinary science at an Australian university examining animals and performing veterinary services as prescribed under section 26(4)(a); or
  - (d) where the clinic or hospital is conducted by a society or other body incorporated under the laws of the State which, in the opinion of the Board, is engaged solely in the promotion of the welfare of animals, the society or body is licensed under section 26F and is complying with that licence.
- (3) The Board shall maintain a record showing in respect of each registration effected pursuant to this section the prescribed information.

**s. 24A**

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- (4) Application for the registration, or the transfer or renewal of the registration, of any veterinary clinic or veterinary hospital, shall be made to the Registrar in the prescribed form and manner and accompanied by the prescribed fee.
- (5) The Board, upon being satisfied that the provisions of this Act have been complied with and that there are no grounds upon which the application ought to be refused, shall cause a veterinary clinic or veterinary hospital to be registered under this section and shall issue to the veterinary surgeon for the time being having the management of that clinic or hospital a certificate of registration thereof in the prescribed form.
- (6) Where the Board refuses an application for registration, or renewal of registration, as the case may be, the Registrar shall forthwith notify the applicant in writing of the grounds upon which the refusal was made.
- (7) Subject to this Act, the registration of a veterinary clinic or veterinary hospital continues in force from the date of issue of the notification of the registration for a period of 3 years, but where the veterinary surgeon to whom the certificate of registration is issued ceases to have the management of that clinic or hospital the certificate may, with the approval of the Board, be transferred to a veterinary surgeon who proposes to take over that management.
- (8) Regulations may provide for the issue of temporary permits having effect for a period of not more than 3 months, and during the currency of any such permit the veterinary clinic or veterinary hospital to which it relates shall be deemed to be registered under this section.
- (9) The Registrar may, at any time, require an applicant or the holder of a certificate of registration under this section —
  - (a) to furnish the Board with information, or additional information, as to the veterinary clinic or veterinary hospital concerned;

- (b) to permit the premises to be inspected on behalf of the Board; and
  - (c) to permit a person authorised by the Board to examine and remove samples, specimens and records thereon or relating thereto.
- (10) If the Board, after giving to the holder of the certificate of registration a reasonable opportunity to make representations to the Board, is of the opinion that the provisions of this Act have not been complied with in relation to any veterinary clinic or veterinary hospital the Board may allege to the State Administrative Tribunal that the provisions of this Act have not been complied with in relation to that veterinary clinic or veterinary hospital.
- (11) If, in a proceeding commenced by an allegation under subsection (10), the State Administrative Tribunal is satisfied that the provisions of this Act have not been complied with in relation to a veterinary clinic or veterinary hospital, the Tribunal may cancel the registration of the veterinary clinic or veterinary hospital.

*[Section 24A inserted by No. 45 of 1977 s. 19; amended by No. 43 of 1988 s. 13; No. 20 of 1989 s. 3; No. 55 of 2004 s. 1283.]*

**24B. Review of refusal to grant or renew registration of clinics or hospitals**

- (1) A person aggrieved by the refusal of the Board to grant or renew the registration of any veterinary clinic or veterinary hospital may apply to the State Administrative Tribunal for a review of the decision.

*[(2) deleted]*

*[Section 24B inserted by No. 45 of 1977 s. 19; amended by No. 55 of 2004 s. 1284.]*

**Part V — Veterinary practice, and offences**

*[Heading inserted by No. 45 of 1977 s. 20.]*

**25. Recovery of fees**

- (1) Subject to subsection (2), no person, or association of persons, shall take legal proceedings to recover a charge or fee made in respect of any veterinary surgery or veterinary service carried out unless —
  - (a) the surgery or service was carried out in accordance with this Act; and
  - (b) the person who carried out the surgery or service is the person, or a member of the association of persons, taking the legal action or was working for, or under the supervision of, that person or association.
- (2) Notwithstanding subsection (1) legal proceedings under that subsection shall not be taken in respect of veterinary surgery or veterinary services carried out at a veterinary clinic or a veterinary hospital unless that clinic or hospital is conducted by a university in which case only the university shall take those proceedings.

