

Veterinary Surgeons Act 1986 No 55

[1986-55]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Regulatory Reduction Act 1996 No 107](#) (not commenced — to commence on 1.1.2003)

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Veterinary Surgeons Act 1986 No 55



New South Wales

Contents

Long title	7
Part 1 Preliminary	7
1 Name of Act	7
2 Commencement	7
3 Definitions	7
3A Notes	9
Part 2 Board of Veterinary Surgeons of New South Wales	9
4 The Board	9
5 Members of the Board	9
6 President of the Board	9
7 Staff of the Board	10
Part 3 Registration of veterinary surgeons	10
Division 1 Registers	10
8 Register of veterinary surgeons	10
9 Register of specialists	11
10 General provisions relating to registers	11
Division 2 Registration	12
11 Prerequisite to registration as veterinary surgeon	12
12 Full registration	12
13 Registration as an honorary veterinary surgeon	13

14 Limited registration	13
15 Registration as a specialist	14
16 Application for registration and determination of application.....	14
17 Provisional registration	15
17A Conditions on registration	16
18 Registration certificate	17
Division 3 General provisions relating to registration	17
19 Roll fee	17
20 Removal of name of deceased veterinary surgeon etc.....	18
21 Reviews by the Tribunal.....	18
Part 4 Disciplinary provisions	19
Division 1 Preliminary	19
22 Misconduct in a professional respect.....	19
22A Serious misconduct in a professional respect.....	19
23 Veterinary surgeons' code of professional conduct	20
Division 2 Constitution of Investigating Committee	20
24 Constitution of Veterinary Surgeons Investigating Committee	20
25 (Repealed)	21
Division 2A Serious misconduct in a professional respect	21
25A Investigating Committee may make complaint	21
25B Investigating Committee may direct suspension of registration or imposition of conditions.....	21
25C Veterinary surgeon to be afforded opportunity to make representations	22
25D Application to Tribunal concerning suspension or conditions	23
25E Determination of application	23
25F Orders of Tribunal	24
25G Effect of suspension	24
25H Effect of conditions imposed	24
Division 3 Making of complaints to, and investigation by, Investigating Committee	25

26 Complaints against veterinary surgeons	25
27 Investigation by Investigating Committee	27
28 Decision of Investigating Committee on complaint	27
29 Miscellaneous provisions relating to investigations of complaints.....	28
Division 4 Proceedings before the Tribunal	29
30 Inquiries by Tribunal	29
30A (Repealed).....	30
31 Right to apply to Tribunal for review of orders of the Investigating Committee.....	30
32 Tribunal’s powers when complaint proved.....	30
Division 5 General provisions relating to disciplinary proceedings	31
33 Disciplinary proceedings against veterinary surgeon who ceases to be registered.....	31
34 Appeal against orders of the Tribunal in its original jurisdiction	31
35 Restoration of name to register etc	32
36 Recording of proceedings and decision of Investigating Committee and orders of Tribunal and Board	32
Part 5 Regulation of practice of veterinary surgeons	33
37 Offence for unregistered person to practise	33
38 Offence to practise as specialist unless registered as specialist	34
39 Practice to be carried on in veterinary surgeon’s name	34
40 Signing certificates	35
41 Use of false qualification	35
42 Advertising by registered veterinary surgeons and others	35
43 Unregistered person may not recover fees or charges.....	35
44 Permitted practices for unregistered persons.....	36
45 Approved persons may perform certain acts under supervision	37
Part 6 Veterinary hospitals	39
46 Veterinary hospitals to be licensed.....	39
47 Classes of licences.....	39
48 Application for licence	39
49 Issue or refusal of licence	40
50 Duration of licence	40

51 Annual licence fee	40
52 Suspension or cancellation of licence	41
53 Reviews by the Tribunal	42
54 Superintendents of veterinary hospitals	42
Part 6A Finance	43
54A-54C (Repealed)	43
54D Board to establish and maintain account at financial institution.....	43
54E Investment of money.....	43
54F Financial year of Board	43
Part 7 Miscellaneous	43
55 Power of entry and examination.....	43
56 Power to examine on oath	45
57 Power to summon witnesses and require written information	45
57A Board may delegate function of collecting evidence.....	46
58 False or misleading statements	46
59 Document under hand of Registrar to be prima facie evidence	46
60 Prima facie evidence of entry in register may be given in all courts	47
61 Certificate of President or Registrar of Board to be evidence	47
62 Proof of certain matters not required	47
63 Service of notices etc	48
64 Service of documents on Board or Committee	48
65 Authentication of certain documents	48
66 Recovery of charges, fines etc.....	49
67 (Repealed)	49
68 Liability of members etc	49
69 Offences by corporations.....	49
70 Proceedings for offences	49
71 Regulations.....	50
72 Savings, transitional and other provisions.....	51
73 Repeals.....	51
Schedule 1 Provisions relating to the members and procedure of the Board	

