



New South Wales

Veterinary Practice Bill 2003

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to provide for the registration of persons as veterinary practitioners, and
- (b) to provide for the constitution and functions of the Veterinary Practitioners Board (the **Board**), and
- (c) to regulate the conduct of veterinary practitioners, and
- (d) to create offences that prohibit persons from representing themselves or others to be veterinary practitioners when they are not registered as veterinary practitioners, and
- (e) to create offences that prohibit a person from representing that premises are a veterinary hospital if the premises are not licensed as such, and
- (f) to repeal the *Veterinary Surgeons Act 1986* and the *Veterinary Surgeons Regulation 1995* and to enact savings, transitional and other provisions consequent on the enactment of the proposed Act.

The Bill arises from a National Competition Policy Review of the *Veterinary Surgeons Act 1986* and incorporates the following reforms:

- (a) to create an offence for a person to carry out restricted acts of veterinary science if the person is not a veterinary practitioner (with certain exceptions),
- (b) to provide that those restricted acts of veterinary science are to be specified in regulations to be made under the proposed Act and for advice on those regulations to be taken from an advisory committee established by the Minister,
- (c) to amend the registration scheme for veterinary surgeons that currently exists in the *Veterinary Surgeons Act 1986*,
- (d) to enable a corporation, partnership or other firm to represent that it is a veterinary practice if the controlling interest in the corporation or firm is held by one or more veterinary practitioners,
- (e) to enable premises to be licensed as a veterinary hospital if it is demonstrated that the premises are of a suitable standard and to prohibit a person representing that premises are a veterinary hospital if they are not so licensed,
- (f) to provide that acts of major surgery may only be carried out at a licensed veterinary hospital (with certain exceptions),
- (g) to require a veterinary hospital to have a veterinary practitioner as superintendent,
- (h) to introduce a new system for making complaints against, and the disciplining of, veterinary practitioners who are found guilty of unsatisfactory professional conduct or professional misconduct and, in particular, to remove the role of the current Investigating Committee from disciplinary proceedings,
- (i) to change the membership of the Board of Veterinary Surgeons of New South Wales (to be renamed the Veterinary Practitioners Board) and, in particular, to include representatives of consumers of veterinary services on the Board,
- (j) to remove the current restrictions on advertising by veterinary practitioners.

Outline of provisions

Part 1 Preliminary

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 sets out the object of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act. For instance, *veterinary practitioner* is defined to mean a person who is registered as a veterinary practitioner under the proposed Act. *Firm* is defined to mean a partnership or other unincorporated association of persons.

Clause 5 provides that notes in the proposed Act do not form part of the proposed Act.

Clause 6 provides that the proposed Act does not limit or otherwise affect the operation of the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

Part 2 Restricted acts of veterinary science

Clause 7 provides that the expression *restricted act of veterinary science* means an act of veterinary science declared by the regulations to be a restricted act of veterinary science. Such regulations are to be made only after advice has been sought from an advisory committee established by the Minister. The advisory committee may also make recommendations that such a regulation should be made. Certain acts of veterinary science set out in **Schedule 1** that may currently be performed by unregistered persons cannot be declared by the regulations as restricted acts of veterinary science.

Clause 8 requires the Minister to establish an advisory committee for the purposes of clause 7.

Part 3 Practice of veterinary science

Clause 9 makes it an offence for a person to do a restricted act of veterinary science unless the person is registered as a veterinary practitioner, is the owner of the animal concerned or is an employee of the owner and the act was done incidentally to the primary duties of that employment, is a veterinary student under the direct supervision of a veterinary practitioner, is acting in an emergency or is otherwise acting in circumstances prescribed by the regulations. The offences relating to cruelty to animals in the *Prevention of Cruelty to Animals Act 1979* and the defences to those offences are not affected.

Clause 10 prevents a person from recovering fees or charges for doing restricted acts of veterinary science unless the person is a veterinary practitioner, is the holder of a veterinary hospital licence or falls within certain specified exceptions.

Clause 11 makes it an offence for an individual (with specified exceptions) who is not a veterinary practitioner to be represented to be a veterinary practitioner.

Clause 12 makes it an offence for a person to represent that he or she has qualifications entitling the person to be granted registration as a veterinary practitioner unless the person has such qualifications.

Clause 13 makes it an offence for a person to represent that he or she is registered as a specialist under the proposed Act unless the person is registered as a specialist.

Clause 14 makes it an offence for a corporation or firm (with specified exceptions) to be represented to be a veterinary practice unless the controlling interest in the corporation or firm is held by one or more veterinary practitioners.

Clause 15 makes it an offence for a person who is not a veterinary practitioner to sign a certificate that is required by law to be signed by a veterinary practitioner.

Part 4 Registration of veterinary practitioners

Division 1 Registration procedures

Clause 16 provides for the granting of registration as a veterinary practitioner by the Board under the *Licensing and Registration (Uniform Procedures) Act 2002* and makes certain modifications as to the way in which that Act applies to registration matters.

Clause 17 specifies the circumstances in which the Board may refuse to grant registration as a veterinary practitioner.

Clause 18 enables the Board to impose conditions on registration as a veterinary practitioner having regard to certain matters.

Clause 19 specifies the duration of registration as a veterinary practitioner.

Division 2 Qualifications for registration

Clause 20 specifies the qualifications required for a person to be granted full registration as a veterinary practitioner.

The proposed section also enables the Board to approve the institutions in Australia from which academic qualifications will be accepted and requires the Board to review those approvals every year.

The proposed section also enables the Board to require a person with overseas qualifications to pass an examination prescribed by the regulations.

Clause 21 specifies the qualifications required for a person to be granted honorary registration as a veterinary practitioner.

Clause 22 provides for the grant of limited registration as a veterinary practitioner. The circumstances in which such registration might be granted include where a person has overseas qualifications and is doing research work or has not yet passed the requisite examination for full registration.

Clause 23 enables the grant of provisional registration to persons who have the requisite academic qualifications for full registration but are awaiting the conferring of the actual academic award.

Clause 24 specifies the qualifications required for the grant of registration as a specialist.

Division 3 Cancellation and suspension of registration

Clause 25 provides that a person ceases to be registered when the person's name is removed from the Register and that the person is taken not to be a veterinary practitioner during any period of suspension of the person's registration.

Clause 26 specifies circumstances in which the Board must cancel registration as a veterinary practitioner and other circumstances in which registration as a veterinary practitioner may be cancelled (including for failure to pay annual registration fees or to lodge an annual return).

Division 4 Register of veterinary practitioners

Clause 27 requires the Board to keep a Register of veterinary practitioners.

Clause 28 requires the Board to make the Register available to the public and contains other provisions relating to the way information is recorded in the Register.

Clause 29 requires a veterinary practitioner to pay an annual registration fee to the Board.

Clause 30 requires a veterinary practitioner to provide information to the Board in relation to changes in the registered particulars for the veterinary practitioner.

Clause 31 enables the Registrar to give certificates as to certain matters that are admissible in proceedings as evidence of those matters.

Division 5 Returns and information

Clause 32 requires a veterinary practitioner to submit an annual return to the Board specifying certain information.

Division 6 Review of registration decisions

Clause 33 enables a person who has been refused full registration as a veterinary practitioner (or who has had conditions imposed on full registration) by the Board to apply to the Administrative Decisions Tribunal for a review of such a decision.

Part 5 Complaints and disciplinary proceedings

Division 1 Interpretation

Clause 34 defines certain terms and expressions used in the proposed Part, including *professional misconduct* and *unsatisfactory professional conduct*.

Clause 35 provides that the proposed Part extends to persons who have ceased to be registered as veterinary practitioners under the proposed Act.

Clause 36 provides that the regulations may establish a code of professional conduct. The clause also provides for the Board to make recommendations to the Minister in relation to the code.

Division 2 Complaints

Clause 37 enables any person (including the Board) to make a complaint against a veterinary practitioner in respect of the veterinary practitioner's conduct as a veterinary practitioner.

Clause 38 enables a complaint to be withdrawn by the complainant at any time.

Clause 39 provides for the form that a complaint must take.

Clause 40 provides that generally the Board must notify the person against whom a complaint has been made of the making of the complaint, the nature of the complaint, the type of unsatisfactory professional conduct or professional misconduct that the Board considers may be indicated by the complaint and the identity of the complainant.

Clause 41 requires the Board to investigate complaints and provides for how multiple complaints may be dealt with.

Clause 42 provides that, for the purposes of investigating or determining a complaint, the Board is not bound to observe the rules of evidence but may inform itself of any matter in such manner as it thinks fit. It also enables the Board to pursue alternative dispute resolution to assist in resolving issues raised by a complaint.

Clause 43 enables a person to be summoned to appear before the Board to give evidence and produce documents for the purposes of investigating or determining a complaint. It also enables the Board to take evidence on oath or affirmation.

Clause 44 enables the Board to require a veterinary practitioner to produce documents and assist in an investigation of a complaint.

Clause 45 enables the Board to dismiss certain complaints.

Clause 46 provides that, after the investigation of a complaint, the Board may take certain action.

If the Board is satisfied that the veterinary practitioner is not guilty of professional misconduct or unsatisfactory professional conduct, it must dismiss the complaint.

If the Board is satisfied that the veterinary practitioner is guilty of professional misconduct, it must apply to the Tribunal for a disciplinary finding against the veterinary practitioner and it may, pending the determination of the application, suspend the veterinary practitioner's registration.

If the Board is satisfied that the veterinary practitioner is guilty of unsatisfactory professional conduct (but not professional misconduct), it may apply to the Tribunal for a disciplinary finding against the veterinary practitioner or it may itself take any one or more of the following actions against the veterinary practitioner:

- (a) reprimand or caution the veterinary practitioner,
- (b) impose a fine on the veterinary practitioner of an amount not exceeding \$5,000,
- (c) impose conditions on the veterinary practitioner's registration with respect to the practice of veterinary science,
- (d) require the veterinary practitioner to complete specified educational courses,
- (e) require the veterinary practitioner to report on his or her veterinary practice at specified times, in a specified manner and to specified persons,
- (f) require the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons,
- (g) require the veterinary practitioner to pay specified costs relating to the hearing.

Clause 47 enables a person against whom a disciplinary finding has been made by the Board to apply to the Tribunal for a review of that finding and any action taken against the person by the Board.

Clause 48 enables the Board to delegate its functions under the proposed Part to specially constituted committees of the Board.

Division 3 Applications to Tribunal for disciplinary findings

Clause 49 enables the Board to apply to the Tribunal for a disciplinary finding against a veterinary practitioner with respect to a complaint against the veterinary practitioner.

Clause 50 provides that on any such application the Tribunal is to determine whether or not the veterinary practitioner is guilty of professional misconduct or unsatisfactory professional conduct. If the Tribunal finds that the veterinary practitioner is guilty of either, the Tribunal may make any one or more of the following orders against the veterinary practitioner:

- (a) an order reprimanding or cautioning the veterinary practitioner,
- (b) an order suspending the veterinary practitioner's registration for a period not exceeding 12 months,
- (c) an order cancelling the veterinary practitioner's registration,
- (d) an order imposing a fine on the veterinary practitioner of an amount not exceeding \$25,000,
- (e) an order imposing conditions on the veterinary practitioner's registration with respect to the practice of veterinary science,
- (f) an order requiring the veterinary practitioner to complete specified educational courses,
- (g) an order requiring the veterinary practitioner to report on his or her veterinary practice at specified times, in a specified manner and to specified persons,
- (h) an order requiring the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons,
- (i) an order requiring the veterinary practitioner to pay specified costs relating to the hearing.

Clause 51 provides that a decision of the Tribunal on an application for a disciplinary finding may be appealed to an Appeal Panel of the Tribunal under Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*.

Clause 52 enables a person whose registration has been suspended or cancelled to have the registration restored in certain circumstances.

Clause 53 requires the Registrar of the Tribunal to notify the Board of any orders the Tribunal makes under clause 50 and requires the Registrar of the Board to keep a record of all proceedings and decisions under the proposed Part.

Division 4 Confidentiality issues

Clause 54 provides that a veterinary practitioner may disclose confidential information to the Board, a committee of the Board or the Tribunal despite any duty of confidentiality.

Clause 55 provides that the Tribunal is not required to include confidential information in its statement of a decision. If the statement would be false or misleading without the confidential information, the Tribunal is not required to provide the statement. However, a confidential information notice must then be provided indicating that confidential information is not given or the statement will not be provided.

Division 5 Co-operation with other jurisdictions in respect of disciplinary action

Clause 56 requires the Board to notify various veterinary practitioner professional registration authorities in Australia and New Zealand of the taking of disciplinary action against a veterinary practitioner. It also enables the Board to notify the veterinary practitioner professional registration authorities of other jurisdictions outside the State of the taking of such action.

Division 6 Publicising disciplinary action

Clause 57 defines certain terms used in the proposed Division.

Clause 58 enables and requires the Board to publicise disciplinary action taken against a veterinary practitioner or former veterinary practitioner.

Clause 59 requires the Registrar of the Board to keep a register of disciplinary action and to make it available to the public.

Clause 60 requires the Board to publicise the quashing on appeal or review of any disciplinary action taken against a veterinary practitioner or former veterinary practitioner and to update the register of disciplinary action to reflect the quashing of the action.

Clause 61 provides that no liability is incurred by the State, the Board, the Registrar or a person acting at the direction of the Board or Registrar in respect of anything done in good faith for the purpose of publicising disciplinary action or otherwise carrying out functions under the proposed Division. It also provides that no liability is incurred by a person who publishes a fair report or summary of disciplinary action that is publicised.

Clause 62 specifies what matters cannot be published when publicising disciplinary action.

Part 6 Veterinary hospitals

Division 1 Offences relating to veterinary hospitals

Clause 63 defines the expression *major surgery* for the purposes of the proposed Act.

Clause 64 makes it an offence to carry out major surgery except on premises licensed as a veterinary hospital at which surgery of the type concerned may be carried out. Certain exceptions are specified such as major surgery carried out in emergency situations.

Clause 65 makes it an offence to represent that premises are a veterinary hospital if the premises are not licensed as a veterinary hospital under the proposed Part.

Clause 66 requires the holder of a veterinary hospital licence to ensure that the premises are managed by a superintendent that is a veterinary practitioner.

Clause 67 requires the holder of a veterinary hospital licence to display certain information on the premises relating to the types of major surgery for which the premises are licensed.

Division 2 Licensing procedures

Clause 68 provides for the granting of veterinary hospital licences by the Board under the *Licensing and Registration (Uniform Procedures) Act 2002* and makes certain modifications to the way that Act applies in that regard.

Clause 69 specifies the circumstances in which the Board must refuse to grant a veterinary hospital licence.

Clause 70 enables the Board to impose conditions on a veterinary hospital licence.

Clause 71 specifies the duration of a veterinary hospital licence.

Clause 72 requires the holder of a veterinary hospital licence to pay an annual licence fee to the Board.

Clause 73 specifies circumstances in which the Board may suspend or cancel a veterinary hospital licence.

Clause 74 enables a person who has been refused a veterinary hospital licence, has had conditions imposed on such a licence, or has had the licence suspended or cancelled by the Board to apply to the Administrative Decisions Tribunal for a review of such a decision.

Part 7 Veterinary Practitioners Board

Clause 75 provides for the constitution of the Veterinary Practitioners Board as a body corporate.

Clause 76 provides for the membership of the Board.

Clause 77 provides for the election of a President of the Board.

Clause 78 sets out the functions of the Board.

Clause 79 provides for the employment of a Registrar of the Board and such other staff as are necessary to enable the Board to exercise its functions. The proposed section also enables the Board to make use of the services of consultants.

Clause 80 provides for the establishment of committees of the Board.

Clause 81 enables the Board to delegate its functions, subject to certain restrictions.

Part 8 Finance

Clause 82 requires the Board to maintain an account.

Clause 83 sets out the ways in which the Board may invest its funds.