*[Section 25 inserted by No. 43 of 1988 s. 14.]*

*[Heading repealed by No. 45 of 1977 s. 22.]*

**26. Only registered persons to practise veterinary surgery**

- (1) Except as otherwise provided in this section, only the following persons shall practise veterinary surgery —
  - (a) a registered veterinary surgeon; or
  - (b) an association or body of persons comprised wholly of persons who are registered veterinary surgeons.

Penalty: \$2 000.

- (2) Nothing in subsection (1) shall extend to make any person liable to any penalty if he satisfies the court that he has not directly or indirectly been paid or remunerated or received any other

valuable consideration, or been promised or expected any such pay, remuneration or consideration for or in relation to the practice of veterinary surgery or any other directly or indirectly related matter arising out of or connected with the relevant circumstances.

- (3) Nothing in subsection (1) applies to or prohibits the performance, whether or not for reward, by a person —
- (a) of first aid for the purpose of saving the life of an animal or relieving pain suffered by an animal;
  - (b) of a veterinary service prescribed for the purposes of this paragraph, if, within 50 kilometres of the place where the service is required either —
    - (i) no registered veterinary surgeon is in practice; or
    - (ii) no registered veterinary surgeon willing to perform the service can be found; or
    - (iii) no registered veterinary surgeon is available to perform the service within a reasonable time;
  - (c) in a prescribed area of the State and using humane methods, of the operation of spaying cattle or of castrating any animal over the age of 12 months;
  - (d) using humane methods, of the operation of dehorning cattle, tailing or mulesing lambs, or of castrating any animal not over the age of 12 months; or
  - (e) of such veterinary services as may be prescribed for the purposes of this paragraph.
- (4) Nothing in subsection (1) applies to or prohibits —
- (a) students from a school of veterinary science at an Australian university examining animals and performing such veterinary services as may be prescribed for the purposes of this paragraph subject to the conditions as to supervision and other matters prescribed; or
  - (b) the performance by a veterinary nurse or other person authorised by the Board of such duties or veterinary

**s. 26AA**

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services as may be prescribed for the purposes of this paragraph, under the direction of a registered veterinary surgeon.

- (5) A person who uses for the diagnosis, examination, or treatment of any animal ailment or defect any method or equipment which is subject to the provisions of the *Radiation Safety Act 1975*, and is prescribed for the purposes of this subsection in regulations made under this Act commits an offence unless he is, or is acting under the supervision of, a registered veterinary surgeon.
- (6) Subject to subsection (7), no person other than a registered veterinary surgeon shall carry on the business of a veterinary surgeon, whether alone or in association with any other person or persons or association of persons, or own or have any pecuniary interest in any business which consists of or includes the practice of veterinary surgery; but nothing in this subsection prohibits a person from permitting premises owned or occupied by him to be used for the purposes of a veterinary clinic or a veterinary hospital under the provisions of this Act.
- Penalty: \$2 000.
- (7) Nothing in subsection (1) or (6) applies to or prohibits a university from conducting a veterinary clinic or veterinary hospital under section 24A.

*[Section 26 amended by No. 45 of 1977 s. 23; No. 43 of 1988 s. 15; No. 20 of 1989 s. 3.]*

**26AA. Offence to practise as specialist unless registered as specialist**

A registered veterinary surgeon shall not —

- (a) use the title or description “specialist” or any abbreviation or derivation thereof or any title, description, words or letters implying or capable of being understood as implying, that the veterinary surgeon is a specialist in a branch of veterinary surgery; or



- (b) advertise or hold out that the veterinary surgeon is a specialist in a branch of veterinary surgery,

unless the veterinary surgeon is registered under section 20AB as a specialist in that branch.