..... 52

Schedule 2 Provisions relating to the members and procedure of the Investigating Committee

..... 56

Schedule 3 (Repealed) 60

Schedule 4 Savings, transitional and other provisions 60

Veterinary Surgeons Act 1986 No 55



New South Wales

An Act relating to the practice of veterinary science; to repeal the *Veterinary Surgeons Act 1923*; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Veterinary Surgeons Act 1986*.

2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

Board means the Board of Veterinary Surgeons of New South Wales constituted under section 4.

Investigating Committee means the Veterinary Surgeons Investigating Committee constituted under section 24.

practise, in relation to veterinary science, means do or perform, or attempt to do or perform, any act, matter or thing which forms part of veterinary science.

register of specialists means the register of specialists kept under section 9.

register of veterinary surgeons means the register of veterinary surgeons kept under section 8.

registered means registered under this Act.

registered veterinary surgeon means a person who is for the time being:

- (a) registered as a veterinary surgeon under section 12 (full registration), including a person provisionally so registered,
- (b) registered as an honorary veterinary surgeon under section 13, or
- (c) registered as a veterinary surgeon under section 14 (limited registration).

Registrar means Registrar of the Board.

regulation means a regulation made under this Act.

Tribunal means the Administrative Decisions Tribunal established by the [Administrative Decisions Tribunal Act 1997](#).

veterinary hospital means a place used or intended to be used for the purpose of the practice of veterinary science, but does not include:

- (a) a place at which any act, matter or thing permitted by section 37 (4) or 44 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at the place,
- (b) a place at which an artificial breeding procedure, within the meaning of the [Stock \(Artificial Breeding\) Act 1985](#), is carried out if:
 - (i) the use of the place for the carrying out of that procedure is authorised by a licence in force under that Act, and
 - (ii) no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at the place, or
- (c) a place or class of places exempted from this definition by the regulations.

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:

- (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, the performance of any operation on, or the making of any radiological diagnosis of, 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, and

(e) the doing or performing of any act, matter or thing that is prescribed as forming part of the practice of veterinary science.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

3A Notes

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

Part 2 Board of Veterinary Surgeons of New South Wales

4 The Board

- (1) There is constituted by this Act a corporation under the corporate name of the “Board of Veterinary Surgeons of New South Wales”.
- (2) The Board shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

5 Members of the Board

- (1) The Board shall consist of 6 members who shall be appointed by the Governor.
- (2) Of the members of the Board:
 - (a) 3 shall be persons selected by the Minister from a panel of not less than 7 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association,
 - (b) 2 shall be registered veterinary surgeons nominated by the Minister, and
 - (c) 1 shall be a registered veterinary surgeon selected by the Minister from a panel of not less than 3 members of the Faculty of Veterinary Science of the University of Sydney nominated by the Senate of that University.
- (3) Schedule 1 has effect with respect to the members and procedure of the Board.

6 President of the Board

Of the members of the Board, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as President of the Board.

7 Staff of the Board

- (1) The Board may employ staff. Part 2 of the *Public Sector Management Act 1988* 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.
- (3) The Board may arrange for the use of the services of:
 - (a) any staff or facilities of a government authority, or
 - (b) any contractor.
- (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.

Part 3 Registration of veterinary surgeons

Division 1 Registers

8 Register of veterinary surgeons

- (1) The Board shall keep a register of veterinary surgeons.
- (2) The register of veterinary surgeons shall be divided as follows:
 - (a) a division of veterinary surgeons registered under section 12 (full registration),
 - (b) a division of honorary veterinary surgeons registered under section 13,
 - (c) a division of veterinary surgeons registered under section 14 (limited registration).
- (3) A person is registered as a veterinary surgeon under section 12 (full registration) or registered as an honorary veterinary surgeon under section 13 or registered as a veterinary surgeon under section 14 (limited registration) by the entry in the appropriate division of the register of veterinary surgeons of:
 - (a) the full name and address of the person,
 - (b) the description of the person's qualification for registration,
 - (c) in the case of a person registered as a veterinary surgeon under section 14 (limited registration)—the date on which the registration will expire and any condition attached to the registration, and
 - (d) such other particulars as may be prescribed.
- (4) The name of a person shall be removed from any division of the register of veterinary surgeons if the name of the person is entered in any other division of that register.