Clause 84 provides for the financial year of the Board.

Clause 85 requires the Board to submit proposed fees (including the proposed remuneration of members of the Board) to the Minister for approval after having undertaken consultation with the veterinary profession.

Clause 86 enables the Board to waive, reduce or refund fees.

Clause 87 provides that fees and other charges payable to the Board under the proposed Act may be recovered by the Board as a debt and that fines recovered under the Act are to be paid to the Board.

Clause 88 requires the Board to conduct regular reviews of its revenue-raising strategies.

Part 9 Powers of inspectors

Clause 89 provides for the appointment of inspectors for the purposes of the proposed Act.

Clause 90 gives inspectors certain powers of entry and examination for the purposes of administering the proposed Act.

Part 10 Miscellaneous

Clause 91 requires the Board to hold an annual general meeting of the veterinary profession.

Clause 92 provides that certain provisions of the *Criminal Records Act 1991* do not apply for the purposes of the proposed Act.

Clause 93 provides for the giving of notices.

Clause 94 provides for the service of documents on the Board.

Clause 95 excludes Board members, committee members and persons following their directions from personal liability for certain acts done in good faith.

Clause 96 requires the Board, the President or an authorised member of the Board to provide on request a written statement of a decision.

Clause 97 provides for the authentication of official documents of the Board by signature instead of seal.

Clause 98 provides that if a corporation contravenes any provision of the proposed Act or the regulations, each director or other person concerned in the management of the corporation is also taken to have contravened the same provision if the director or person knowingly authorised or permitted the contravention.

Clause 99 provides that an offence under the proposed Act or the regulations may be dealt with summarily by a Local Court.

Clause 100 enables penalty notices to be issued for offences against the Act or the regulations being an offence prescribed by the regulations.

Clause 101 provides for the making of regulations under the proposed Act.

Clause 102 provides that the proposed Act binds the Crown.

Clause 103 provides for the repeal of the following:

- (a) the *Veterinary Surgeons Act 1986*,
- (b) the *Veterinary Surgeons Regulation 1995*.

Clause 104 is a formal provision that gives effect to the amendments to the Acts and Regulations set out in Schedule 3.

Clause 105 is a formal provision that gives effect to the savings, transitional and other provisions set out in Schedule 4.

Clause 106 provides for a review of the operation of the proposed Act to be undertaken after 5 years from the date of assent to the proposed Act.

Schedule 1 Unrestricted acts of veterinary science

Schedule 1 specifies certain acts of veterinary science that may not be declared by the regulations to be restricted acts of veterinary science.

Schedule 2 Provisions relating to members and procedure of Board

Schedule 2 contains standard provisions relating to the constitution of the Board and the procedure of the Board.

Schedule 3 Amendment of Other Acts and Regulations

Schedule 3 contains consequential amendments to various Acts and Regulations.

Schedule 4 Savings, transitional and other provisions

Schedule 4 contains a number of savings, transitional and other provisions consequent on the enactment of the proposed Act, including a provision enabling the regulations under the proposed Act to make further provisions of a savings or transitional nature.

Veterinary Practice Bill 2003

Explanatory note

Explanatory note page 14



New South Wales

Veterinary Practice Bill 2003

Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Object of Act	2
4 Definitions	2
5 Notes	4
6 Mutual recognition laws	4
Part 2 Restricted acts of veterinary science	
7 Restricted acts of veterinary science	5
8 Establishment of advisory committee	5
Part 3 Practice of veterinary science	
9 Offence for unregistered person to do restricted acts of veterinary science	7

	Page
10 Unregistered person may not recover fees or charges for doing restricted acts of veterinary science	7
11 Offence relating to representation of unqualified person to be veterinary practitioner	8
12 Offence to falsely represent person as holder of veterinary qualifications	9
13 Offence to practise as specialist unless registered as specialist	9
14 Offence of representing certain corporations and firms to be veterinary practices	9
15 Signing certificates	11
 Part 4 Registration of veterinary practitioners	
Division 1 Registration procedures	
16 Application to registration of Licensing and Registration (Uniform Procedures) Act 2002	12
17 Refusal of registration	13
18 Conditions of registration	14
19 Duration of registration	15
Division 2 Qualifications for registration	
20 Qualifications for full registration	15
21 Qualifications for honorary registration	15
22 Qualifications for limited registration	16
23 Qualifications for provisional registration	16
24 Qualifications for specialist registration	17
Division 3 Cancellation and suspension of registration	
25 Cancellation and suspension of registration	17
26 Removal of person's name from Register	17
Division 4 Register of veterinary practitioners	
27 Register of veterinary practitioners	19
28 General provisions relating to Register	20
29 Annual registration fees	20
30 Change of particulars to be notified	21
31 Evidentiary certificates	21
Division 5 Returns and information	
32 Annual return to be submitted	22
Division 6 Review of registration decisions	
33 Tribunal may review certain registration decisions	24

	Page
Part 5	
Complaints and disciplinary proceedings	
Division 1 Interpretation	
34 Definitions	25
35 Application of Part	26
36 Veterinary practitioners code of professional conduct	27
Division 2 Complaints	
37 Persons who may make complaints	27
38 Withdrawal of complaint	27
39 Form of complaint	27
40 Board to notify person against whom complaint is made	27
41 Board to investigate complaints	28
42 Proceedings before Board in respect of complaints	29
43 Power to summon witnesses and take evidence	29
44 Powers of Board in investigation in respect of veterinary practitioners	30
45 Power to dismiss certain complaints	30
46 Decision after investigation of complaint	31
47 Person may apply to Tribunal for a review of disciplinary finding of Board	32
48 Delegation of Board's functions under this Part to committee	33
Division 3 Applications to Tribunal for disciplinary findings	
49 Board may apply to Tribunal for disciplinary finding	33
50 Tribunal's powers when complaint proved	33
51 Appeal against orders of the Tribunal in its original jurisdiction	34
52 Restoration of registration	35
53 Recording of proceedings and orders of Tribunal, Board and committees	36
Division 4 Confidentiality issues	
54 Duty of confidentiality of client communications	36
55 Statement of reasons of Tribunal need not contain confidential information	36
Division 5 Co-operation with other jurisdictions in respect of disciplinary action	
56 Notice of disciplinary action to other Boards	38
Division 6 Publicising disciplinary action	
57 Definitions	39

	Page
58 Publicising disciplinary action	39
59 Register of disciplinary action	40
60 Quashing of disciplinary action	40
61 Liability for publicising disciplinary action	40
62 General	41
 Part 6 Veterinary hospitals	
Division 1 Offences relating to veterinary hospitals	
63 Meaning of “major surgery”	42
64 Premises required to be licensed as a veterinary hospital	42
65 Unlicensed premises not to be represented as veterinary hospital	43
66 Requirement to have qualified superintendent	43
67 Requirement to display information	43
 Division 2 Licensing procedures	
68 Application to licensing of Licensing and Registration (Uniform Procedures) Act 2002	44
69 Refusal of licence	44
70 Conditions of licences	45
71 Duration of licence	45
72 Annual licence fee	45
73 Suspension or cancellation of licence	45
74 Reviews by the Tribunal	47
 Part 7 Veterinary Practitioners Board	
75 Constitution of Board	48
76 Membership of Board	48
77 President of the Board	48
78 Functions of Board	49
79 Staff of the Board	49
80 Committees	50
81 Delegation of functions	50
 Part 8 Finance	
82 Board to establish and maintain account at financial institution	52
83 Investment of money	52
84 Financial year of Board	52
85 Consultation on fees	52
86 Waiver, reduction or refund of fees by Board	52
87 Recovery of fees and fines	53

	Page
88 Reviews of revenue strategies	53
Part 9 Powers of inspectors	
89 Appointment of inspectors	54
90 Power of entry and examination	54
Part 10 Miscellaneous	
91 Annual meeting of veterinary profession	56
92 Application of Criminal Records Act 1991	56
93 How notice is to be given	56
94 Service of documents on Board	56
95 Liability of members and others	56
96 Written statement of decisions	57
97 Authentication of certain documents	58
98 Liability of directors and managers of corporations	58
99 Proceedings for offences	59
100 Penalty notices	59
101 Regulations	60
102 Act to bind Crown	61
103 Repeal of Veterinary Surgeons Act 1986 No 55 and related regulation	61
104 Amendment of other Acts and Regulations	61
105 Savings, transitional and other provisions	61
106 Review of Act	61
Schedule 1 Unrestricted acts of veterinary science	62
Schedule 2 Provisions relating to the members and procedure of the Board	63
Schedule 3 Amendment of other Acts and Regulations	69
Schedule 4 Savings, transitional and other provisions	80

Veterinary Practice Bill 2003

Contents

Page

Contents page 6



New South Wales

Veterinary Practice Bill 2003

No. , 2003

A Bill for

An Act relating to the practice of veterinary science, to repeal the *Veterinary Surgeons Act 1986*; and for other purposes.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Veterinary Practice Act 2003*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Object of Act

The object of this Act is to regulate the provision of veterinary services for the following purposes:

- (a) to promote the welfare of animals,
- (b) to ensure that consumers of veterinary services are well informed as to the competencies required of veterinary practitioners,
- (c) to ensure that acceptable standards are required to be met by veterinary practitioners so as to meet the public interest and national and international trade requirements,
- (d) to provide public health protection.

4 Definitions

(1) In this Act:

advisory committee means the advisory committee established under Part 2.

approved fee means the fee determined by the Board and approved by the Minister.

Board means the Veterinary Practitioners Board constituted under section 75.

committee means a committee established under section 80.

exercise a function includes perform a duty.

firm means a partnership or other unincorporated association of persons.

full registration means registration granted in accordance with section 20.

function includes power, duty and authority.

honorary registration means registration granted in accordance with section 21.

inspector means a person appointed for the time being as an inspector under section 89.

limited registration means registration granted in accordance with section 22.

major surgery has the meaning given by section 63.

premises includes land.

provisional registration means registration granted in accordance with section 23.

Register means the Register required to be kept under section 27.

registered means registered as a veterinary practitioner under this Act.

Registrar means Registrar of the Board.

registration means registration as a veterinary practitioner under this Act.

restricted act of veterinary science has the meaning given by section 7.

specialist registration means registration granted in accordance with section 24.

Tribunal means the Administrative Decisions Tribunal established by the *Administrative Decisions Tribunal Act 1997*.

veterinary hospital means premises the subject of a veterinary hospital licence.

veterinary hospital licence means a licence granted under Part 6 that is in force.

veterinary practice means a business that provides veterinary services.

veterinary practitioner means a person who is registered under this Act as a veterinary practitioner.

veterinary science includes any branch of the science or art of veterinary medicine or of veterinary surgery and, without limiting the generality of the foregoing, includes the following:

- (a) the examination of or attendance on any animal for the purpose of diagnosing the physiological or pathological condition of the animal,
 - (b) the giving of any anaesthetic to, or the performance of any operation on, any animal,
 - (c) without limiting the generality of paragraph (a), the diagnosing of pregnancy in an animal,
 - (d) without limiting the generality of paragraph (b):
 - (i) the carrying out of any artificial breeding procedure involving surgery, and
 - (ii) the de-antlering of deer,
 - (e) the doing of any act that is prescribed by the regulations as forming part of the practice of veterinary science.
- (2) For the purposes of this Act, a person has, or persons have, ***a controlling interest*** in a corporation or firm if the person has, or persons have, the capacity to determine the outcome of decisions about the financial and operating policies of the corporation or firm.

5 Notes

Notes included in this Act do not form part of this Act.

6 Mutual recognition laws

This Act does not limit or otherwise affect the operation of:

- (a) the *Mutual Recognition Act 1992* of the Commonwealth, or
- (b) the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.

Part 2 Restricted acts of veterinary science

7 Restricted acts of veterinary science

- (1) A *restricted act of veterinary science* is an act of veterinary science declared by the regulations to be a restricted act of veterinary science for the purposes of this Act.

Note. Section 9 makes it an offence for a person to do a restricted act of veterinary science except in certain circumstances. Section 10 provides that a person other than a veterinary practitioner is not entitled to recover fees or charges for doing a restricted act of veterinary science except in certain circumstances.

- (2) Before a Minister recommends to the Governor the making of a regulation that includes a declaration referred to in subsection (1), the Minister is to seek the advice of the advisory committee on the proposed regulation.
- (3) The advisory committee may make a recommendation to the Minister that an act of veterinary science should be declared to be a restricted act of veterinary science.
- (4) The advisory committee is not to make a recommendation to declare an act of veterinary science to be a restricted act of veterinary science unless the advisory committee considers that if such an act were performed on an animal by a person other than a veterinary practitioner it would be likely:
- (a) to cause unacceptable levels of harm or suffering to the animal, or
 - (b) to affect human health adversely, or
 - (c) to affect domestic or international trade adversely.
- (5) The advisory committee may include in a recommendation circumstances in which a person other than a veterinary practitioner should be allowed to do the act of veterinary science concerned.
- (6) The Minister is to consider any recommendation of the advisory committee made under this section.
- (7) A regulation may not be made declaring an act of veterinary science specified in Schedule 1 as a restricted act of veterinary science.

8 Establishment of advisory committee

- (1) The Minister is to establish an advisory committee to consider and make recommendations on what acts of veterinary science should

- be declared by the regulations to be restricted acts of veterinary science. 1
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- (2) The advisory committee is to consist of such members as the Minister appoints from time to time. 3
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- (3) The Minister may appoint a presiding member of the advisory committee. 5
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- (4) A member of the advisory committee holds office for such term as is specified in the member's instrument of appointment unless the member's appointment is sooner revoked by the Minister. 7
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- (5) The procedure of the advisory committee, and the remuneration (if any) of the members, is to be as determined by the Minister. 10
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- (6) The remuneration (if any) of members of the advisory committee and any expenses of the advisory committee are to be paid by the Board. 12
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Part 3 Practice of veterinary science

9 Offence for unregistered person to do restricted acts of veterinary science

- (1) A person must not do any restricted act of veterinary science unless the person is a veterinary practitioner.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) Despite subsection (1), a person other than a veterinary practitioner may, in respect of an animal, do any restricted act of veterinary science if:

- (a) the person is the owner of the animal, or
- (b) the person is an employee of the owner of the animal and the act is done incidentally to the primary duties of that employment, or
- (c) the person is a student enrolled in a course of study referred to in section 20 (1) (a) and is doing the restricted act of veterinary science concerned as part of the requirements of that course under the direct supervision of a veterinary practitioner, or
- (d) the doing of the act is necessary because the animal is in urgent need of veterinary treatment and a veterinary practitioner is not available, or
- (e) the person belongs to a class of persons, or is doing the act of veterinary science in the circumstances, prescribed by the regulations for the purposes of this paragraph.

10 Unregistered person may not recover fees or charges for doing restricted acts of veterinary science

A person is not entitled to recover any fee or charge for doing any restricted act of veterinary science unless the person is a veterinary practitioner, the holder of a veterinary hospital licence or is referred to in section 14 (5).

**11 Offence relating to representation of unqualified person to be
veterinary practitioner**

- (1) An individual must not represent himself or herself to be a
veterinary practitioner and must not allow himself or herself to be
represented to be a veterinary practitioner unless he or she is a
veterinary practitioner.

Maximum penalty: 50 penalty units or imprisonment for 12 months,
or both.

- (2) A person must not represent an individual to be a veterinary
practitioner if the person knows, or ought reasonably to know, that
the individual is not a veterinary practitioner.

Maximum penalty: 50 penalty units or imprisonment for 12 months,
or both.

- (3) Without limiting the ways in which an individual can be considered
to be represented to be a veterinary practitioner, a representation
using any of the following titles, names or descriptions constitutes
such a representation:

(a) the title or description “veterinary surgeon”, “veterinary
practice”, “veterinary”, “vet” or “animal doctor”, or any
abbreviation or derivative of those words, either alone or in
connection with any other title or description,

(b) another title, name or description that indicates, or is capable
of being understood to indicate, or is calculated to lead a
person to infer, that the person is a veterinary practitioner or
is entitled to be registered as a veterinary practitioner,

(c) any title, name or description prescribed by the regulations.