*[Section 26AA inserted by No. 43 of 1988 s. 16.]*

**26A. Use of term “veterinary”, etc.**

- (1) Subject to subsection (6), only a registered veterinary surgeon, or an association or body of persons comprised wholly of persons who are registered veterinary surgeons shall —
- (a) use the title of veterinary surgeon, or of registered veterinary surgeon;
  - (b) hold himself or itself out directly, indirectly or by implication as practising or being willing to practise veterinary surgery in any of its aspects; or
  - (c) use any name, title, word, abbreviation, or initial or combination of letters which implies or is calculated to imply that he or it is registered under this Act or is entitled to carry on the practice of veterinary surgery.

Penalty: \$2 000.

- (2) A person or association of persons shall practise veterinary surgery, carry on the business of veterinary surgery or conduct a veterinary clinic or veterinary hospital only in or under a name registered in respect of that person or association of persons under this Act, unless otherwise approved in writing by the Board.
- (3) A person, being a registered veterinary surgeon, shall not make known the place or places where, or the fact that, the person is practising veterinary science, except in accordance with the regulations.
- (4) A person shall not use or publish in connection with veterinary science or the practice of veterinary surgery any title, name,

**s. 26B**

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words or letters capable of being understood to indicate qualifications in veterinary science, as a veterinary surgeon or as a specialist in a particular branch of veterinary surgery unless —

- (a) the title, name, words or letters are entered in the Register opposite that person's name, or are an abbreviation or derivative of such an entry; or
  - (b) the Board has approved the use or publication of the title, name, words or letters by the person.
- (5) Subject to subsection (6), no person, other than a person authorised so to do by or under this Act, shall in connection with any business take or use the term “veterinary”, or any abbreviation or amplification of that term, either alone or in connection with any other name or title, save that the term may lawfully be used by a person as indicating that the person carries on the business of supplier of wares or materials used in connection with veterinary science.
- (6) Notwithstanding this section, a university conducting a veterinary clinic or veterinary hospital registered under section 24A may hold itself out as being willing to provide veterinary surgery.

*[Section 26A inserted by No. 45 of 1977 s. 24; amended by No. 8 of 1984 s. 19; No. 43 of 1988 s. 17; No. 20 of 1989 s. 3.]*

**26B.      Estates of deceased persons**

The legal personal representative of a person who, at the time of his death, was carrying on the business and practice of a registered veterinary surgeon may, after having received the Board's written consent, continue to carry on that business and practice for a period of 12 months or for such further period as the Board may allow, subject to the express condition that the business and practice are carried on by and under the immediate and personal supervision and management of a registered veterinary surgeon.

*[Section 26B inserted by No. 45 of 1977 s. 25.]*

**26C. Employment of veterinary surgeons**

A registered veterinary surgeon shall not employ any person to practise veterinary surgery other than a registered veterinary surgeon.

*[Section 26C inserted by No. 43 of 1988 s. 18.]*

**26D. Issuing certificates under other Acts**

No person other than a person who, not being a body corporate, is a registered veterinary surgeon shall sign any certificate or other document prescribed by or under any Act which requires the signature of a veterinary surgeon or veterinary officer in respect of the freedom from disease of any animal or animal product.

*[Section 26D inserted by No. 45 of 1977 s. 27; amended by No. 8 of 1984 s. 21.]*

**26E. Veterinary nurses**

- (1) A person shall be approved by the Board to carry out the duties of a veterinary nurse if that person is a person of good fame and character and proves to the Board, if so required after personal attendance before the Board or a Committee of the Board, that he or she has completed to the satisfaction of the Board an approved course of study and veterinary practice and training.
- (2) The approval of the Board shall be evidenced by a certificate, which shall be endorsed with particulars of any condition or limitation to which that approval is subject, issued to the applicant by the Registrar.
- (3) The Registrar shall record all certificates of approval issued under this section, and particulars of every endorsement thereon.
- (4) The duties and veterinary services that may be performed by a veterinary nurse may be prescribed.

**s. 26F**

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- (5) Where an application by any person to be approved by the Board to carry out the duties of a veterinary nurse is refused by the Board, upon any ground other than the ground that the person has not completed to the satisfaction of the Board an approved course of study and veterinary practice and training, that person may apply to the State Administrative Tribunal for a review of the decision.

