

[Act 1995 No 48]



New South Wales

Veterinary Surgeons Amendent Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Veterinary Surgeons Act 1986* (“the Principal Act”) so as:

- (a) to increase the membership of both the Veterinary Surgeons Investigating Committee and the Disciplinary Tribunal by including a member who is not a veterinary surgeon to represent the interests of users of veterinary services, and
 - (b) to confer additional powers on the Investigating Committee and on the Disciplinary Tribunal in dealing with complaints against veterinary surgeons, and
 - (c) to transfer responsibility for the making of disciplinary orders against veterinary surgeons from the full Disciplinary Tribunal to the chairperson of that Tribunal following a finding by the full Tribunal that a complaint has been proved, and
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- (d) to transfer responsibility for licensing veterinary hospitals from the Director-General of the Department of Agriculture to the Board of Veterinary Surgeons of New South Wales (“the Board”), and
- (e) to transfer responsibility for financing the operations of the Board from the Treasury to the Board, and
- (f) to make other changes of a minor or consequential nature.

Outline of provisions

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides for the provisions of the proposed Act to commence on a day or days to be fixed by proclamation.

Clause 3 is a formal provision giving effect to the amendments set out in Schedules 1–4.

Schedule 1 Amendments relating to disciplinary proceedings

The amendments made by Schedule 1 relate to the disciplinary functions of the Investigating Committee (established under section 24) and the Disciplinary Tribunal (established under section 25).

An amendment to section 24 (which constitutes the Veterinary Surgeons Investigating Committee) will expand the membership of the Committee from 4 to 5. The additional member will be a person, who is not a veterinary surgeon, appointed by the Minister to represent the users of veterinary services. (See Schedule 1 [1]–[3].)

An amendment to section 25 (which constitutes the Veterinary Surgeons Disciplinary Tribunal) will provide for the appointment of an additional member of the Tribunal. The additional member will be a person, who is not a veterinary surgeon, appointed by the Minister to represent the users of veterinary services. (See Schedule 1 [4] and [5].)

An amendment to section 26 (which deals with the making of complaints against veterinary surgeons) will enable a complaint to be made against a veterinary surgeon who is alleged to have contravened a condition imposed on the veterinary surgeon under section 28 (1) or 32 (1). (See Schedule 1 [6] and [7].)

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An amendment to section 28 (which sets out the decisions that the Investigating Committee can make when dealing with a complaint about the conduct of a veterinary surgeon) will enable that Committee to impose conditions on a veterinary surgeon's right to continue to practise veterinary science. For example, a veterinary surgeon may be required to undertake a course in anaesthesia as a condition of being allowed to administer anaesthetics to animals when practising veterinary science. (See Schedule 1 [8]–[10]). A further amendment to section 28 is intended to make it clear that a veterinary surgeon who is being investigated by the Investigating Committee has a right to make both written and oral representations before it exercises its powers to caution or reprimand a veterinary surgeon, to impose conditions on the veterinary surgeon's right to practise or to refer the complaint to the Disciplinary Tribunal. (See Schedule 1 [11].)

Proposed section 30A will enable a veterinary surgeon to appeal to the Disciplinary Tribunal against an order made against the veterinary surgeon by the Investigating Committee under section 28 of the Principal Act. (See Schedule 1 [14].)

Section 32 of the Principal Act, which currently provides for complaints against veterinary surgeons to be determined by the Disciplinary Tribunal, is to be replaced. The new section will provide for disciplinary orders to be made by the chairperson of the Tribunal instead of the full Tribunal if the full Tribunal finds that the complaint is proved. The section will also allow the chairperson, when dealing with a registered veterinary surgeon, to impose conditions relating to that surgeon's right to continue to practise veterinary science. (See Schedule 1 [18].)

The amendments made by Schedule 1 [12], [13], [15]–[17] and [19]–[30] are consequential on proposed section 30A and the substitution of section 32.

An amendment to clause 5 of Schedule 2 (Provisions relating to the members and procedure of the Investigating Committee) is consequential on Schedule 1 [1]. (See Schedule 1 [31].)

Amendments to Schedule 3 (Provisions relating to the members of the Disciplinary Tribunal) are consequential on Schedule 1 [4] and [5]. (See Schedule 1 [32]–[35].)

Schedule 2 Amendments relating to licensing of veterinary hospitals

The amendments made by Schedule 2 [2]–[3] provide for responsibility for administering the licensing of veterinary hospitals under Part 6 of the Principal Act to be transferred from the Director-General of the Department of Agriculture to the Board. (The Board already has responsibility for registering veterinary surgeons.) An amendment to section 55 of the Principal Act will replace the existing provision that provides for inspectors to be appointed by the Director-General of the Department of Agriculture with a provision that will allow the Board to appoint inspectors to enable it to enforce the provisions of the Principal Act. The amendment will also require inspectors to produce on request a written authority issued by the Board when exercising their powers under that Act. (See Schedule 2 [4].) The other amendments made by Schedule 2 are of a consequential nature.

Schedule 3 Amendments relating to finances of Board of Veterinary Surgeons

The amendments made by Schedule 3 have the effect of transferring responsibility for funding the Board's operations under the Principal Act from the Treasury to the Board.

Proposed Part 6A provides for the establishment of a fund to be known as the New South Wales Veterinary Surgeons Fund ("the Fund"). Expenses incurred in administering the Principal Act (including remuneration payable to Board members) are to be paid from the Fund. The Board will be able to invest money held in the Fund. (See Schedule 3 [1] and [2].)

The Board's staff are employed under Part 2 of the *Public Sector Management Act 1988* and are remunerated from the Consolidated Fund. In order to reimburse the Consolidated Fund, the Board will be required to reimburse the Treasurer for the costs involved in remunerating the Board's staff.

Section 67 of the Principal Act (which requires fees and other money payable under that Act to be paid into the Consolidated Fund) is to be consequentially repealed. (See Schedule 3 [3].)

Schedule 4 Miscellaneous amendments

Schedule 4 [1] will require the annual licence fee payable by the licensee of a veterinary hospital to be paid before 1 July in each year (instead of 31 March as at present).

Schedule 4 [2] will enable proceedings for offences against the Principal Act or the regulations to be brought within 12 months after the offence is alleged to have been committed.

Schedule 4 [3] amends Schedule 1 to the Principal Act (Provisions relating to the members and procedure of the Board). The amendment will require members of the Board to disclose their pecuniary interests to the Board.

Schedule 4 [4] and [5] amend Schedule 2 to the Principal Act (Provisions relating to the members and procedure of the Investigating Committee). The amendments update clauses 8 and 9 of the Schedule. Those clauses respectively provide for the circumstances in which members of the Investigating Committee vacate office and the effect of certain other Acts on the appointment of those members.

Schedule 4 [6]–[9] contain amendments of a savings and transitional nature that are consequential on the amendments made by the proposed Act.