- (5) A registered veterinary surgeon ceases to be registered under section 12, 13 or 14, as the case may require, when the veterinary surgeon's name is removed from the relevant division of the register of veterinary surgeons.

9 Register of specialists

- (1) The Board shall keep a register of specialists.
- (2) A registered veterinary surgeon is registered as a specialist by the entry in the register of specialists of:
- (a) the full name and address of the veterinary surgeon,
 - (b) the description of the veterinary surgeon's qualification for registration as a specialist,
 - (c) the branch of veterinary science in respect of which the veterinary surgeon is registered as a specialist, and
 - (d) such other particulars as may be prescribed.
- (3) The name of a person shall be removed from the register of specialists if the name of the person is removed from the register of veterinary surgeons.
- (4) A registered veterinary surgeon ceases to be registered as a specialist when the veterinary surgeon's name is removed from the register of specialists.

10 General provisions relating to registers

- (1) In this section, **register** means the register of veterinary surgeons or the register of specialists.
- (2) Where a registered veterinary surgeon applies for particulars to be recorded in a register in addition to those required to be recorded under this Act, the Board may, on payment of the prescribed fee, cause to be recorded in that register such of those additional particulars as the Board approves.
- (3) A register shall be open to inspection, at the office of the Board at all times when that office is open for business, by any person on payment of the prescribed fee.
- (4) Where the description of a person's qualifications is required to be entered into a register, the description shall include the date on which the qualification was awarded.
- (5) The name of a registered veterinary surgeon is removed from a register by the making in that register of such recording as the Board directs.
- (6) The Board shall, as soon as practicable after 30 June in each year, cause to be printed and published a copy of each register certified by the Registrar to be correct as at 30 June of that year.

Division 2 Registration

11 Prerequisite to registration as veterinary surgeon

A person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) or as an honorary veterinary surgeon under section 13 or as a veterinary surgeon under section 14 (limited registration) unless the person:

- (a) satisfies the Board that the person is of good fame and character, and
- (b) has made the prescribed declaration relating to the conduct to be observed by registered veterinary surgeons.

12 Full registration

(1) A person is entitled to be registered as a veterinary surgeon under this section if:

(a) the person holds an academic award in veterinary science awarded on the completion of a regular graded course of study:

- (i) extending over at least 5 academic years, and
- (ii) in which a general study of veterinary science was made,

at a university, college or institution within Australia, New Zealand or the United Kingdom prescribed for the purposes of this paragraph,

(b) the person:

(i) holds an academic award in veterinary science awarded on the completion of a regular graded course of study in veterinary science of at least 4 years' duration at a university, college or institution (other than one prescribed for the purposes of paragraph (a)), being an academic award 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,

(ii) has passed the prescribed examination, and

(iii) has been resident in Australia, at the time of making application for registration, for a continuous period of 12 months or more, or

(c) the person was, at any time before the commencement of this Act, registered as a veterinary surgeon under the [Veterinary Surgeons Act 1923](#) and is no longer registered.

(2) Where the Minister is satisfied, on the recommendation of the Board, that a person has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the exemption of the person from the requirement to pass the prescribed examination under subsection (1) (b) (ii), the Minister may exempt

the person from that requirement.

- (3) The Board may exempt a person from the requirement of residency in Australia under subsection (1) (b) (iii).
- (4) A person who does not hold the requisite qualifications for registration as a veterinary surgeon under this section is entitled to be so registered if:
 - (a) the person satisfies the Board that the person is registered as a veterinary surgeon under an Act regulating the practice of veterinary science in any other State or a Territory of the Commonwealth,
 - (b) the Board is of the opinion that:
 - (i) the qualification in respect of which the person was registered in that State or Territory is of a standard substantially equivalent to the qualifications prescribed under this section, and
 - (ii) a person registered under this Act is, by virtue of that registration and without further examination (other than an examination equivalent to an examination prescribed under paragraph (c)), entitled to be registered under the Act regulating the practice of veterinary science in that State or Territory, and
 - (c) in any particular case that the Board so requires—the person has passed the prescribed examination.
- (5) A regulation for the purposes of subsection (1) (a) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is a prescribed university, college or institution.