- (4) This section does not prohibit the use of the term “veterinary”:

(a) by a person for the purpose only of indicating that the person
or another person carries on the business of supplying goods
or materials used in connection with veterinary science, or

(b) in relation to a government department, public or local
authority or statutory corporation, or

(c) by a person who or body which, because of section 14 (5), is
using the term without contravening that section, or

(d) by the holder of a veterinary hospital licence in relation to the
premises the subject of the licence.

12 Offence to falsely represent person as holder of veterinary qualifications

A person must not represent himself or herself to be the holder of any qualification that would entitle the person to be granted registration as a veterinary practitioner unless the person is the holder of that qualification.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

13 Offence to practise as specialist unless registered as specialist

- (1) An individual must not represent himself or herself to be a specialist in a branch of veterinary science unless he or she is the holder of specialist registration in that branch.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) Without limiting the ways in which a person can be considered to be represented as a specialist, a representation using any of the following titles, names or descriptions constitutes such a representation:

- (a) the title or description “specialist” or any abbreviation or derivative of that word in connection with the person’s practice of veterinary science,
- (b) any title, description, words or letters implying, or capable of being understood as implying, that the person is a specialist in a branch of veterinary science.

14 Offence of representing certain corporations and firms to be veterinary practices

- (1) A corporation must not represent itself to be a veterinary practice unless one or more veterinary practitioners has or have the controlling interest in the corporation.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both, in the case of an individual or 100 penalty units in the case of a corporation.

- (2) A person must not represent that a corporation is a veterinary practice if the person knows, or ought reasonably to know, that any such representation by the corporation itself would be a contravention of subsection (1).
Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (3) A partner or member of a firm must not represent the firm to be a veterinary practice unless one or more veterinary practitioners has or have the controlling interest in the firm.
Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (4) Without limiting the ways in which a corporation or firm can be considered to be represented to be a veterinary practice, a representation using any of the following titles, names or descriptions constitutes such a representation:
- (a) a representation using the title or description “veterinary surgeon”, “veterinary practice”, “veterinary”, “vet” or “animal doctor” or any abbreviation or derivative of those words, either alone or in connection with any other title or description,
 - (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the corporation or firm is a veterinary practice,
 - (c) any title, name or description prescribed by the regulations.
- (5) This section does not apply to the following:
- (a) a corporation or firm that provides veterinary services but whose principal business is the supply of goods or materials used in connection with agriculture so long as the provision of the veterinary services is at the same premises from which those goods and materials are supplied,
 - (b) a government department, public or local authority or statutory corporation,
 - (c) a charitable organisation within the meaning of the *Prevention of Cruelty to Animals Act 1979* that provides veterinary services,
 - (d) a person or body, or a class of persons or bodies, prescribed by the regulations for the purposes of this paragraph.

15 Signing certificates

A person, other than a veterinary practitioner, must not sign any certificate required by law to be signed by a veterinary practitioner.

Maximum penalty: 50 penalty units.

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Part 4	Registration of veterinary practitioners	1
Division 1	Registration procedures	2
16	Application to registration of Licensing and Registration (Uniform Procedures) Act 2002	3 4
(1)	The Board may grant the following kinds of registration for the purposes of this Act:	5 6
(a)	full registration,	7
(b)	honorary registration,	8
(c)	limited registration,	9
(d)	provisional registration,	10
(e)	specialist registration.	11
(2)	Part 3 of the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> (<i>the applied Act</i>) applies to and in respect of registration under this Act, subject to the modifications and limitations prescribed by or under this Act.	12 13 14 15
	Note. See clause 19 of Schedule 4, which temporarily suspends the provisions of the applied Act in relation to the making of applications by way of electronic communication.	16 17 18
(3)	For the purposes of applying Part 3 of the applied Act to the granting of registration under this Act:	19 20
(a)	an application for the granting of registration may only be made by an individual and must be accompanied by the approved fee for the application, and	21 22 23
(b)	the Board may require an application for the granting of registration to be accompanied by such documents in support of the application as the Board requires, and	24 25 26
(c)	registration may be amended under that Act, and	27
(d)	section 54 of that Act does not have effect, and	28
(e)	the reference to 28 days in section 46 (1) of that Act (as to the period within which applications are to be dealt with) is to be read as a reference to 40 days, and	29 30 31
(f)	the reference to 14 days in section 48 (1) of that Act (as to the period within which notice of the Board's decision on an application is to be notified) is to be read as a reference to 7 days.	32 33 34 35

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- (4) Full registration, honorary registration or specialist registration is continuing registration for the purposes of Part 3 of the applied Act.
- (5) Subject to this section, the regulations may make provision for or with respect to such matters concerning registration under this Act as are relevant to the operation of Part 3 of the applied Act.

17 Refusal of registration

The Board may refuse to register an applicant as a veterinary practitioner on any of the following grounds:

- (a) the applicant is not of good character,
- (b) the applicant has been found guilty of any of the following offences:
 - (i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,
 - (ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,
 - (iii) any offence under a law of the Commonwealth, or another State or Territory, or of a jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii),
- (c) the applicant has been refused registration, licensing or other authorisation as a veterinary practitioner in another State or Territory or has had his or her authority to practise veterinary science suspended or cancelled in another State or Territory,
- (d) the Board is satisfied that the applicant is not fit to practise veterinary science by reason of infirmity, injury or illness (whether mental or physical) or by reason of habitual drunkenness or addiction to a deleterious drug,
- (e) the applicant has not made the declaration, prescribed by the regulations, relating to the conduct to be observed by veterinary practitioners.

18 Conditions of registration

- (1) Registration is subject to such conditions as are imposed by the Board.
- (2) The Board may, by notice in writing given to a veterinary practitioner:
- (a) impose a condition on the veterinary practitioner's registration at any time, or
 - (b) vary or revoke a condition imposed on the registration.
- (3) The Board may impose a condition on registration only if the Board is satisfied that the condition is warranted, having regard to any one or more of the following:
- (a) the provisions of any Act or law of a jurisdiction in Australia affecting veterinary practitioners or the practice of veterinary science,
 - (b) the safety or health of any person,
 - (c) the health or welfare of animals or any particular type of animals,
 - (d) damage to the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events,
 - (e) any conditions imposed on the applicant's authority to practise veterinary science in another State or Territory.
- Note.** The Board may be aware, for example, that a veterinary practitioner is prescribing or dispensing inappropriate drugs (such as those that leave a residue in meat intended for consumption), or prescribing or dispensing drugs in circumstances that allow the drugs to be used by human contestants in sporting events.
- (4) Without limiting subsection (1), a condition imposed on registration may require the registered person to do either or both of the following within a specified time:
- (a) to undertake and successfully complete additional academic or practical training courses,
 - (b) to demonstrate, to the satisfaction of the Board:
 - (i) a knowledge of the law and ethics relating to the practice of veterinary science generally, and
 - (ii) in particular, a knowledge of the law and ethics concerning the supply, dispensing, storage and use of poisons and therapeutic substances that are relevant to the practice of veterinary science.

19 Duration of registration

- (1) Subject to this Act, registration continues in force until it is cancelled.
- (2) Registration is not in force during any period of suspension.

Division 2 Qualifications for registration**20 Qualifications for full registration**

- (1) A person may be granted full registration if:
- (a) the person holds an academic award in veterinary science that was awarded on the completion of a regular graded course of study extending over at least 5 academic years in which a general study of veterinary science was made at a university, college or institution approved in writing by the Board, or
 - (b) the person:
 - (i) holds an academic award in veterinary science that was awarded on the completion of a regular graded course of study in veterinary science extending over at least 4 academic years at a university, college or institution (not referred to in paragraph (a)) and that at the time it was granted was accepted in the country in which it was granted as a sufficient qualification for the practice of veterinary science in that country, and
 - (ii) has, if required by the Board, passed the examination required by the regulations.
- (2) The Board is to review the universities, colleges and institutions that are approved for the purposes of subsection (1) (a) at least once every year and the results of the review are to be included in the Board's annual report.

21 Qualifications for honorary registration

A person who is a veterinary practitioner with full registration or a person eligible to be granted full registration may be granted honorary registration if the Board is satisfied that:

- (a) the person has been a member of the profession of veterinary science for not less than 40 years, or
- (b) the person is a member of the profession of veterinary science of long standing and is of or above the age of 65 years, or

- (c) the person's standing in the profession of veterinary science is such as to justify the person's being granted honorary registration.

22 Qualifications for limited registration

- (1) A person may be granted limited registration if the Board is satisfied that the person does not have all the qualifications necessary for full registration but has such qualifications in veterinary science and experience in the practice of veterinary science as to justify the granting of limited registration.
- (2) Without limiting subsection (1), limited registration may be granted for any one or more of the following purposes:
- (a) to enable a person to carry on the practice of veterinary science for a specific purpose,
 - (b) to enable a person to carry on the practice of veterinary science for a limited time,
 - (c) to enable a person with a qualification referred to in section 20 (1) (b) (i) to carry on the practice of veterinary science until the person has passed the examination referred to in section 20 (1) (b) (ii).
- (3) Without limiting section 18, the types of conditions that may be imposed on limited registration include the following:
- (a) a condition that the registered person is to be supervised by a veterinary practitioner (other than a veterinary practitioner with limited registration) when doing any act of veterinary science,
 - (b) a condition that the registered person is to perform only the acts of veterinary science specified in the certificate of registration.

23 Qualifications for provisional registration

- (1) A person who has applied for full registration may be granted provisional registration by the Board if the Board is satisfied that the person has satisfied all the requirements for an academic award referred to in section 20 (1) (a) and, but for the conferring of the award, would be entitled to be granted full registration.
- (2) Unless sooner cancelled, provisional registration remains in force for a period of 3 months from the date of its issue.

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- (3) The Board may, for any reason, cancel a person's provisional registration without prejudice to the application of the person to be granted full registration. 1
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- (4) If a veterinary practitioner with provisional registration is granted full registration while the provisional registration is in force, the person's provisional registration expires (despite subsection (2)) on the day on which the person is granted full registration. 4
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24 Qualifications for specialist registration

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A person who is a veterinary practitioner with full registration or a person eligible to be granted full registration may be granted specialist registration in a branch of veterinary science if the Board is satisfied that the person has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the granting of specialist registration. 9
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Division 3 Cancellation and suspension of registration

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25 Cancellation and suspension of registration

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- (1) A person ceases to be registered as a veterinary practitioner if the person's name is removed from the Register. 17
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- (2) A reference in this Act to the cancellation of a veterinary practitioner's registration is a reference to the removal of the veterinary practitioner's name from the Register. 19
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- (3) Subsections (1) and (2) do not apply to the removal of a person's name from a division of the Register as referred to in section 27 (4). 22
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- (4) A person whose registration as a veterinary practitioner is suspended is taken not to be a veterinary practitioner during the period of suspension, except for the purposes of Part 5 (Complaints and disciplinary proceedings). 24
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26 Removal of person's name from Register

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- (1) The Board must remove a veterinary practitioner's name from the Register if: 29
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- (a) the veterinary practitioner has died, or 31
- (b) the veterinary practitioner has requested the Board to remove his or her name from the Register, or 32
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- (c) the Tribunal or the Supreme Court has ordered that the veterinary practitioner's registration be cancelled. 34
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- (2) The Board may remove a veterinary practitioner's name from the Register if:
- (a) the veterinary practitioner does not possess the qualifications in respect of which he or she is registered, or
 - (b) the Board is of the opinion that the veterinary practitioner is not a person of good character, or
 - (c) the veterinary practitioner has been found guilty of any of the following offences:
 - (i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,
 - (ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,
 - (iii) any offence under a law of the Commonwealth, or another State or Territory, or of a jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii), or
 - (d) the veterinary practitioner has had his or her authority to practise veterinary science suspended or cancelled in another State or Territory, or
 - (e) the veterinary practitioner has been registered because of any false or fraudulent representation or declaration made either orally or in writing, or
 - (f) the veterinary practitioner has become a mentally incapacitated person, or
 - (g) the veterinary practitioner has failed to pay any fee or fine due to the Board under this Act or any other amount ordered to be paid by the veterinary practitioner in accordance with proceedings under this Act, or
 - (h) the veterinary practitioner has failed to lodge a return as required by section 32.

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- (3) Action is not to be taken under subsection (2) unless the Board:
- (a) has caused notice of the proposed action to be given to the veterinary practitioner, and
 - (b) has given the veterinary practitioner at least 28 days within which to make written submissions to the Board in relation to the proposed action, and
 - (c) has taken any such submissions into consideration.

Division 4 Register of veterinary practitioners

27 Register of veterinary practitioners

- (1) The Board is to keep and maintain a Register of veterinary practitioners.
- (2) The Register is to be divided as follows:
 - (a) a division that includes an entry for each veterinary practitioner with full registration,
 - (b) a division that includes an entry for each veterinary practitioner with honorary registration,
 - (c) a division that includes an entry for each veterinary practitioner with limited registration,
 - (d) a division that includes an entry for each veterinary practitioner with provisional registration,
 - (e) a division that includes an entry for each veterinary practitioner with specialist registration.
- (3) Each entry of the Register that relates to a veterinary practitioner is to include the following:
 - (a) the full name and address of the veterinary practitioner,
 - (b) a description of the veterinary practitioner's qualification for registration and, in the case of a veterinary practitioner with specialist registration, a description of the veterinary practitioner's qualifications and experience that enable the veterinary practitioner to be granted specialist registration,
 - (c) in the case of a veterinary practitioner with specialist registration, the branch of veterinary science in respect of which the veterinary practitioner is a specialist,

- (d) in the case of a veterinary practitioner with limited registration—the date (if specified in the certificate of registration) on which the registration will expire and any condition attached to the registration, 1
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- (e) the premises (if any) at which the veterinary practitioner practises, 5
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- (f) such other particulars as may be prescribed by the regulations. 7
- (4) The name of a person is to be removed from a division of the Register if the name of the person is entered in any other division of the Register. 8
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28 General provisions relating to Register

- (1) If a veterinary practitioner applies for particulars to be recorded in the Register in addition to those required to be recorded under this Act, the Board may, on payment of the approved fee, cause to be recorded in the Register such of those additional particulars as the Board approves. 12
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- (2) The Register is to be available for inspection, at the office of the Board at all times when that office is open for business, by any person on payment of the approved fee. 17
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- (3) If the description of a person's qualifications is required to be entered into the Register, the description is to include the date on which the qualification was awarded. 20
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- (4) The name of a veterinary practitioner is removed from the Register by the making in the Register of such recording as the Board directs. 23
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29 Annual registration fees

- (1) A veterinary practitioner must, on or before 30 June of each year following the year in which the veterinary practitioner was first registered, pay to the Board the approved fee for annual registration. 26
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- (2) The Board may approve different annual registration fees by reference to different factors. 29
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- (3) The Board may cause a veterinary practitioner's name to be removed from the Register if the veterinary practitioner has failed to pay the approved fee for annual registration by the due date. 31
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- (4) A person whose name has been removed from the Register for failure to pay the approved fee for annual registration by the due date is entitled to re-registration if the person pays to the Board any unpaid approved fee or fees for annual registration together with any approved fee for late payment. 1
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- (5) The entitlement to re-registration is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of the person's name from the Register. 6
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- (6) A person registered pursuant to an entitlement to re-registration under this section is taken to have been so registered on and from the day the person's name was removed from the Register or on and from such later day as the Board determines and notifies to the person. However, nothing in this subsection affects any proceedings for an offence instituted against the person before the person was entitled to be re-registered. 10
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- (7) Nothing in this section requires the Board to re-register a person if the Board is satisfied that the person would not be entitled to be registered as a veterinary practitioner but for this section. 17
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- (8) An entitlement to re-registration under this section does not override any other provision of this Act pursuant to which a person's name is authorised or required to be removed from the Register. 20
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30 Change of particulars to be notified 23

A veterinary practitioner must comply with the requirements of section 53 (as applied by this Act) of the *Licensing and Registration (Uniform Procedures) Act 2002*. 24
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Maximum penalty: 10 penalty units. 27

Note. Section 53 of the *Licensing and Registration (Uniform Procedures) Act 2002* makes it a condition of registration for registered persons to provide information regarding changes to their particulars. 28
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31 Evidentiary certificates 31

A certificate: 32

- (a) that is signed by the Registrar, and 33

- (b) that certifies that, on a specified date or during a specified period, the particulars contained in the Register as to specified matters were as so specified,

is admissible in any proceedings and is evidence of the matters so certified.