*[Section 26E inserted by No. 45 of 1977 s. 28; amended by No. 8 of 1984 s. 22; No. 55 of 2004 s. 1285.]*

**26F.      Animal welfare societies**

- (1) Notwithstanding the provisions of section 26, a society or other body incorporated under the laws of the State and which is, in the opinion of the Board, engaged solely in the promotion of the welfare of animals may cause treatment to be carried out on sick or injured animals where —
- (a) that society or other body is for the time being licensed so to do by the Board in writing; and
  - (b) the provisions of that licence are complied with.
- (2) A society or other body which applies to be licensed by the Board under this section, or which is so licensed, and is aggrieved by —
- (a) a refusal by the Board to issue or renew such a licence;
  - (b) the conditions laid down in, or any other provision of such a licence or proposed licence; or
  - (c) the prospective or actual revocation or variation of such a licence,

may apply to the State Administrative Tribunal for a review of the decision.

*[Section 26F inserted by No. 45 of 1977 s. 29; amended by No. 55 of 2004 s. 1286.]*

**27. Legal proceedings**

- (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 commence a prosecution 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.
- (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.

*[Section 27 amended by No. 84 of 2004 s. 80.]*

**28. Application**

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

**s. 29**

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**29.        Offences**

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

*[Section 29 amended by No. 8 of 1984 s. 23.]*

**30.        General penalty**

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 \$2 000.

*[Section 30 amended by No. 45 of 1977 s. 30; No. 20 of 1989 s. 3.]*

**31.        Regulations**

- (1) 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 —
  - (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;

- (ca) relating to the training of persons desiring to apply for approval as a veterinary nurse;
- (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*<sup>4</sup>, on the coming into operation of this Act<sup>1</sup>, 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, but not for the initiation of a proceeding before the State Administrative Tribunal;
- (f) relating to the registration of veterinary surgeons and the issue of certificates to veterinary nurses;
- (g) for prescribing qualifications of universities, colleges or institutions for the purposes of this Act;
- (h) relating to the issue, renewal and replacement of certificates of registration;
- (i) for regulating or prohibiting the method or manner in which a person, being a registered veterinary surgeon, may make known the place or places where, or the fact that, the person is practising veterinary science;
- (j) prescribing the veterinary services that may lawfully be performed pursuant to section 26;
- (k) prescribing that any act, matter, procedure, or thing shall be deemed to form part of the practice of veterinary surgery for the purposes of this Act;
- (l) relating to veterinary clinics and veterinary hospitals, their establishment and functions and the registration and control thereof, the standards to be observed, the manner in which they are to be conducted, the duties of persons employed therein or thereby, the equipment and facilities to be provided, and the manner and extent to which they may be advertised;

**s. 31**

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- (m) relating to the theoretical and practical studies of veterinary students, and the supervision thereof; and
  - (n) relating to the maintenance of prescribed standards of professional conduct.
- (2) Any regulations made under this Act may —
- (a) be of general or limited application, according to time, place or circumstance and may make different provision as between persons who are a body corporate and persons who are not a body corporate;
  - (b) impose upon any person or class of person a discretionary authority; and
  - (c) provide penalties not exceeding \$2 000 for offences against the regulations, and daily penalties not exceeding \$200 for every day that an offence continues.

*[Section 31 amended by No. 45 of 1977 s. 31; No. 8 of 1984 s. 24; No. 20 of 1989 s. 3; No. 55 of 2004 s. 1287.]*