13 Registration as an honorary veterinary surgeon

A person who is entitled to be, or is, registered as a veterinary surgeon under section 12 (full registration) may be registered as an honorary veterinary surgeon under this section if the Board is satisfied that:

- (a) the person is a registered veterinary surgeon of not less than 40 years' standing,
- (b) the person is a registered veterinary surgeon 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 registration as an honorary veterinary surgeon.

14 Limited registration

- (1) A person may be registered as a veterinary surgeon under this section if the Board is satisfied that:

- (a) the registration is necessary to enable the person to carry on the practice of veterinary science for a specific purpose for a limited time, and
 - (b) the person has such qualifications in veterinary science or such experience in the practice of veterinary science as to justify the registration.
- (2) The registration of a person as a veterinary surgeon under this section is subject to such conditions as may be specified by the Board in the certificate of registration.
- (3) The registration of a person as a veterinary surgeon under this section expires:
- (a) 12 months after the date of registration, or
 - (b) at such earlier time as may be specified by the Board in the certificate of registration,
- but may be renewed in accordance with the regulations for a further period (not exceeding 12 months) determined by the Board.
- (4) The Board may cause to be removed from the register of veterinary surgeons the name of a veterinary surgeon registered under this section:
- (a) if the veterinary surgeon has breached a condition specified in the certificate of registration, or
 - (b) for any other reason.

15 Registration as a specialist

- (1) A registered veterinary surgeon may be registered as a specialist in a prescribed branch of veterinary science if the Board is satisfied that the veterinary surgeon has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the registration.
- (2) The regulations may prescribe prerequisites for registration as a specialist in a branch of veterinary science, including being a registered veterinary surgeon for a specified number of years.

16 Application for registration and determination of application

- (1) An application for registration (including registration as a specialist) shall:
- (a) be made to the Board as prescribed,
 - (b) be supported by such evidence as the Board may require, and
 - (c) be accompanied by the prescribed fee.
- (2) The Board shall consider and determine any such application.

- (3) The Board may refuse any such application if, in the opinion of the Board:
 - (a) the applicant is not entitled to be registered as requested in the application, or
 - (b) any ground exists on which the applicant's name, if the applicant were so registered, might be removed from the register of veterinary surgeons or register of specialists.
- (4) If the Board refuses any such application, the Board shall cause the applicant to be given notice of its refusal and the reasons for its refusal.

17 Provisional registration

- (1) In this section:

authorised member of the Board means the President of the Board or any other member authorised by the Board.

- (2) Where a person has applied to be registered as a veterinary surgeon under section 12 (full registration), an authorised member of the Board, on being satisfied that the applicant:

- (a) is entitled to be so registered, or
- (b) has satisfied all the requirements for an academic award referred to in section 12 (1) (a) and, but for the conferring of the award, would be entitled to be so registered,

may, on behalf of the Board, issue to the applicant a certificate of provisional registration in the form approved by the Board.

- (3) An authorised member of the Board shall not issue a provisional certificate of registration to a person unless satisfied that the person is of good fame and character and has made the prescribed declaration referred to in section 11 (b).
- (4) A person who is the holder of a certificate of provisional registration shall be deemed to be registered as a veterinary surgeon under section 12 (full registration) for a period of 3 months from the date of issue of the certificate.
- (5) The Board may, for any reason, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered as a veterinary surgeon under section 12.
- (6) On the cancellation or expiry of a certificate of provisional registration, the holder of the certificate shall cease to be deemed to be registered as a veterinary surgeon under section 12.
- (7) If a person to whom a certificate of provisional registration has been issued becomes registered as a veterinary surgeon under section 12 (full registration) during the

currency of the certificate:

- (a) the person's registration shall, unless otherwise determined by the Board, date from the issue of the certificate of provisional registration, and
- (b) the person's provisional registration shall, notwithstanding subsection (4), expire on the day on which the person becomes so registered.