Note. See also section 55 of the *Licensing and Registration (Uniform Procedures) Act 2002* with respect to evidentiary certificates.

Division 5 Returns and information

32 Annual return to be submitted

- (1) A veterinary practitioner must, on or before the return date in each year, furnish in writing to the Board in a form approved by the Board a return for the return period specifying the following information:
- (a) if the veterinary practitioner has been found guilty of any of the following offences:
- (i) an offence under this Act, the *Prevention of Cruelty to Animals Act 1979*, the *Stock Medicines Act 1989*, the *Stock Diseases Act 1923*, the *Exotic Diseases of Animals Act 1991*, the *Poisons and Therapeutic Goods Act 1966*, or the *Export Control Act 1982* of the Commonwealth, or any of the regulations under those Acts,
- (ii) any other offence under a law of this State or of the Commonwealth, or another State or Territory, that imposes a requirement on a veterinary practitioner in his or her capacity as a veterinary practitioner,
- (iii) any offence under a law of the Commonwealth, or another State or Territory, or of a jurisdiction outside Australia, that in the opinion of the Board is equivalent to an offence referred to in subparagraph (i) or (ii),
- (b) details of any significant injury or illness (physical or mental) from which the veterinary practitioner suffered at any time during the return period and that may reasonably be thought likely to detrimentally affect the veterinary practitioner's physical or mental capacity to practise veterinary science,

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| (c) | details of any suspension or cancellation of, or imposition of conditions on, the licence, registration or other authorisation of the veterinary practitioner in relation to the practice of veterinary science in another jurisdiction (either within Australia or elsewhere) during the return period, | 1
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| (d) | a statement as to whether the veterinary practitioner has been refused a licence, registration or other authorisation in relation to the practice of veterinary science in another jurisdiction (either within Australia or elsewhere) during the return period, | 6
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| (e) | the premises (if any) at which the veterinary practitioner has been practising during the return period and the premises (if any) at which the veterinary practitioner intends to practise in the next 12 months, | 11
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| (f) | such other information as may be prescribed by the regulations. | 15
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| (2) | The Board may require a return under this section to be verified by statutory declaration. | 17
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| (3) | Despite subsection (1), the regulations may provide that a veterinary practitioner with honorary registration need not submit an annual return or need include in the annual return only such information as the regulations may specify. | 19
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| (4) | The Board may cause a veterinary practitioner's name to be removed from the Register if the veterinary practitioner has failed to furnish an annual return in accordance with this section. | 23
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| (5) | A person whose name has been removed from the Register for failure to furnish an annual return is entitled to re-registration if the person furnishes the return to the Board together with any approved fee for restoration to the Register under this section. | 26
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| (6) | The entitlement to re-registration is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of the person's name from the Register. | 30
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| (7) | A person registered pursuant to an entitlement to re-registration under this section is taken to have been so registered on and from the day the person's name was removed from the Register or on and from such later day as the Board determines and notifies to the person. However, nothing in this subsection affects any proceedings | 34
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for an offence instituted against the person before the person was entitled to be re-registered.

(8) Nothing in this section requires the Board to re-register a person if the Board is satisfied that the person would not be entitled to be registered as a veterinary practitioner but for this section.

(9) An entitlement to re-registration under this section does not override any other provision of this Act pursuant to which a person's name is authorised or required to be removed from the Register.

(10) In this section:

return date means the date in a particular year notified to a veterinary practitioner by the Board in writing at least 1 month in advance.

return period means the period of 12 months ending 2 months before the return date in a year.

Division 6 Review of registration decisions

33 Tribunal may review certain registration decisions

(1) A person may apply to the Tribunal for a review of any of the following decisions of the Board under this Part:

(a) a decision to refuse to grant the person full registration,

(b) a decision to impose conditions on the full registration of the person,

(c) a decision to remove the person's name from the Register.

(2) Despite subsection (1), a person is not entitled to apply to the Tribunal for a review of a decision of the Board refusing to grant registration to the person if the registration was refused on the ground that the person had failed to pass an examination that the person was required to pass under this Part.

Part 5 Complaints and disciplinary proceedings

Division 1 Interpretation

34 Definitions

In this Part:

complainant means a person who makes a complaint.

complaint means a complaint made under this Part.

disciplinary finding means a finding of unsatisfactory professional conduct or professional misconduct.

professional misconduct means:

- (a) unsatisfactory professional conduct of a sufficiently serious nature to justify the suspension or cancellation of a veterinary practitioner's registration, or
- (b) any other conduct that is declared by the regulations to be professional misconduct for the purposes of this Act.

unsatisfactory professional conduct means any of the following:

- (a) providing information relating to the veterinary practitioner's qualifications for registration knowing the information to be false or misleading in a material particular,
- (b) contravening Order 1998/1 made under section 46 of the *Stock Medicines Act 1989* and published in Gazette No 108 on 17 July 1998 at pages 5496–5498 (or any Order amending or replacing that Order),
- (c) engaging in conduct in the veterinary practitioner's professional capacity that, if repeated or continued, is likely to do any of the following:
 - (i) cause unnecessary suffering to an animal,
 - (ii) cause the inappropriate death of an animal,
 - (iii) adversely affect the safety or health of any person,
 - (iv) damage the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events,
- (d) any contravention by a veterinary practitioner of the conditions of the veterinary practitioner's registration,

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- (e) any failure by a veterinary practitioner to comply with a provision, prescribed by the regulations for the purposes of this paragraph, of the code of professional conduct in effect under section 36,
- (f) any failure by a veterinary practitioner to supervise a person adequately in doing an act where supervision by a veterinary practitioner was required by law and the veterinary practitioner concerned undertook to provide that supervision,
- (g) any failure without reasonable excuse by the veterinary practitioner to comply with a direction, order or requirement of the Board, Tribunal or Supreme Court imposed on the veterinary practitioner in his or her capacity as a veterinary practitioner,
- (h) any failure by the veterinary practitioner to comply with the applicable requirements of the *Licensing and Registration (Uniform Procedures) Act 2002*,
- (i) any contravention by a veterinary practitioner of this Act or the regulations,
- (j) any conduct that demonstrates that a veterinary practitioner is not fit to practise veterinary science by reason of infirmity, injury or illness (whether mental or physical),
- (k) any other conduct of a veterinary practitioner that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care in the practice of veterinary science,
- (l) any other improper or unethical conduct of a veterinary practitioner in the course of the practice of veterinary science,
- (m) any conduct that is declared by the regulations to be unsatisfactory professional conduct for the purposes of this Act.

35 Application of Part

- (1) A complaint about a veterinary practitioner may be made and dealt with even though the veterinary practitioner has ceased to be registered. For that purpose, a reference in this Part to a veterinary practitioner includes a reference to a person who has ceased to be registered or whose registration is suspended.
- (2) Despite subsection (1), the Board or the Tribunal may decide not to investigate a complaint or determine an application (or may decide to terminate an investigation or application) if the person to whom the complaint or application relates has ceased to be registered.

36 Veterinary practitioners code of professional conduct

- (1) The regulations may establish a veterinary practitioners code of professional conduct setting out the rules of conduct that should be observed by a veterinary practitioner in carrying on the practice of veterinary science.
- (2) The Board may make recommendations to the Minister with respect to the code.

Division 2 Complaints**37 Persons who may make complaints**

- (1) Any person (including the Board) may make a complaint against a veterinary practitioner in respect of the veterinary practitioner's conduct as a veterinary practitioner.
- (2) Complaints (other than complaints made by the Board) are to be made to the Board and are to be lodged with the Registrar.
- (3) The Board may direct the Registrar to provide reasonable assistance in making a complaint to a person, or a person belonging to a class of persons, specified by the Board from time to time.

38 Withdrawal of complaint

A complaint may be withdrawn by the complainant at any time.

39 Form of complaint

- (1) A complaint must be in writing, must identify the complainant and must contain particulars of the allegations on which it is founded.
- (2) The Board may require the complainant to provide further particulars of a complaint.
- (3) The Board may require the complaint and any further particulars provided to be verified by statutory declaration.
- (4) The Board may refuse to investigate a complaint if the complainant does not comply with a requirement of the Board under this section.

40 Board to notify person against whom complaint is made

- (1) Written notice of the making of a complaint, the nature of the complaint, the type of unsatisfactory professional conduct or professional misconduct that the Board considers may be indicated by the complaint and the identity of the complainant is to be given

by the Board to the veterinary practitioner against whom the complaint is made, as soon as practicable after the complaint is made.

- (2) Any such notice must invite the veterinary practitioner to make, within such period (being at least 7 days) as the Board specifies in the notice, such representations in writing to the Board with respect to the complaint as the veterinary practitioner thinks fit.
- (3) The Board need not give notice or may exclude from the notice any information required to be included under subsection (1) if, in the opinion of the Board, the giving of the notice or the inclusion of the information will or is likely to:
 - (a) prejudice the investigation of the complaint, or
 - (b) place the health or safety of a person at risk, or
 - (c) place the complainant or another person at risk of intimidation or harassment.

41 Board to investigate complaints

- (1) The Board must, subject to this Part, conduct an investigation into each complaint made under this Part.
- (2) The Board may deal with one or more complaints about a veterinary practitioner in an investigation.
- (3) If during an investigation of any one or more complaints it appears to the Board that there is a matter in respect of which another complaint could have been made against the veterinary practitioner concerned, the Board may deal with the matter in its investigation as if a complaint had been made about the matter.
- (4) For the purposes of subsection (3), the Board may deal with a matter that could have been the subject of another complaint:
 - (a) whether that complaint could have been made instead of or in addition to any complaint that was in fact made, and
 - (b) whether or not that complaint could have been made by the same complainant.
- (5) If the Board deals with a matter in accordance with subsections (3) and (4) as if a complaint had been made in relation to the matter, the Board is to comply with section 40 (with appropriate modifications) in relation to the matter.

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- (6) The Board may dismiss any complaint without investigation if further particulars of the complaint are not given, or the complaint or the further particulars are not verified, as required by the Board.

42 Proceedings before Board in respect of complaints

- (1) For the purposes of investigating or determining a complaint, the Board is not bound to observe the rules of evidence but may inform itself of any matter in such manner as it thinks fit.
- (2) Without limiting subsection (1), the Board may meet separately or jointly with the complainant and veterinary practitioner concerned in an attempt to resolve any issue raised by the complaint if it considers the complaint may be resolved expeditiously by doing so.
- (3) The Board may be assisted by any person that it considers has relevant expertise in mediation or alternative dispute resolution in any such attempt to resolve a complaint.
- (4) Nothing in subsection (2) or (3) operates to prejudice the rights of the complainant or veterinary practitioner concerned.

43 Power to summon witnesses and take evidence

- (1) For the purposes of investigating or determining a complaint, the Board may summon a person to appear before the Board to give evidence and to produce such documents (if any) as may be referred to in the summons.
- (2) The person presiding at a meeting of the Board concerning a complaint may require a person appearing before the Board in respect of the investigation or determination of a complaint to produce a document.
- (3) The Board may, in proceedings before it in respect of a complaint, take evidence on oath or affirmation and, for that purpose, a member of the Board:
- (a) may require a person appearing in the proceedings to give evidence either to take an oath or to make an affirmation in a form approved by the person presiding, and
- (b) may administer an oath to or take an affirmation from a person so appearing in the proceedings.
- (4) A person served with a summons to appear in any such proceedings and to give evidence must not, without reasonable excuse:
- (a) fail to attend as required by the summons, or

- (b) fail to attend from day to day unless excused, or released from further attendance, by the Board.

Maximum penalty: 20 penalty units.

- (5) A person appearing in proceedings before the Board in respect of a complaint to give evidence must not, without reasonable excuse:

- (a) when required to be sworn or to affirm—fail to comply with the requirement, or
(b) fail to answer a question that the person is required to answer by the person presiding, or
(c) fail to produce a document that the person is required to produce by this section.

Maximum penalty: 20 penalty units.

- (6) In this section, a reference to the Board includes a reference to a committee of the Board exercising functions in relation to a complaint.

44 Powers of Board in investigation in respect of veterinary practitioners

- (1) For the purpose of investigating or determining any complaint, the Board may, by notice served on any veterinary practitioner, require the veterinary practitioner to do any one or more of the following:

- (a) provide written information, by the date specified in the notice, and to verify the information by statutory declaration,
(b) produce, at a time and place specified in the notice, any document (or a copy of any document) specified in the notice,
(c) otherwise assist in, or co-operate with, the investigation of the complaint in the specified manner.

- (2) The Board may inspect any document produced before the Board under this section and may retain it for such period as the Board thinks necessary for the purposes of an investigation in relation to which it is produced. The Board may make copies of the document or any part of the document.

45 Power to dismiss certain complaints

- (1) The Board may dismiss a complaint if the Board is satisfied that the complaint:
(a) is frivolous or vexatious or otherwise lacking in merit, or

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- (b) is a complaint in respect of a matter that has already been dealt with as a complaint under this Part, or
 - (c) is trivial in nature.
 - (2) The Board may dismiss a complaint under this section without having investigated the complaint under this Part or following an investigation of the complaint under this Part.
 - (3) The Board is not required to investigate a complaint that has been dismissed under this section.
 - (4) The Board is to notify the veterinary practitioner and complainant concerned of the dismissal of a complaint under this section.
 - (5) If the Board dismisses a complaint under this section, the Board may also issue a caution to the veterinary practitioner against whom the complaint was made in respect of the matter complained of.

46 Decision after investigation of complaint

- (1) After the Board has completed an investigation into a complaint against a veterinary practitioner, the complaint is to be dealt with in accordance with this section.
- (2) If the Board is satisfied that the veterinary practitioner is guilty of unsatisfactory professional conduct, the Board may:
 - (a) apply to the Tribunal for a disciplinary finding against the veterinary practitioner under Division 3, or
 - (b) exercise the functions conferred on it by subsection (3).
- (3) If the Board is satisfied that the veterinary practitioner is guilty of unsatisfactory professional conduct (but not professional misconduct), the Board may take any one or more of the following actions:
 - (a) reprimand or caution the veterinary practitioner,
 - (b) impose a fine on the veterinary practitioner of an amount not exceeding \$5,000,
 - (c) impose conditions on the veterinary practitioner's registration with respect to the practice of veterinary science,
 - (d) require the veterinary practitioner to complete specified educational courses,
 - (e) require the veterinary practitioner to report on his or her veterinary practice at specified times, in a specified manner and to specified persons,

- (f) require the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons, 1
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 - (g) require the veterinary practitioner to pay specified costs relating to the hearing. 4
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 - (4) If the Board is satisfied that the veterinary practitioner is guilty of professional misconduct, the Board: 6
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 - (a) must apply to the Tribunal for a disciplinary finding against the veterinary practitioner under Division 3, and 8
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 - (b) may suspend the veterinary practitioner's registration pending the determination of the matter by the Tribunal. 10
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 - (5) Action is not to be taken under subsection (4) (b) unless the Board: 12
 - (a) has caused notice of the proposed action to be given to the veterinary practitioner, and 13
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 - (b) has given the veterinary practitioner at least 28 days within which to make written submissions to the Board in relation to the proposed action, and 15
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 - (c) has taken any such submissions into consideration. 18
 - (6) Without limiting section 45, the Board is to dismiss the complaint against the veterinary practitioner if it is satisfied that the veterinary practitioner is not guilty of either unsatisfactory professional conduct or professional misconduct. 19
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 - (7) The Board is to notify the veterinary practitioner of any action taken by the Board under this section. 23
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- 47 Person may apply to Tribunal for a review of disciplinary finding of Board** 25
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 - (1) A person in respect of whom the Board has made a disciplinary finding may apply to the Tribunal for a review of that finding and any action taken by the Board under section 46. 27
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 - (2) If the Board has applied to the Tribunal under section 46 (4) and has suspended the registration of the veterinary practitioner concerned under that subsection: 30
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 - (a) an application by the veterinary practitioner to the Tribunal for a review of the Board's decision to suspend may be dealt with by the Tribunal as part of the proceedings in relation to the Board's application instead of as an application for review, and 33
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- (b) in so dealing with the veterinary practitioner's application, the Tribunal may grant a stay of the suspension.
- (3) Despite section 88 of the *Administrative Decisions Tribunal Act 1997*, the Tribunal must award costs against a veterinary practitioner in proceedings commenced by application made under this section if the Tribunal confirms or makes a disciplinary finding against the veterinary practitioner.