## Notes

- <sup>1</sup> This is a compilation of the *Veterinary Surgeons Act 1960* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Veterinary Surgeons Act 1960</i>	64 of 1960	2 Dec 1960	12 Jan 1962 (see s. 1(2) and <i>Gazette</i> 12 Jan 1962 p. 103)
<i>Veterinary Surgeons Act Amendment Act 1977</i>	45 of 1977	7 Nov 1977	21 Dec 1979 (see s. 2 and <i>Gazette</i> 21 Dec 1979 p. 3909)
<b>Reprint of the <i>Veterinary Surgeons Act 1960</i> approved 7 Jan 1980</b> (includes amendments listed above)			
<i>Veterinary Surgeons Amendment Act 1984</i>	8 of 1984	17 May 1984	19 Oct 1984 (see s. 2 and <i>Gazette</i> 19 Oct 1984 p. 3358)
<i>Acts Amendment (Financial Provisions of Regulatory Bodies) Act 1987 s. 3</i>	77 of 1987	26 Nov 1987	1 Jan 1988 (see s. 2)
<i>Veterinary Surgeons Amendment Act 1988</i>	43 of 1988	30 Nov 1988	13 Jan 1989 (see s. 2 and <i>Gazette</i> 13 Jan 1989 p. 62)
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and <i>Gazette</i> 15 Dec 1989 p. 4513)
<b>Reprint of the <i>Veterinary Surgeons Act 1960</i> as at 12 Feb 1990</b> (includes amendments listed above)			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 131<sup>5</sup></i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<b>Reprint 3: The <i>Veterinary Surgeons Act 1960</i> as at 8 Jul 2005</b> (includes amendments listed above)			

**Veterinary Surgeons Act 1960**

Short title	Number and year	Assent	Commencement
<i>Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Act 2005</i> s. 63	24 of 2005	2 Dec 2005	1 Jan 2006 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6244)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 129	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Veterinary Surgeons Amendment Act 2009</i>	9 of 2009	21 May 2009	s. 1 and 2: 21 May 2009 (see s. 2(a)); Act other than s. 1 and 2: 12 Dec 2009 (see s. 2(b) and <i>Gazette</i> 11 Dec 2009 p. 5045)
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 87	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Standardisation of Formatting Act 2010</i> s. 51 <sup>6</sup>	19 of 2010	28 Jun 2010	To be proclaimed (see s. 2(b))
<a href="#"><u><i>Health Practitioner Regulation National Law (WA) Act 2010</i></u></a> Pt. 5 Div. 49 <sup>7</sup>	<a href="#"><u>35 of 2010</u></a>	<a href="#"><u>30 Aug 2010</u></a>	<a href="#"><u>To be proclaimed (see s. 2(b))</u></a>

<sup>2</sup> The provision of this Act repealing those Acts has been omitted under the *Reprints Act 1984* s. 7(4)(f).

<sup>3</sup> Now known as Manager, Animal Industry Protection, Animal Protection Program.

<sup>4</sup> Repealed by s. 1(3) of this Act, which was omitted under the *Reprints Act 1984* s. 7(4)(f).

<sup>5</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169,

and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>6</sup> On the date as at which this compilation was prepared, the *Standardisation of Formatting Act 2010* s. 51 had not come into operation. It reads as follows:

**51. Various written laws amended**

- (1) This section amends the written laws listed in the Table.
- (2) Amend the provisions listed in the Table as set out in the Table.

<b>91. <i>Veterinary Surgeons Act 1960</i></b>		
s. 17(4)	(4) (a) In (b) Courts,	(4A) In (4B) Courts,
s. 17(5)	(5) (a) The (b) The	(5A) The (5B) The
s. 17(6)	(6) (a) A copy (b) The	(6A) A copy (6B) The
s. 20B(2)	(i) until (ii) until	(a) until (b) until

<sup>7</sup> [On the date as at which this compilation was prepared, the \*Health Practitioner Regulation National Law \(WA\) Act 2010\* Pt. 5 Div. 49 had not come into operation. It reads as follows:](#)

**Division 49 — *Veterinary Surgeons Act 1960* amended**

**161. Act amended**

[This Division amends the \*Veterinary Surgeons Act 1960\*.](#)

**162. Section 28 amended**

[In section 28\(a\) delete “any registered pharmaceutical chemist” and insert:](#)

[a person registered under the \*Health Practitioner Regulation National Law \(Western Australia\)\* in the pharmacy profession](#)