17A Conditions on registration

- (1) The registration of a person as a veterinary surgeon under section 12, 13, 15 or 17 is subject to such conditions (including limitations on the right to practise) as may be specified by the Board in the certificate of registration.
- (2) The Board may, by notice in writing given to a registered veterinary surgeon:
 - (a) impose a condition at any time, or
 - (b) vary or revoke a condition imposed under this section.
- (3) However, the Board may impose a condition under subsection (1) or (2) 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 affecting veterinary surgeons or the practice of veterinary science,
 - (b) the safety or health of any person,
 - (c) the health or welfare of any animal,
 - (d) damage to the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events.

Note—

The Board may be aware, for example, that a registered veterinary surgeon 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) or (2), a condition imposed under either or those subsections may require the holder of the certificate of registration 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.

18 Registration certificate

- (1) The Board may issue certificates of registration under this Act.
- (2) If:
 - (a) the name of a person is removed from the register of veterinary surgeons or the register of specialists, or
 - (b) any detail on a certificate of registration issued to a person is incorrect, or
 - (c) the Board, the Investigating Committee or the Tribunal imposes a condition on the registration of the veterinary surgeon with respect to the practice of veterinary science,the Board may, by notice served on the person, require the person to return the relevant certificate of registration to the Board within the time specified in the notice.
- (3) A person on whom any such notice is served shall comply with the notice.
Maximum penalty: 5 penalty units.
- (4) Where a certificate of registration has been returned to the Board pursuant to:
 - (a) subsection (2) (a)—the certificate, or a duplicate of the certificate, shall be returned to the person if the name of the person is restored to the register of veterinary surgeons or register of specialists, as the case may be, or
 - (b) subsection (2) (b) or (c)—an amended or substituted certificate of registration shall, unless the person is not entitled to be registered, be issued to the person.

Division 3 General provisions relating to registration

19 Roll fee

- (1) Every registered veterinary surgeon whose name is entered in the division of veterinary surgeons or the division of honorary veterinary surgeons of the register of veterinary surgeons shall, in or before the month of October in each year, pay to the Registrar the roll fee prescribed for the following year in respect of that division.
- (2) If a registered veterinary surgeon does not pay a roll fee in accordance with subsection (1), the Board may:
 - (a) cause the veterinary surgeon's name to be removed from the register of veterinary surgeons, and

- (b) where the veterinary surgeon's name is also entered in the register of specialists—cause that name to be removed from that register.
- (3) If the name of any person is removed from a register under this section, the Board may restore the person's name to that register:
 - (a) on production of the person's certificate of registration or proof to the satisfaction of the Board of the person's former registration, and
 - (b) on payment of the prescribed fee for restoration or such lesser fee as the Board may in any particular case determine.
- (4) A roll fee is payable under this section notwithstanding that the registered veterinary surgeon has been suspended from practice.

20 Removal of name of deceased veterinary surgeon etc

- (1) The Board shall cause to be removed from the register of veterinary surgeons or the register of specialists the name of any person who:
 - (a) has died,
 - (b) has ceased to possess or does not possess the qualification in respect of which the person was registered,
 - (c) has become a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act, or
 - (d) requests that the person's name be so removed.
- (2) Where the Board under this section removes the name of any person from the register of veterinary surgeons or the register of specialists, the name of that person shall not be again entered in that register except by direction of the Board or by order of any court.
- (3) The Board may, if it thinks fit in any case, restore to the register of veterinary surgeons or the register of specialists any name removed from that register under this section without payment of any fee or on payment of such fee, not exceeding the relevant fee prescribed under section 16 (1) (c), as the Board may from time to time direct.

21 Reviews by the Tribunal

- (1) An applicant for registration as a veterinary surgeon under section 12 may apply to the Tribunal for a review of a decision of the Board refusing to register the applicant (not being a refusal on the ground that the applicant failed to pass the prescribed examination).

- (2) A person whose name has been removed from the Register by the Board under section 20 (1) (b) or (c) may apply to the Tribunal for a review of the decision to remove the person's name.
- (3) If the Board imposes a condition under section 17A on the registration of a veterinary surgeon, or varies a condition so imposed, the veterinary surgeon may apply to the Tribunal for a review of the Board's decision to do so.

Part 4 Disciplinary provisions

Division 1 Preliminary

22 Misconduct in a professional respect

Without limiting the meaning of the expression "misconduct in a professional respect", a registered veterinary surgeon shall be deemed to be guilty of misconduct in a professional respect if the veterinary surgeon:

- (a) permits or requires an unregistered person employed by the veterinary surgeon to practise veterinary science except where that person acts in accordance with this or any other Act,
- (b) allows the use of the veterinary surgeon's name in connection with a purported practice of veterinary science at premises at which the veterinary surgeon or a partner does not actually carry on the practice of veterinary science, or
- (c) breaches any provision, prescribed for the purposes of this paragraph, of the veterinary surgeons' code of professional conduct established under section 23.