48 Delegation of Board's functions under this Part to committee

- (1) The Board may:
- (a) delegate any of its functions under this Part (other than this power of delegation) to a committee established under section 80, or
- (b) require such a committee to make recommendations to the Board in relation to a complaint.
- (2) It does not matter that any or all of the members of the committee are not members of the Board.
- (3) However, a committee is to include at least one member who does not hold qualifications in veterinary science and, if a committee is determining a complaint, must also include a member who is a legal practitioner and who is to be the Chairperson of the committee.

Division 3 Applications to Tribunal for disciplinary findings

49 Board may apply to Tribunal for disciplinary finding

The Board may, in accordance with section 46, apply to the Tribunal for a disciplinary finding under this Division against a veterinary practitioner with respect to any complaint against the veterinary practitioner.

50 Tribunal's powers when complaint proved

- (1) If an application is made under this Division for a disciplinary finding against a veterinary practitioner and the Tribunal determines that the veterinary practitioner is guilty of unsatisfactory professional conduct or professional misconduct, the Tribunal may make any one or more of the following orders:
- (a) an order reprimanding or cautioning the veterinary practitioner,

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- (b) an order suspending the veterinary practitioner's registration for a period not exceeding 12 months, 1
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- (c) an order cancelling the veterinary practitioner's registration, 3
- (d) an order imposing a fine on the veterinary practitioner of an amount not exceeding 25,000, 4
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- (e) an order imposing conditions on the veterinary practitioner's registration with respect to the practice of veterinary science, 6
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- (f) an order requiring the veterinary practitioner to complete specified educational courses, 8
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- (g) an order requiring the veterinary practitioner to report on his or her veterinary practice at specified times, in a specified manner and to specified persons, 10
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- (h) an order requiring the veterinary practitioner to seek and take advice, in relation to the management of his or her veterinary practice, from a specified person or persons, 13
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- (i) an order requiring the veterinary practitioner to pay specified costs relating to the hearing. 16
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- (2) If the Tribunal considers that the matter of the complaint against the veterinary practitioner has been proved, or has not been proved to the satisfaction of the Tribunal but the Tribunal nevertheless considers that the conduct of the veterinary practitioner was sufficiently unacceptable to warrant the making of the complaint, the Tribunal must, despite section 88 of the *Administrative Decisions Tribunal Act 1997*, make an order against the veterinary practitioner under subsection (1) (i). 18
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- (3) If the Tribunal orders the cancellation of the veterinary practitioner's registration, it may also order that the veterinary practitioner cannot apply for such registration within such period as may be specified by the Tribunal. 26
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- (4) An order under this section does not take effect until 21 days after notice of the order is given to the veterinary practitioner by the Registrar, subject to any decision of an Appeal Panel of the Tribunal on appeal under section 51. 30
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51 Appeal against orders of the Tribunal in its original jurisdiction 34

- (1) Any of the following persons may appeal against an order made under section 50 to an Appeal Panel of the Tribunal under Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*: 35
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- (a) the veterinary practitioner or former veterinary practitioner against whom the order was made, 1
 - (b) the person who made the original complaint, but only: 2
 - (i) on a point of law, or 3
 - (ii) with respect to any penalty imposed. 4
 - (2) Despite any contrary provision of Part 2 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*, the following persons may appeal to the Supreme Court under that Part against an order of an Appeal Panel made in an appeal under subsection (1): 5
 - (a) the veterinary practitioner or former veterinary practitioner against whom the order was made, 6
 - (b) the person who made the original complaint, but only: 7
 - (i) on a point of law, or 8
 - (ii) with respect to any penalty imposed. 9
 - (3) The provisions of section 75 of the *Administrative Decisions Tribunal Act 1997* apply (subject to the rules of the Supreme Court) in respect of the hearing of an appeal under subsection (2) in the same way as those provisions apply in respect of the hearing of a complaint by the Tribunal. 10
 - (4) Without limiting section 120 of the *Administrative Decisions Tribunal Act 1997*, the Supreme Court may, in respect of the veterinary practitioner concerned: 11
 - (a) make any decision that could have been made under section 50, or 12
 - (b) vary any decision made by the Appeal Panel. 13

52 Restoration of registration 14

- (1) Subject to section 50 (3), any person whose registration has been cancelled by the Tribunal under section 50 may apply to the Board for the granting of registration as a veterinary practitioner. 15
- (2) The provisions of this Act relating to applications for registration apply to an application under this section for registration. 16
- (3) The Tribunal may, if it thinks fit, terminate any period of suspension imposed by the Tribunal under section 50 before the expiration of the period specified in the order of suspension. 17
- (4) Subject to any order referred to in section 50 (3) that is made by the Supreme Court on an appeal, the Tribunal may direct that any 18

person whose registration was cancelled at the direction of the
Tribunal under section 50 be granted new registration.

- (5) Registration is not to be granted in accordance with this section until
the approved fee has been paid.

**53 Recording of proceedings and orders of Tribunal, Board and
committees**

- (1) The Registrar of the Tribunal is to notify the Board of any orders the
Tribunal makes under section 50.
- (2) The Registrar of the Board, or a person appointed by the Registrar,
is to keep a record of:
- (a) all proceedings and decisions under this Part of the Board or
a committee appointed by the Board, and
 - (b) all orders of the Tribunal made under section 50.
- (3) The Registrar of the Board is to make a notation in the Register of
the terms of:
- (a) an order of the Tribunal under section 50 or the Appeal Panel
of the Tribunal in an appeal under section 51, and
 - (b) an order made under this Part of the Board or a committee
appointed by the Board.

Division 4 Confidentiality issues

54 Duty of confidentiality of client communications

- (1) A veterinary practitioner must comply with a requirement under this
Part to answer a question or to produce information or a document
despite any duty of confidentiality in respect of a communication
between the veterinary practitioner and a client (but only if the client
is the complainant or consents to its disclosure).
- (2) A veterinary practitioner may disclose a matter to the Board, a
committee of the Board or the Tribunal in breach of any duty of
confidentiality if the Board, committee or Tribunal is satisfied that
it is necessary for the veterinary practitioner to do so to rebut an
allegation in the complaint.

**55 Statement of reasons of Tribunal need not contain confidential
information**

- (1) The Tribunal is not required to include confidential information in
the statement of reasons given under section 89 or 117 of the

Administrative Decisions Tribunal Act 1997. If a statement would be false or misleading if it did not include the confidential information, the Tribunal is not required to provide the statement.

- (2) When confidential information is not included in the statement of a decision provided to a person or the statement is not provided to a person because of subsection (1), the Tribunal must give a confidential information notice to the person.
- (3) A **confidential information notice** is a notice that indicates that confidential information is not included or that the statement will not be provided (as appropriate) and gives the reasons for this. The notice must be in writing and must be given within one month after the decision is made.
- (4) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.
- (5) In this section:
confidential information means information that:
 - (a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared, or
 - (b) relates to the personal or business affairs of a person, other than a person to whom the Tribunal is required (or would, but for subsection (1), be required) to provide a written statement of a decision, or
 - (c) is information:
 - (i) that was supplied in confidence, or
 - (ii) the publication of which would reveal a trade secret, or
 - (iii) that was provided in compliance with a duty imposed by an enactment, or
 - (iv) the provision of which by the Tribunal would be in breach of any enactment, or
 - (d) is not directly relevant to the decision.

**Division 5 Co-operation with other jurisdictions in respect of
disciplinary action**

56 Notice of disciplinary action to other Boards

- (1) When a veterinary practitioner's registration is cancelled or suspended or any condition is imposed on the registration, the Board may notify particulars of that action to the local registration authority of any other jurisdiction.
- (2) The Board is authorised to act under this section despite any law relating to secrecy or confidentiality.
- (3) This section does not affect any obligation or power to provide information under the *Mutual Recognition Act 1992* of the Commonwealth or the *Trans-Tasman Mutual Recognition Act 1997* of the Commonwealth.
- (4) In this section:
- local registration authority*** of a jurisdiction means the person or authority in the jurisdiction having the function conferred by legislation of registering, licensing or otherwise authorising persons in connection with the carrying on of veterinary science in the jurisdiction.
- registration*** includes the registering, licensing, approval, admission, certification (including by way of practising certificates), or any other form of authorisation, of a person required by or under legislation for the carrying on of the practice of veterinary science.

Division 6 Publicising disciplinary action

57 Definitions

In this Division:

disciplinary action means any of the following actions (whether or not taken under this Part):

- (a) the suspension or cancellation of the registration of a veterinary practitioner,
- (b) the refusal to register a qualified person as a veterinary practitioner,
- (c) the removal of the name of a veterinary practitioner from the Register,

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- (d) any direction or order made by the Board or Tribunal in respect of a veterinary practitioner following a disciplinary finding in respect of the veterinary practitioner.

veterinary practitioner includes a former veterinary practitioner.

58 Publicising disciplinary action

- (1) The Board may publicise disciplinary action taken against a veterinary practitioner in any manner the Board thinks fit.
- (2) However, the Board must publicise disciplinary action taken against a veterinary practitioner (including the name and other identifying particulars of the person against whom the disciplinary action was taken).
- (3) Without limiting subsection (1), it is sufficient compliance with subsection (2) if the Board provides to the Registrar sufficient information to enable the Registrar to exercise the Registrar's functions in respect of the register of disciplinary action required to be kept under this Division.
- (4) The requirement to publicise disciplinary action applies only to disciplinary action taken after the commencement of this section. However, the Board may publicise disciplinary action taken under the *Veterinary Surgeons Act 1986* before the commencement of this section in accordance with this Division.
- (5) This section extends to disciplinary action taken outside this State, to the extent that the particulars of that disciplinary action are known to the Board.

59 Register of disciplinary action

- (1) The Registrar must keep a register of disciplinary action taken against veterinary practitioners.
- (2) The register is to include the following:
- (a) the name and other identifying particulars of the person against whom the disciplinary action was taken,
- (b) particulars of the disciplinary action taken.
- (3) The Registrar is to ensure that the register is made available to the public, free of charge, at the Board's offices during ordinary office hours and in any other manner that the Board directs.
- (4) The Registrar may, on request, provide information recorded in the register to members of the public in any other manner.

- (5) The Registrar may correct any error in or omission from the register. 1
- (6) The requirement to keep a register of disciplinary action applies 2
only to disciplinary action taken after the commencement of this 3
section. However, the Registrar may include in the register 4
disciplinary action taken before the commencement of this section 5
under a former law regulating the practice of veterinary science, or 6
publicise such action in any other manner, in accordance with this 7
Division. 8
- (7) This section extends to disciplinary action taken outside this State, 9
to the extent that the particulars of that disciplinary action are 10
known to the Registrar. 11
- 60 Quashing of disciplinary action** 12
- (1) If disciplinary action is quashed on appeal or review after the action 13
was publicised by the Board under this Division, the result of the 14
appeal or review is to be publicised with equal prominence by the 15
Board. 16
- (2) If the disciplinary action was recorded in the register kept by the 17
Registrar under this Division, any reference to that disciplinary 18
action is to be removed from the register. 19
- 61 Liability for publicising disciplinary action** 20
- (1) No liability is incurred by the State, the Board, the Registrar or any 21
person acting at the direction of the Board or Registrar in respect of 22
anything done in good faith for the purpose of: 23
- (a) publicising disciplinary action under this Division, or 24
- (b) exercising the functions of the Board or Registrar under this 25
 Division. 26
- (2) No liability is incurred by a person publishing in good faith 27
disciplinary action, or a fair report or summary of disciplinary 28
action, recorded in a register kept by the Registrar, or otherwise 29
publicised by the Board or Registrar, under this Division. 30
- (3) In this section: 31
- liability* includes liability in defamation. 32

62 General

- (1) The provisions of this Division are subject to any order made by the Tribunal under section 75 of the *Administrative Decisions Tribunal Act 1997*.

Note. Section 75 of the *Administrative Decisions Tribunal Act 1997* allows the Tribunal to make an order prohibiting or restricting the disclosure of information.

- (2) If disciplinary action involves the suspension or cancellation of the registration of a person, or a refusal to register a person, as a veterinary practitioner because of the infirmity, injury or mental or physical illness of the person, the reason for the suspension, cancellation or refusal, and any other information relating to the infirmity, injury or mental or physical illness of the person, is not to be recorded in the register kept under this Division or otherwise publicised.

- (3) Despite subsection (2), the name and other identifying particulars of the person against whom the disciplinary action was taken, and the kind of disciplinary action taken, must be publicised, and recorded in the register kept under this Division, in accordance with the requirements set out in this Division.

Part 6 Veterinary hospitals

Division 1 Offences relating to veterinary hospitals

63 Meaning of “major surgery”

- (1) In this Act, *major surgery* means a restricted act of veterinary science that includes the carrying out of a procedure that:
- (a) according to current standards of veterinary practice, should not be undertaken without the administration of an anaesthetic (other than a local anaesthetic) to an animal, or
 - (b) involves a spinal anaesthetic.
- (2) Despite subsection (1), *major surgery* includes any act of veterinary science prescribed by the regulations for the purposes of this section to be major surgery but does not include any act of veterinary science prescribed by the regulations for the purposes of this section not to be major surgery.

64 Premises required to be licensed as a veterinary hospital

- (1) A person must not perform major surgery on an animal except at premises that are the subject of a veterinary hospital licence that authorises major surgery of the type concerned to be carried out at those premises.
- Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that it was necessary to perform major surgery on the animal concerned at a place other than premises referred to in that subsection because of any one or more of the following reasons:
- (a) the major surgery was performed in an emergency and there was no time to move the animal to a veterinary hospital,
 - (b) it was impractical to move the animal to a veterinary hospital because of the size of the animal or because of the type of animal,
 - (c) it was dangerous to the health of the animal to move it to a veterinary hospital.

65 Unlicensed premises not to be represented as veterinary hospital

- (1) The owner or occupier of premises must not represent the premises to be a veterinary hospital unless the premises are a veterinary hospital.

Maximum penalty: 50 penalty units in the case of an individual and 100 penalty units in the case of a corporation.

- (2) Without limiting the ways in which premises can be considered to be represented to be a veterinary hospital, a representation using any of the following titles, names or descriptions constitutes such a representation:

- (a) the title or description “veterinary hospital”, “veterinary practice”, “animal hospital” or “animal doctor”, or any abbreviation or derivative of those words, either alone or in connection with any other title or description,
- (b) another title, name or description that indicates, or is capable of being understood to indicate, or is calculated to lead a person to infer, that the premises are a veterinary hospital or are entitled to be licensed as a veterinary hospital,
- (c) any title, name or description prescribed by the regulations.