22A Serious misconduct in a professional respect

- (1) Without limiting the meaning of the expression ***serious misconduct in a professional respect***, a registered veterinary surgeon is taken to be guilty of serious misconduct in a professional respect if the veterinary surgeon:
 - (a) provides information relating to the veterinary surgeon's qualifications for registration knowing the information to be false or misleading in a material particular, or
 - (b) contravenes 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), or
 - (c) engages in conduct in the veterinary surgeon'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, or
- (d) breaches any provision, prescribed for the purposes of this paragraph, of the veterinary surgeons' code of professional conduct established under section 23.

Note—

Examples of the type of conduct referred to in paragraph (c) (iv) are the prescription or dispensing of inappropriate drugs (such as those that leave a residue in meat intended for consumption) and the prescription or dispensing of drugs in circumstances that allow the drugs to be used by human contestants in sporting events.

- (2) Without limiting subsection (1), a registered veterinary surgeon is taken to be guilty of serious misconduct in a professional respect if it is demonstrated that, in his or her application for registration, the veterinary surgeon provided information relating to his or her qualifications for registration knowing the information to be false or misleading in a material particular.

23 Veterinary surgeons' code of professional conduct

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

Division 2 Constitution of Investigating Committee

24 Constitution of Veterinary Surgeons Investigating Committee

- (1) There is constituted by this Act a Veterinary Surgeons Investigating Committee.
- (2) The Investigating Committee shall consist of 5 members who shall be appointed by the Minister.
- (3) Of the members of the Investigating Committee:
- (a) 1 shall be a barrister or solicitor and shall be chairperson of the Investigating Committee, and
 - (b) 1 shall be a registered veterinary surgeon but not a member of the Board, and
 - (c) 1 shall be a registered veterinary surgeon, not being a member of the Board, appointed from a panel of not less than 3 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary

Association, and

(d) 1 shall be a member of the Board, and

(e) 1 shall be a person who is not a veterinary surgeon and who is appointed to represent the interests of users of veterinary services.

(4) Schedule 2 has effect with respect to the members and procedure of the Investigating Committee.

25 (Repealed)

Division 2A Serious misconduct in a professional respect

25A Investigating Committee may make complaint

If:

(a) the Investigating Committee is of the opinion that any alleged action, omission or pattern of conduct of a registered veterinary surgeon is such as to give rise to a complaint of serious misconduct in a professional respect against the veterinary surgeon, and

(b) the Investigating Committee has not received a complaint under section 26 about the alleged action, omission or pattern of conduct,

the Investigating Committee may make the relevant complaint itself, and any such complaint is taken to be a complaint made to the Investigating Committee in accordance with section 26.

25B Investigating Committee may direct suspension of registration or imposition of conditions

(1) On receiving a complaint that a registered veterinary surgeon is guilty of serious misconduct in a professional respect, and at any stage of its investigation of the complaint, the Investigating Committee may, by notice in writing, direct the Board, pending the final disposal of the complaint:

(a) to suspend the registered veterinary surgeon from practice for such period (not exceeding 30 days) as is specified in the direction, or

(b) to impose such conditions (including limitations on the right to practise) on the registration of the veterinary surgeon with respect to the practice of veterinary science as the Investigating Committee specifies in the direction (whether or not the conditions are additional to those imposed under another provision of this Act).

(2) However, the Investigating Committee may give such a direction only if it is satisfied that the suspension or the imposition of conditions is urgently needed, having regard to any one or more of the following:

- (a) the safety or health of any person,
- (b) the health or welfare of any animal,
- (c) the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events.

Note—

The complaint may be, for example, that a registered veterinary surgeon 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.

- (3) The Investigating Committee may also, by notice in writing, direct the Board:
 - (a) to vary or revoke any condition, or
 - (b) to revoke any suspension,imposed under this section.
- (4) The Board must, by order in writing given to the registered veterinary surgeon concerned, comply with a direction given to it under this section.
- (5) More than one direction may be given under subsection (1) (a) so long as the total period of suspension under this section does not exceed 60 days.