66 Requirement to have qualified superintendent

The holder of a veterinary hospital licence must ensure that:

- (a) the premises the subject of the licence are managed by a superintendent who is a veterinary practitioner, and
- (b) the Board is notified in writing before a person assumes the duties of a superintendent of the name of the person.

Maximum penalty: 50 penalty units.

67 Requirement to display information

The holder of a veterinary hospital licence must ensure that a sign is displayed at the premises to which the licence relates that:

- (a) specifies the type or types of major surgery that are authorised to be carried out on the premises, and
- (b) is printed in a style and size, and placed in a location, that would reasonably be expected to be seen by customers entering the premises.

Maximum penalty: 20 penalty units.

Division 2 Licensing procedures

68 Application to licensing of Licensing and Registration (Uniform Procedures) Act 2002

- (1) The Board may grant a veterinary hospital licence.
- (2) Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* (***the applied Act***) applies to and in respect of licensing under this Act, subject to the modifications and limitations prescribed by or under this Act.

Note. See clause 19 of Schedule 4, which temporarily suspends the provisions of the applied Act in relation to the making of applications by way of electronic communication.

- (3) For the purposes of applying Part 2 of the applied Act to the granting of a veterinary hospital licence:
- (a) an application for a licence must be accompanied by the approved fee for the application, and
 - (b) a licence may be amended under that Act, and
 - (c) the reference to 28 days in section 17 (1) of that Act (as to the period within which applications are to be dealt with) is to be read as a reference to 40 days, and
 - (d) the reference to 14 days in section 19 (1) of that Act (as to the period within which notice of the Board's decision on an application is to be notified) is to be read as a reference to 7 days.
- (4) A veterinary hospital licence is a continuing licence for the purposes of Part 2 of the applied Act.
- (5) Subject to this section, the regulations may make provision for or with respect to such matters concerning licensing under this Act as are relevant to the operation of Part 2 of the applied Act.

69 Refusal of licence

The Board is to refuse a licence unless:

- (a) the applicant:
- (i) is an individual who is a veterinary practitioner, or
 - (ii) is a corporation or firm in which one or more veterinary practitioners has or have a controlling interest, or
 - (iii) is a corporation, firm or body referred to in section 14 (5), and

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- (b) the applicant for the licence demonstrates to the Board that the premises for the proposed veterinary hospital will be able to provide acceptable levels of care for animals before, during and after major surgery.

70 Conditions of licences

- (1) A licence is subject to such conditions as are imposed by the Board.
- (2) Without limiting subsection (1), the Board may impose a condition on a licence that the premises to which the licence relates are to be used for a certain type or types of major surgery only.
- (3) The Board may, by notice in writing given to the holder of a veterinary hospital licence:
- (a) impose a condition on the licence at any time, or
- (b) vary or revoke a condition imposed on the licence.

71 Duration of licence

- (1) Subject to this Act, a veterinary hospital licence continues in force until it is cancelled.
- (2) A licence is not in force during any period of suspension.

72 Annual licence fee

- (1) The holder of a veterinary hospital licence is, on or before 30 June in each year, to pay to the Board the approved fee in respect of the licence.
- (2) The Board may approve different annual licence fees by reference to different factors.
- (3) The approved fee is payable under this section even if the licence is suspended.

73 Suspension or cancellation of licence

- (1) The Board must cancel a veterinary hospital licence if:
- (a) the holder of the licence is an individual who has died, or
- (b) the holder of the licence is a corporation or other body that has been wound up or otherwise ceased to exist.
- (2) The Board may suspend a veterinary hospital licence for a period not exceeding 12 months or may cancel a licence if:

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- (a) the approved fee is not paid in accordance with section 72 (1),
or
- (b) the holder of the licence is convicted of an offence under this
Act or the regulations, or
- (c) in a case where the holder of the licence is a corporation, any
director or person concerned in the management of the
corporation is convicted of an offence under this Act or the
regulations, or
- (d) in a case where the holder of the licence is a firm that is a
partnership, any partner is convicted of an offence under this
Act or the regulations, or
- (e) in a case where the holder of the licence is any other type of
firm, any member of the governing body of the firm is
convicted of an offence under this Act or the regulations, or
- (f) any condition of the licence is breached, or
- (g) in a case where the holder of the licence is not an individual,
the holder has ceased to be a corporation or firm in which one
or more veterinary practitioners has or have a controlling
interest or a corporation or firm referred to in section 14 (5), or
- (h) in the case of the cancellation of a licence—the holder of the
licence so requests.
- (3) The Board may suspend or cancel a licence only after having given
the holder of the licence written notice of its intention to suspend or
cancel the licence setting out its reasons.
- (4) The notice must include a statement that the holder of the licence
concerned may make submissions to the Board in relation to the
proposed suspension or cancellation within 14 days after the date of
the notice.
- (5) The suspension or cancellation of a licence:
- (a) must be made by notice in writing, and
- (b) must be served on the holder of the licence, and
- (c) subject to subsection (6), takes effect on a day specified in the
notice.
- (6) Subsections (3), (4) and (5) do not apply to cancellation of a licence
under subsection (1) or the suspension or cancellation of a licence at
the request of the holder of the licence.

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- (7) A suspension or cancellation of a licence (except at the request of the holder of the licence) does not take effect until the expiry of the period within which an application under section 74 for review of the decision to suspend or cancel may be made, or if such an application is made, until the application is determined or withdrawn.
- (8) If a licence is cancelled at the request of the holder of the licence, the Board may refund to the holder a part of the approved fee for the licence last paid by the holder under section 72.

74 Reviews by the Tribunal

An applicant for a veterinary hospital licence or the holder of such a licence may apply to the Tribunal for a review of any of the following decisions:

- (a) the refusal of the Board to issue a veterinary hospital licence to the applicant,
- (b) a decision of the Board to issue the applicant with a veterinary hospital licence that authorises the carrying out of major surgery of a type other than the type applied for,
- (c) the suspension of the holder's veterinary hospital licence by the Board,
- (d) the cancellation of the holder's veterinary hospital licence (other than at the holder's request) by the Board.

Part 7 Veterinary Practitioners Board

75 Constitution of Board

There is constituted by this Act a body corporate with the corporate name of the “Veterinary Practitioners Board”.

76 Membership of Board

- (1) The Board is to consist of 8 members appointed by the Governor.
- (2) Of the members of the Board:
 - (a) 4 are to be veterinary practitioners selected by the Minister to represent each of the following:
 - (i) specialist veterinary practitioners,
 - (ii) veterinary practitioners practising in urban areas,
 - (iii) veterinary practitioners practising in rural areas,
 - (iv) academics in the field of veterinary science,
 - (b) 2 are to be veterinary practitioners selected by the Minister,
 - (c) 2 are to be persons who are not veterinary practitioners and are selected by the Minister to represent consumers of veterinary services.
- (3) The Minister is to select:
 - (a) the members that are to represent the veterinary practitioners referred to in subsection (2) (a) (i), (ii) and (iii) from panels prepared by the New South Wales Division of the Australian Veterinary Association, and
 - (b) the member that is to represent academics referred to in subsection (2) (a) (iv) from a panel prepared by the University of Sydney.
- (4) The Minister may give directions with respect to the way in which panels under subsection (3) are to be prepared and the calling for nominations for all or any of the members of the Board.
- (5) Schedule 2 has effect with respect to the members and procedure of the Board.

77 President of the Board

The Board is to elect one of its members who is a veterinary practitioner to be President of the Board.

78 Functions of Board

- (1) The Board has the functions conferred or imposed on it by or under this or any other Act.
- (2) In particular, the Board has the following functions:
 - (a) to register veterinary practitioners and licence veterinary hospitals,
 - (b) to investigate complaints against veterinary practitioners,
 - (c) to take disciplinary action against veterinary practitioners,
 - (d) to enforce the provisions of this Act and the regulations, including to take proceedings for offences against this Act or the regulations,
 - (e) to develop codes of professional conduct for veterinary practitioners,
 - (f) to co-operate with other jurisdictions in Australia and New Zealand to further a common and harmonious approach to the administration of legislation relating to veterinary practitioners,
 - (g) to provide information to the veterinary profession relating to continuing education issues, developments in the field of veterinary science and disciplinary matters,
 - (h) to provide general advice to consumers of veterinary services with respect to the ethics and standards of professional competence that are generally expected of veterinary practitioners,
 - (i) to provide advice to the Minister with respect to any other matter in connection with the administration of this Act,
 - (j) to promote, provide for or facilitate the professional development of veterinary practitioners,
 - (k) to provide, if practicable, scholarships for veterinary study,
 - (l) to liaise with and, if considered by the Board to be appropriate, to become a member of, professional organisations concerned with veterinary science.

79 Staff of the Board

- (1) The Board may employ a Registrar and such other staff as may be necessary to enable the Board to exercise its functions. Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of any such staff.

- (2) The Board may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any Act or law. 1
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- (3) The Board may arrange for the use of the services of any contractor. 3
- (4) For the purposes of this Act, a person who is employed under subsection (1), or whose services are made use of under subsection (3), is an officer of the Board. 4
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80 Committees

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- (1) The Board may establish committees to assist it in connection with the exercise of any of its functions. 8
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- (2) It does not matter that any or all of the members of a committee are not members of the Board. 10
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- (3) A member of a committee, while sitting on the committee, is entitled to be paid by the Board such amount as the Board from time to time determines in respect of the member, and is approved by the Minister. 12
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- (4) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings may be determined by the Board or (subject to any determination of the Board) by the committee. 16
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81 Delegation of functions

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- (1) The Board may delegate any of its functions (other than this power of delegation) to: 21
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 - (a) a member of the Board, or 23
 - (b) a committee of the Board, or 24
 - (c) the Registrar or any other member of staff of the Board. 25
- (2) The Board must not delegate any of its functions under Part 5 (Complaints and disciplinary proceedings) to the Registrar or any other member of the staff of the Board other than the investigation of a complaint or a function relating to the investigation of a complaint. 26
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- (3) The Registrar may delegate to a member of the staff of the Board the exercise of: 31
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 - (a) any of the functions of the Registrar under this Act, other than this power of delegation, or 33
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- (b) any functions delegated to the Registrar by the Board, unless the Board otherwise provides in its instrument of delegation to the Registrar.
- (4) This section has effect subject to the provisions of section 48.

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Part 8 Finance

82 Board to establish and maintain account at financial institution

The Board must establish and maintain an account at an authorised deposit-taking institution located in New South Wales and ensure that all money received by the Board is paid into the account.

83 Investment of money

The Board may invest money held in the account referred to in section 82:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power to invest money held by the Board—in any manner authorised for the investment of trust funds or in any other manner approved by the Minister with the concurrence of the Treasurer.

84 Financial year of Board

- (1) The financial year of the Board is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

85 Consultation on fees

- (1) Before the Board submits a proposed fee under this Act to the Minister for approval, the Board is to ensure that it has undertaken consultation with the veterinary profession in relation to the proposed fee.
- (2) The Board is to submit a written report to the Minister on the consultation undertaken in relation to a proposed fee.
- (3) In this section, a reference to a *proposed fee* includes a reference to the proposed remuneration of a member of the Board.

86 Waiver, reduction or refund of fees by Board

- (1) The Board may in a particular case, if it considers it appropriate to do so in the circumstances, waive a requirement to pay a fee imposed by or under this Act or reduce or refund such a fee.
- (2) If a requirement to pay a fee is waived, or the fee is reduced or refunded, under this section:

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- (a) in the case of a waiver of the requirement or a refund of the fee—any requirement under this Act to pay the fee is taken to have been satisfied, and
 - (b) in the case of a fee reduction—any requirement under this Act to pay the fee is taken to have been satisfied when the reduced fee is paid.

87 Recovery of fees and fines

- (1) Any charge, fee or other money due to the Board may be recovered by the Board as a debt in a court of competent jurisdiction.
- (2) Any fine recovered under this Act (including any fine recovered under the *Fines Act 1996* in respect of a matter under this Act) is to be paid to the Board.

88 Reviews of revenue strategies

The Board is to carry out regular reviews of its strategies for raising revenue.

Part 9 Powers of inspectors

89 Appointment of inspectors

- (1) The Board may appoint a member of its staff as an inspector for the purposes of this Act.
- (2) The Board may, at any time, revoke the appointment of an inspector.

90 Power of entry and examination

- (1) An inspector may, at any reasonable time, enter any premises in which the inspector has reasonable cause to believe that any person is doing or has done any act that is a restricted act of veterinary science for the purpose of ascertaining:
 - (a) whether any provision of this Act or the regulations has been or is being contravened, or
 - (b) whether the conduct of a veterinary practitioner constitutes unsatisfactory professional conduct or professional misconduct.
- (2) An inspector may:
 - (a) make such examinations, inspections and inquiries, and
 - (b) collect and take away such samples and specimens, and
 - (c) take such photographs, and
 - (d) seize and take away such records,in or from premises entered in accordance with this section as the inspector considers necessary in connection with the administration of this Act.
- (3) An inspector may exercise the powers conferred by this section with the aid of such assistants as the inspector considers necessary.
- (4) A person must not, without reasonable excuse:
 - (a) obstruct or hinder an inspector in the exercise of the inspector's powers under this section, or
 - (b) being the occupier of the premises—refuse to assist the inspector in exercising those powers.Maximum penalty: 20 penalty units.
- (5) This section does not authorise an inspector to enter that part of any premises being used for residential purposes without the consent of the occupier of that part of the premises.

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- (6) An inspector must, at the request of a person in relation to whom the inspector is exercising or proposing to exercise powers under this Act, produce a written authority issued by the Board authorising the inspector to exercise those powers.
- (7) An inspector may exercise in relation to a public place any of the powers conferred by this section in the same way as the inspector may exercise those powers in relation to premises entered in accordance with subsection (1).
- (8) In this section, *premises* includes any land, vehicle, vessel or aircraft.

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Part 10	Miscellaneous	1
91	Annual meeting of veterinary profession	2
(1)	The Board must, in accordance with the regulations, hold an annual general meeting of the veterinary profession.	3 4
(2)	Every veterinary practitioner is entitled to attend a meeting under this section.	5 6
(3)	The regulations may make provision for or with respect to the calling and giving of notice of meetings under this section, the information to be provided in relation to such meetings and the procedure for conducting such meetings.	7 8 9 10
92	Application of Criminal Records Act 1991	11
	For the purposes of the application of this Act to a criminal finding, the <i>Criminal Records Act 1991</i> applies in respect of a criminal finding as if section 8 (2) and (4) of that Act were omitted.	12 13 14
93	How notice is to be given	15
(1)	A requirement of this Act that a person be given notice is a requirement that the person be given notice in writing either personally or by post.	16 17 18
(2)	For the purposes of section 76 of the <i>Interpretation Act 1987</i> , a notice served by post on a person for the purposes of this Act is to be treated as being properly addressed if it is addressed to the address of the person last known to the Registrar or last recorded in the Register.	19 20 21 22 23
94	Service of documents on Board	24
	A document (other than a complaint made under Part 5) may be served on the Board by leaving it at or sending it by post to any office of the Board. This section does not affect the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board in any other manner.	25 26 27 28 29
95	Liability of members and others	30
	No matter or thing done by the Board or a committee of the Board, any member of the Board or of such a committee, any person acting under the direction of the Board or such a committee, or the Registrar, if the matter or thing was done in good faith for the	31 32 33 34

purpose of executing this or any other Act, subjects a member of the Board, a member of the committee, a person so acting or the Registrar, personally to any action, liability, claim or demand.

96 Written statement of decisions

- (1) If the Board, the President, a member authorised by the Board or a committee of the Board makes a decision concerning a person under any provision of this Act, the person may request in writing that the Board, President, member or committee provide the person with a written statement of the decision.
- (2) Any such request is to be made no later than 60 days after the decision to which it relates.
- (3) The Board, the President, member or committee is to provide a written statement of the decision within 30 days after receiving such a request.
- (4) A written statement of a decision:
 - (a) must give the reasons for the decision, and
 - (b) if the decision relates to a complaint, must include all relevant information on which the decision was based.
- (5) The Board, the President, member or committee is not required to include confidential information in the statement of a decision. If a statement would be false or misleading if it did not include the confidential information, the Board, the President, member or committee is not required to provide the statement.
- (6) When confidential information is not included in the statement of a decision provided to a person or the statement is not provided to a person because of subsection (5), the Board, the President, member or committee must give a confidential information notice to the person.
- (7) A *confidential information notice* is a notice that indicates that confidential information is not included or that the statement will not be provided (as appropriate) and gives the reasons for this. The notice must be in writing and must be given within one month after the decision is made.
- (8) This section does not affect the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

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- (9) In this section: 1
- confidential information*** means information that: 2
- (a) has not previously been published or made available to the 3
public when a written statement of a decision to which it is or 4
may be relevant is being prepared, or 5
- (b) relates to the personal or business affairs of a person, other 6
than a person to whom the Board, the President, the member 7
or the committee is required (or would, but for subsection (5), 8
be required) to provide a written statement of a decision, or 9
- (c) is information: 10
- (i) that was supplied in confidence, or 11
- (ii) the publication of which would reveal a trade secret, or 12
- (iii) that was provided in compliance with a duty imposed 13
by an enactment, or 14
- (iv) the provision of which by the Board, the President, the 15
member or the committee would be in breach of any 16
enactment, or 17
- (d) is not directly relevant to the decision. 18

97 Authentication of certain documents 19

Every certificate of registration, licence, approval, summons, 20
process, demand, order, notice, statement, direction or other 21
document requiring authentication by the Board may be sufficiently 22
authenticated without the seal of the Board if signed by: 23

- (a) the President or the Registrar, or 24
- (b) any officer of the Board authorised to do so by the Registrar. 25

98 Liability of directors and managers of corporations 26

- (1) If a corporation contravenes (whether by act or omission) any 27
provision of this Act or the regulations, each person who is a 28
director of the corporation or who is concerned in the management 29
of the corporation is taken to have contravened the same provision 30
if the person knowingly authorised or permitted the contravention. 31
- (2) A person may be proceeded against and convicted under a provision 32
pursuant to subsection (1) whether or not the corporation has been 33
proceeded against or has been convicted under the provision. 34

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- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.

99 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be dealt with summarily before a Local Court.
- (2) Proceedings for such an offence may be brought only within 12 months after the date on which the offence is alleged to have been committed.

100 Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.

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- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court. 1
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- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences. 4
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- (9) In this section, *authorised officer* means a person authorised in writing by the Board as an authorised officer for the purposes of this section or a police officer. 7
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101 Regulations 10

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to: 11
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- (a) regulating the proceedings of the Board, 16
 - (b) regulating the duties of the staff of the Board, 17
 - (c) regulating the keeping of the Register, 18
 - (d) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations are to be held and the subjects of and fees for those examinations, including authorising the Board to determine fees in respect of those examinations, 19
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 - (e) authorising the Board to determine and impose fees and charges for such other services provided by the Board as will assist the Board to operate on a cost-recovery basis, including fees or charges for the carrying out of any inspection for the purposes of this Act (whether or not the inspection is requested or agreed to), 25
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 - (f) the exemption of any person, or class of persons, employed by the Crown from any provision of this Act or the regulations. 31
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- (2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units. 33
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102 Act to bind Crown

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

103 Repeal of Veterinary Surgeons Act 1986 No 55 and related regulation

The following are repealed:

- (a) the *Veterinary Surgeons Act 1986*,
- (b) the *Veterinary Surgeons Regulation 1995*.

104 Amendment of other Acts and Regulations

The Acts and Regulations specified in Schedule 3 are amended as set out in that Schedule.

105 Savings, transitional and other provisions

Schedule 4 has effect.

106 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Unrestricted acts of veterinary science 1

(Section 7) 2

1 Unrestricted acts of veterinary science 3

The following acts of veterinary science may not be declared under section 7 to be restricted acts of veterinary science: 4

- (a) the de-worming of any animal, 5
- (b) the performing of the Mules operation on sheep that are less than 12 months of age, 6
- (c) the de-horning of: 7
 - (i) cattle that are less than 12 months of age, or 8
 - (ii) goats that are less than 1 month of age, 9
- (d) the horn tipping of any animal, 10
- (e) the castrating of: 11
 - (i) cattle, sheep or goats that are less than 6 months of age, or 12
 - (ii) pigs that are less than 2 months of age, 13
- (f) the tailing of sheep that are less than 6 months of age, 14
- (g) the carrying out, in respect of cattle, sheep, goats, pigs, deer, buffalo, poultry or any other animal prescribed by the regulations, of any artificial breeding procedure (within the meaning of the *Stock (Artificial Breeding) Act 1985*) other than a procedure involving surgery, 15
- (h) determining the sex of chickens, 16
- (i) the administration, under the immediate and direct supervision of a veterinary practitioner, of an anaesthetic to an animal, 17
- (j) diagnosing pregnancy in sheep by external ultrasonic techniques, subject to compliance with such conditions as may be prescribed by the regulations. 18

2 Definitions 19

In this Schedule: 20

de-horn means remove the horn of an animal by methods which destroy or remove the keratin producing cells and structures at the base of the horn, but does not include horn tipping. 21

horn tip means remove the insensitive part of the horn of an animal. 22

Schedule 2 Provisions relating to the members and procedure of the Board

(Section 76 (5))

1 Definition

In this Schedule:

member means member of the Board.

2 Nomination of members

If nominations of persons to constitute a panel for the purposes of section 76 (3) are not made within the time or in the manner specified by the Minister in a written notice given to the body or organisation entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed is taken to have been duly nominated.

3 President of the Board

- (1) The President of the Board holds office for such period as is specified by the Board in writing on the election of the President.
- (2) The Board may remove a member from the office of President of the Board.
- (3) A person who is a member and President vacates office as President if the person:
 - (a) is removed from that office by the Board under subclause (2), or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

4 Acting members and acting President

- (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member and the person, while so acting, has all the functions of the member and is taken to be a member.
- (2) The Governor may remove any person from any office to which the person was appointed under subclause (1).

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- (3) The Board may, from time to time, appoint a member to act in the office of President of the Board during the illness or absence of the President and the member, while so acting, has all the functions of the President and is taken to be the President. 1
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- (4) The Board may remove any person from any office to which the person was appointed under subclause (3). 5
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- (5) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board may from time to time determine in respect of the person and as is approved by the Minister. 7
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- (6) For the purposes of this clause, a vacancy in the office of a member or the President of the Board is taken to be an absence from office of the member or President, as the case may be. 11
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- 5 Terms of office** 14
- Subject to this Schedule, a member holds office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment. 15
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- 6 Remuneration** 19
- A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Board may from time to time determine in respect of the member and as is approved by the Minister. 20
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- 7 Filling of vacancy in office of member** 24
- (1) If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy. 25
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- (2) If a person is appointed to fill a casual vacancy in the office of a member referred to in section 76 (2) (a), the Minister may direct the manner in which nominations for the position are to be made. 27
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- 8 Casual vacancies** 30
- (1) A member vacates office if the member: 31
- (a) dies, 32
- (b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except 33
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- on leave granted by the Board or unless, before the expiration
of 4 weeks after the last of those meetings, the member is
excused by the Board for being absent from those meetings,
 - (c) becomes bankrupt, applies to take the benefit of any law for
the relief of bankrupt or insolvent debtors, compounds with
his or her creditors or makes an assignment of his or her
remuneration for their benefit,
 - (d) becomes a mentally incapacitated person,
 - (e) is convicted in New South Wales of an offence which is
punishable by imprisonment for 12 months or more or is
convicted elsewhere than in New South Wales of an offence
which, if committed in New South Wales, would be an
offence so punishable,
 - (f) resigns the office by instrument in writing addressed to the
Minister,
 - (g) in the case of a member referred to in section 76 (2) (a) or (b),
ceases to be a veterinary practitioner, or
 - (h) is removed from office by the Governor under subclause (2).
 - (2) The Governor may remove a member from office.

9 Disclosure of pecuniary interests

- (1) A member who has a direct or indirect pecuniary interest:
 - (a) in a matter that is being considered, or is about to be
considered, at a meeting of the Board, or
 - (b) in a thing being done or about to be done by the Board,
 must, as soon as possible after the relevant facts have come to his or
her knowledge, disclose the nature of the interest at a meeting of the
Board.
- (2) A disclosure by a member at a meeting of the Board that the
member:
 - (a) is a member, or is in the employment, of a specified company
or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified
company or other body or to a specified person,
 is a sufficient disclosure of the nature of the interest in any matter
relating to that company or other body or to that person which may
arise after the date of the disclosure and which is required to be
disclosed under subclause (1).

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| (3) | The Board must ensure that particulars of any disclosure made under this clause are recorded in a book kept for the purpose and that the book is kept open at all reasonable hours for inspection by any person. | 1
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| (4) | After a member has disclosed the nature of an interest in any matter or thing in accordance with this clause, the member must not, unless the Board otherwise determines: | 5
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| (a) | be present during any deliberation of the Board, or take part in any decision of the Board, with respect to the matter, or | 8
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| (b) | exercise any functions under this Act or the regulations with respect to that thing. | 10
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| (5) | For the purposes of the making of a determination by the Board under subclause (4), if a member has a direct or indirect pecuniary interest in a matter to which the disclosure relates, he or she must not: | 12
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| (a) | be present during any deliberation of the Board for the purpose of making the determination, or | 16
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| (b) | take part in the making by the Board of the determination. | 18 |
| (6) | A contravention of this clause does not invalidate any decision of the Board or the exercise of any function under this Act or the regulations. | 19
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| (7) | This clause does not apply to or in respect of an interest of a member in a matter or thing that arises merely because the member is a veterinary practitioner or is engaged in a veterinary science practice. | 22
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| (8) | A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board. | 26
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| (9) | This clause does not apply to the determination of the remuneration of members of the Board. | 28
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| 10 | Effect of certain other Acts | 30 |
| (1) | The <i>Public Sector Employment and Management Act 2002</i> does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act. | 31
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33 |
| (2) | Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that | 34
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37 |

provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.	1 2 3 4
(3) The office of a member is for the purposes of any Act taken not to be an office or place of profit under the Crown.	5 6
11 General procedure	7
The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board.	8 9 10
12 Transaction of business outside meetings or by telephone	11
(1) Without limiting clause 11, the Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.	12 13 14 15 16
(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	17 18 19 20 21
(3) For the purposes of:	22
(a) the approval of a resolution under subclause (1), or	23
(b) a meeting held in accordance with subclause (2),	24
the person presiding at the meeting of the Board and each member have the same voting rights as they have at an ordinary meeting of the Board.	25 26 27
(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.	28 29 30
(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	31 32 33

13 Quorum

The quorum for a meeting of the Board is 5 members, at least one of whom is a member referred to in section 76 (2) (c).

14 Presiding member

- (1) The President of the Board or, in the absence of the President, another member elected as chairperson for the meeting by the members present is to preside at a meeting of the Board.
- (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

15 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

16 Minutes

The Board is to cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

Schedule 3 Amendment of other Acts and Regulations

(Section 104)

3.1 Administrative Decisions Tribunal Act 1997 No 76

[1] Schedule 2 Composition and functions of Divisions

Omit “*Veterinary Surgeons Act 1986*” from clause 2 (1) of Part 4.

Insert instead “*Veterinary Practice Act 2003*”.

[2] Schedule 2, Part 4, clause 7 Veterinary Practice Act 2003 (Original decisions and reviewable decisions)

Omit clause 7 (2) (b). Insert instead:

- (b) 1 Division member who is a non-judicial member and who is also a veterinary practitioner chosen from a panel of 20 veterinary practitioners approved by the Attorney General, and

[3] Schedule 2, Part 4, clause 7 (2) (c) (ii)

Omit “veterinary surgeon”. Insert instead “veterinary practitioner”.

[4] Schedule 2, Part 4, clause 7 (3)

Omit the definition of **Board**. Insert instead:

Board means the Veterinary Practitioners Board constituted under section 75 of the Act.

[5] Schedule 2, Part 4, clause 7 (3)

Omit the definition of *the Act*. Insert instead:

the Act means the *Veterinary Practice Act 2003*.

3.2 Administrative Decisions Tribunal (General) Regulation 1998

Clause 6A Reviewable decisions excluded from internal review under section 53 of the Act

Omit clause 6A (e). Insert instead

- (e) a decision referred to in section 33, 47 or 74 of the *Veterinary Practice Act 2003*,

3.3 Animal Research Act 1985 No 123	1
Section 49 Appointment etc of inspectors	2
Omit “registered as a veterinary surgeon under the <i>Veterinary Surgeons Act 1923</i> ” from section 49 (2).	3 4
Insert instead “a veterinary practitioner (within the meaning of the <i>Veterinary Practice Act 2003</i>)”.	5 6
3.4 Companion Animals Act 1998 No 87	7
[1] Section 5 Definitions	8
Insert in alphabetical order in section 5 (1):	9
<i>veterinary practitioner</i> has the same meaning as in the <i>Veterinary Practice Act 2003</i> .	10 11
[2] Sections 14 (6) (c), 51 (1) (f), 56 (1) (e) and 76 (2)	12
Omit “veterinary surgeon” wherever occurring.	13
Insert instead “veterinary practitioner”.	14
[3] Section 89 Confidentiality of certain information	15
Omit “veterinary surgeons” from the note to section 89 (1).	16
Insert instead “veterinary practitioners”.	17
3.5 Companion Animals Regulation 1999	18
[1] Clause 3 Definitions	19
Omit the definition of <i>veterinary surgeon</i> .	20
[2] Clauses 5, 7 (1) (b), 12 (1) and (5) and 13 (2)	21
Omit “veterinary surgeon” wherever occurring.	22
Insert instead “veterinary practitioner”.	23

3.6 Crimes (Local Courts Appeal and Review) Act 2001 No 120	1
Section 70 Limit on costs awarded against public prosecutor	2
Insert “or section 9 (1) of the <i>Veterinary Practice Act 2003</i> ” after “that Act” in section 70 (3).	3 4 5
3.7 Criminal Procedure Act 1986 No 209	6
Section 214 Limit on circumstances when costs may be awarded against a public informant	7 8
Insert “or section 9 (1) of the <i>Veterinary Practice Act 2003</i> ” after “that Act” in section 214 (3).	9 10 11
3.8 Drug Misuse and Trafficking Act 1985 No 226	12
[1] Section 3 Definitions	13
Omit the definition of <i>veterinary surgeon</i> in section 3 (1). Insert instead:	14
<i>veterinary practitioner</i> has the same meaning as in the <i>Veterinary Practice Act 2003</i> .	15 16
[2] Sections 11 (2) (a), 15, 16 (a) (i), 17 and 29 (b)	17
Omit “veterinary surgeon” wherever occurring.	18
Insert instead “veterinary practitioner”.	19
3.9 Exotic Diseases of Animals Act 1991 No 73	20
[1] Section 7 Duty to notify exotic diseases	21
Omit “veterinary surgeon” from section 7 (b).	22
Insert instead “veterinary practitioner”.	23
[2] Dictionary	24
Omit the definition of <i>veterinary surgeon</i> . Insert instead:	25
<i>veterinary practitioner</i> has the same meaning as in the <i>Veterinary Practice Act 2003</i> .	26 27

3.10 Fines Act 1996 No 99	1
Schedule 1 Statutory provisions under which penalty notices issued	2 3
Insert in alphabetical order:	4
<i>Veterinary Practice Act 2003</i> , section 100	5
3.11 Firearms Act 1996 No 46	6
Section 12 Genuine reasons for having licence	7
Omit “veterinary surgeon” from the Table to the section.	8
Insert instead “veterinary practitioner”.	9
3.12 Game and Feral Animal Control Act 2002 No 64	10
Section 17 Exemptions from licensing	11
Omit “veterinary surgeon” from section 17 (1) (g).	12
Insert instead “veterinary practitioner (within the meaning of the <i>Veterinary Practice Act 2003</i>)”.	13 14
3.13 Licensing and Registration (Uniform Procedures) Act 2002 No 28	15 16
[1] Schedule 1 Licences to which Part 2 of Act applies	17
Insert in alphabetical order of Acts and statutory rules:	18
Veterinary Practice Act 2003	
section 68 (1), veterinary hospital licence	19

[2] Schedule 2 Registration to which Part 3 of Act applies

Insert in alphabetical order of Acts and statutory rules:

Veterinary Practice Act 2003

section 16 (1) (a), full registration as veterinary practitioner

section 16 (1) (b), honorary registration as veterinary practitioner

section 16 (1) (c), limited registration as veterinary practitioner

section 16 (1) (d), provisional registration as veterinary practitioner

section 16 (1) (e), specialist registration as veterinary practitioner

3.14 Lord Howe Island (General) Regulation 1994**Clauses 36 (4) and 56 (4)**

Omit “veterinary surgeon registered under the *Veterinary Surgeons Act 1986*” wherever occurring.

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.15 Medical Practice Act 1992 No 94**Section 111 Other health care professionals not affected**

Omit “registered veterinary surgeon” from section 111 (1).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.16 National Parks and Wildlife Regulation 2002**Clause 54 Caging and confinement of protected fauna**

Omit “registered veterinary surgeon” from clause 54 (5) (c).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.17 Non-Indigenous Animals Regulation 1997

Clauses 11 (b) and 12 (b)

Omit “registered veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.18 Poisons and Therapeutic Goods Act 1966 No 31

[1] Section 4 Definitions

Omit the definition of *Veterinary surgeon* from section 4 (1).

Insert instead:

Veterinary practitioner has the same meaning as in the *Veterinary Practice Act 2003*.

[2] Sections 8 (2), 10 (2) (a) and (4) (a) and (b), 11 (2) (a), 12 (2) (a), 16 (1) (a) and (b), (2), (3) (a) (i) and (5) (a) and (b), 18A (1) (b) and 34 (4)

Omit “veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner”.

[3] Sections 8 (2) and 24 (1) (c) and (d) and (2) (b)

Omit “veterinary surgeons” wherever occurring.

Insert instead “veterinary practitioners”.

3.19 Poisons and Therapeutic Goods Regulation 2002

[1] Clause 3 Definitions

Omit “veterinary surgeon” wherever occurring in the definitions of *dealer* and *retail dealer* in clause 3 (1).

Insert instead “veterinary practitioner”.

[2] Clause 3 (1), definition of “scientifically qualified person”

Omit “veterinary surgeon”. Insert instead “veterinary practitioner”.

[3] Clauses 5 (2), 13 (2), 15, 16, 17 (2), 20 (2), 22, 25 (2), 31 (2), 32 (4), 33, 35 (1), 36 (3) (a), 37 (1), 38 (2) (c), 39 (1) (f), 42 (4), 45, 51 (3), 52, 53, 55, 59 (3) (b), 66 (2), 68 (2), 70 (2), 72 (2), 76 (2), 78 (5), 79, 80 (1), 81 (1), 83 (3), 86 (1) (g), 97, 98 (3) and (4), 101 (1) (a) and (5), 108 (2), 109, 112 (1) (d) (ii) and (f), 123 (2) (c), 132, 141 (2) and 142 (2)

Omit “veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner”.

3.20 Prevention of Cruelty to Animals Act 1979 No 200

[1] Section 4 Definitions

Omit the definition of *veterinary surgeon* in section 4 (1). Insert instead:

veterinary practitioner has the same meaning as in the *Veterinary Practice Act 2003*.

[2] Sections 4 (1) (definition of “veterinary treatment”), 12 (2) (b), 12A (1) and (2), 21 (2), 25 (1) (a) (ii) and 26AA

Omit “veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner”.

[3] Section 4 (4)

Insert after section 4 (3):

(4) Notes included in this Act do not form part of this Act.

[4] Part 2 Offences

Insert after the heading to Part 2:

Note. Section 9 (1) of the *Veterinary Practice Act 2003* makes it an offence for a person to do a restricted act of veterinary science except in certain circumstances. ***Restricted act of veterinary science*** is defined in section 7 of that Act.

[5] Section 27B	1
Insert after section 27A:	2
27B Extension of certain powers of officers	3
The powers of an officer under sections 25, 26, 26A, 27 and	4
27A may be exercised in relation to an offence, or suspected	5
offence against section 9 (1) of the <i>Veterinary Practice Act</i>	6
2003.	7
[6] Section 35 Regulations	8
Omit “veterinary surgeons” from section 35 (1) (g).	9
Insert instead “veterinary practitioners”.	10
3.21 Prevention of Cruelty to Animals (General) Regulation 1996	11
[1] Clauses 9 (1) (b), 10, 11 and 12 (2) (e) and Schedule 1	12
Omit “veterinary surgeon” wherever occurring.	13
Insert instead “veterinary practitioner”.	14
[2] Clause 18A Authorised officers exercising certain powers: section 26	15
Omit clause 18A (3) (a). Insert instead:	16
(a) persons who are veterinary practitioners,	17
[3] Clause 19A Guidelines relating to the welfare of farm or companion animals: section 34A	18
Renummer clause 19A (4) and (5) as clause 19A (1) and (2), respectively.	19
[4] Clause 19A (2) (as renumbered)	20
Omit “registered as a veterinary surgeon under the <i>Veterinary Surgeons</i>	21
<i>Act 1986</i> or a person acting in accordance with the approval in writing of	22
the Board of Veterinary Surgeons of New South Wales, as referred to in	23
section 44 (2) of that Act”.	24
Insert instead “who is a veterinary practitioner”.	25
	26
	27

3.22 Public Finance and Audit Act 1983 No 152**[1] Schedule 2 Statutory bodies**

Omit “Board of Veterinary Surgeons of New South Wales”.

[2] Schedule 2

Insert “Veterinary Practitioners Board” in appropriate order.

3.23 Rural Lands Protection Act 1998 No 143**[1] Section 43 Staff of boards**Omit “registered as a veterinary surgeon under the *Veterinary Surgeons Act 1986*” from section 43 (3).Insert instead “a veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.**[2] Section 140C Restrictions on transport of stock by vehicle on road**

Omit “veterinary surgeon” from section 140C (5) (c).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.**3.24 Stock Diseases Act 1923 No 34****[1] Section 3 Definitions**Omit the definition of *Veterinary surgeon* in section 3 (1). Insert instead:
Veterinary practitioner has the same meaning as in the *Veterinary Practice Act 2003*.**[2] Section 9 Occupier etc to give notice**

Omit “veterinary surgeon” wherever occurring in section 9 (2) and (4).

Insert instead “veterinary practitioner”.

3.25 Stock Diseases (General) Regulation 1997	1
Clauses 8, 10 (2) (b) and 29 (4) (b) and Schedule 2	2
Omit “veterinary surgeon” wherever occurring.	3
Insert instead “veterinary practitioner (within the meaning of the <i>Veterinary Practice 2003</i>)”.	4 5
3.26 Stock Medicines Act 1989 No 182	6
[1] Section 3 Definitions	7
Omit “veterinary surgeon” from the definition of <i>prescribe</i> in section 3 (1).	8 9
Insert instead “veterinary practitioner”.	10
[2] Section 3 (1)	11
Omit the definition of <i>veterinary surgeon</i> . Insert instead:	12
<i>veterinary practitioner</i> has the same meaning as in the <i>Veterinary Practice Act 2003</i> .	13 14
[3] Section 6A Application of Agvet Code to veterinary practitioners and persons acting under the instructions of veterinary practitioners	15 16 17
Omit “veterinary surgeons” wherever occurring in section 6A (1).	18
Insert instead “veterinary practitioners”.	19
[4] Sections 6A (2) and (4), 25 (5), 36 (3) (f), 37 (1), 38 (2), 39 (2), 40, 40A (4) (a), 40B (2) (b), 41 (2) and 44 (2) (a)	20 21
Omit “veterinary surgeon” wherever occurring.	22
Insert instead “veterinary practitioner”.	23
[5] Section 40 Prescription or supply of stock medicine by veterinary practitioner	24 25
Omit “veterinary surgeon’s” from section 40 (2).	26
Insert instead “veterinary practitioner’s”.	27

3.27 Stock Medicines Regulation 1995**[1] Clause 4 Advertising: sec 43**

Omit “veterinary surgeons” from clause 4 (2).

Insert instead “veterinary practitioners”.

[2] Clause 5 Directions for use of stock food that has been treated with stock medicine

Omit “veterinary surgeon” from clause 5 (2) (a).

Insert instead “veterinary practitioner”.

3.28 Swine Compensation Act 1928 No 36**Section 5 Compensation payable to certain owners**

Omit “veterinary surgeon, within the meaning of the *Veterinary Surgeons Act 1923*,” from section 5 (2) (c).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.29 Weapons Prohibition Act 1998 No 127**Section 11 Genuine reason**

Omit “veterinary surgeon” from the Table to section 11 (2).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

3.30 Weapons Prohibition Regulation 1999**Clause 26 Prohibited weapons—animal management permit**

Omit “veterinary surgeon” from clause 26 (3) (a) (i).

Insert instead “veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*)”.

Schedule 4 Savings, transitional and other provisions

(Section 105)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on the enactment of this Act

2 Definition

In this Part:

former Act means the *Veterinary Surgeons Act 1986*.

former Board means the body corporate constituted by section 4 of the former Act.

3 Board

- (1) The Board is a continuation of, and the same legal entity as, the former Board.
- (2) A person who was, immediately before the commencement of this clause, a member of the former Board, ceases to hold that office but is eligible for re-appointment as a member of the Board.

-
- (3) A person who was, immediately before the commencement of this clause, the President of the former Board ceases to hold that office but is eligible for re-appointment as President of the Board. 1
2
3
- (4) A person is not entitled to any compensation for ceasing to hold an office because of the operation of this clause. 4
5
- 4 Investigating Committee** 6
- (1) The Investigating Committee constituted under section 24 of the former Act is dissolved. 7
8
- (2) The persons holding office as members of the Investigating Committee immediately before the commencement of this clause: 9
10
- (a) cease to hold office as such on that commencement, and 11
- (b) are not entitled to any compensation for ceasing to hold office because of the operation of this clause. 12
13
- 5 Registrar and other staff** 14
- The Registrar of the Board and any other person holding office under section 7 of the former Act immediately before the commencement of this clause are taken to be employed under section 79. 15
16
17
18
- 6 Inspectors** 19
- An inspector appointed under section 55 of the former Act and holding that office immediately before the commencement of this clause is taken to have been appointed under section 89. 20
21
22
- 7 Registers of veterinary surgeons** 23
- The registers kept under sections 8 and 9 of the former Act immediately before the commencement of this clause are taken to be the Register kept under section 27. 24
25
26
- 8 Applications for registration under former Act** 27
- An application for registration or provisional registration as a veterinary surgeon pending under the former Act at the commencement of this clause is taken to be an application under this Act for full registration or provisional registration, as the case requires. 28
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9 Existing registration

- (1) A person who held registration under section 12 of the former Act immediately before the commencement of this subclause is taken to hold full registration.
- (2) A person who held registration under section 13 of the former Act immediately before the commencement of this subclause is taken to hold honorary registration.
- (3) A person who held registration under section 14 of the former Act immediately before the commencement of this subclause is taken to hold limited registration.
- (4) A person who held registration under section 17 of the former Act immediately before the commencement of this subclause is taken to hold provisional registration.
- (5) A person who held registration under section 15 of the former Act immediately before the commencement of this subclause is taken to hold specialist registration.
- (6) Subject to subclause (7), a person who is taken to hold registration because of the operation of this clause holds the registration on the same terms and conditions that applied to the relevant registration of the person immediately before the commencement of this subclause.
- (7) Registration held by a person because of this clause ceases to have effect, unless sooner cancelled or suspended, on 30 June next occurring after the commencement of this subclause.
- (8) Registration that is, immediately before the commencement of this subclause, suspended under the former Act is taken to have been suspended under this Act.

10 Failure to pay fee or fine under former Act

The Board may exercise its powers under section 26 to cancel the registration of a person for failure to pay a fee or fine under the former Act that has not been paid as if it were a fee or fine payable under this Act.

-
- 11 Pending complaints against veterinary surgeons** 1
- (1) A complaint against a veterinary surgeon made under section 26 of the former Act that has not been finally determined before the commencement of this clause is taken to have been made under section 37. 2
3
4
5
- (2) Any such complaint that is, immediately before the commencement of this clause, being investigated by the Investigating Committee under the former Act may continue to be investigated and determined under this Act by the Board. 6
7
8
9
- (3) Any complaint referred to the Tribunal under the former Act before the commencement of this clause and not finally determined by the Tribunal before that commencement may continue to be dealt with by the Tribunal in accordance with this Act. 10
11
12
13
- (4) Despite subclause (3), the Tribunal dealing with a complaint at the commencement of this clause may continue to deal with the complaint as constituted immediately before that commencement. 14
15
16
- 12 Continuation of orders and decisions under former Act** 17
- An order or decision of the former Board or the Tribunal under the former Act is taken to have been made under the relevant provisions of this Act. 18
19
20
- 13 Veterinary hospitals** 21
- (1) A licence for a veterinary hospital in force under Part 6 of the former Act immediately before the commencement of this clause is taken to be a licence for that hospital issued under Part 6 of this Act. 22
23
24
- (2) An application for a licence for a veterinary hospital pending under Part 6 of the former Act at the commencement of this clause is taken to have been made under Part 6 of this Act. 25
26
27
- (3) A licence for a veterinary hospital that is, immediately before the commencement of this clause, suspended under the former Act is taken to have been suspended under this Act. 28
29
30

14	Pending appeals and reviews	1
(1)	An appeal or review under the former Act and pending at the commencement of this clause is taken to be an appeal or review under the corresponding provision of this Act.	2 3 4
(2)	An appeal or application for review that could have been made in relation to a decision under the former Act may be made under the relevant provision of this Act as if the decision were made under this Act but only if the period for making the appeal or application for review under the former Act has not expired.	5 6 7 8 9
15	Account	10
	The account established by the former Board under section 54D of the former Act is taken to have been established under section 82 of this Act.	11 12 13
16	References to veterinary surgeon	14
	Subject to the regulations, a reference in any Act (other than this Act), regulation or instrument to a veterinary surgeon or a registered veterinary surgeon is to be read as a reference to a veterinary practitioner.	15 16 17 18
17	References to former Act	19
	Subject to the regulations, a reference in any Act (other than this Act), regulation or instrument to the former Act is to be read as a reference to this Act.	20 21 22
18	References to former Board	23
	Subject to the regulations, a reference in any Act (other than this Act) to the former Board is to be read as a reference to the Veterinary Practitioners Board.	24 25 26
19	Electronic applications for registration	1
(1)	Despite Part 3 of the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> (as applied by section 16 of this Act) an application referred to in section 41 of that Act may not be made by means of electronic communication.	2 3 4 5
(2)	Despite Part 2 of the <i>Licensing and Registration (Uniform Procedures) Act 2002</i> (as applied by section 68 of this Act) an application referred to in section 12 of that Act may not be made by means of electronic communication.	6 7 8 9

(3)	Subclauses (1) and (2) do not limit the effect of the <i>Electronic Transactions Act 2000</i> .	10 11
(4)	This clause ceases to have effect on a day to be appointed by proclamation.	12 13
20	Annual returns	14
	Despite section 32 and subject to the regulations, the first annual return submitted to the Board under that section by a veterinary practitioner after the commencement of this clause is to relate to a return period of 3 years immediately preceding the return date specified in that section.	15 16 17 18 19