25C Veterinary surgeon to be afforded opportunity to make representations

- (1) Before giving a direction under section 25B (other than a direction to revoke a condition or suspension imposed under that section), the Investigating Committee must advise the registered veterinary surgeon concerned by notice in writing:
 - (a) of its intention to give the direction, and
 - (b) of its reasons for giving the direction, and
 - (c) that the veterinary surgeon may make oral or written representations (as the veterinary surgeon chooses) concerning the complaint to the Investigating Committee, and
 - (d) that if no response is received from the veterinary surgeon within a period of 5 days after the notice is given, the Investigating Committee will give the direction to the Board, and
 - (e) that the Board has no discretion to refuse to comply with the direction.
- (2) The Investigating Committee must consider any representations made by the veterinary surgeon in relation to the complaint within the time allowed by the notice.

25D Application to Tribunal concerning suspension or conditions

- (1) A registered veterinary surgeon or a former registered veterinary surgeon against whom an order of the Board is in force under this Division may apply to the Tribunal for a review of the decision of the Investigating Committee that gave rise to the order.
- (2) The Investigating Committee may, at any time while an order of the Board under this Division suspending a registered veterinary surgeon from practice is in force, apply to the Tribunal for an order extending the total period of suspension permitted under this Division.
- (3) Such an application may be made even if the Tribunal has reinstated the veterinary surgeon's registration following an application made by the former registered veterinary surgeon under subsection (1), or the Investigating Committee under subsection (2), in respect of a previous suspension.
- (4) The Investigating Committee, a registered veterinary surgeon or a former registered veterinary surgeon may make more than one application under this section.
- (5) The Investigating Committee may appoint one of its members (or, if the Investigating Committee has appointed a secretary, the secretary) to represent the Investigating Committee at the hearing of an application made under this section.

25E Determination of application

- (1) An application made under section 25D is to be determined by the Tribunal constituted by a judicial member of the Tribunal.
- (2) Subsection (1) has effect despite any contrary provision of the *Administrative Decisions Tribunal Act 1997*.
- (3) The Tribunal is to determine the application having regard to all relevant information that the Investigating Committee and the registered veterinary surgeon or former registered veterinary surgeon have furnished to it by the time the application is heard.
- (4) In determining the application, the Tribunal may (regardless of the nature of the application) make any one or more of the following interim orders:
 - (a) an order reinstating the registration of the former registered veterinary surgeon (with or without imposing conditions on that registration),
 - (b) an order confirming the suspension of the former registered veterinary surgeon (with or without extending the period of suspension),
 - (c) an order extending the period of suspension of the former registered veterinary surgeon,
 - (d) an order confirming, varying or revoking the conditions imposed on the

registration of the veterinary surgeon with respect to the practice of veterinary science,

(e) an order imposing conditions, or additional conditions, (including limitations on the right to practise) on the registration of the veterinary surgeon with respect to the practice of veterinary science.

(5) A period of suspension may not be extended under this Division (except by operation of section 25G) beyond the time at which the relevant complaint against the former registered veterinary surgeon is finally disposed of.

25F Orders of Tribunal

If a complaint is referred to the Tribunal under section 28 (1) (c), the Tribunal may, at any stage of its inquiry into the complaint, make such of the orders referred to in section 25E (4) as it considers appropriate.

25G Effect of suspension

(1) While an order under this Division suspending a person from practice remains in force, the person is taken not to be a registered veterinary surgeon.

(2) On the expiry of the period of suspension specified in the order, or the final disposal of the complaint concerned (whichever occurs first), the person against whom the order was made is reinstated as a registered veterinary surgeon (subject to any order of the Tribunal or the Supreme Court in relation to the complaint that gave rise to the suspension).

(3) However, if:

(a) the Tribunal makes an order under section 32 (1) (b) suspending the person from practice, and

(b) an order under this Division suspending the person from practice is in force at the time at which the Tribunal makes that order,

the period of suspension imposed by the order under this Division is extended by operation of this section until the order of the Tribunal takes effect (subject to any order of an Appeal Panel of the Tribunal on appeal under section 34).

25H Effect of conditions imposed

(1) Conditions imposed under this Division have effect, subject to this Division, until the relevant complaint against the registered veterinary surgeon is finally disposed of.

(2) This section does not prevent conditions with respect to the practice of veterinary science being imposed under another provision of this Act on the registration of a veterinary surgeon the subject of a complaint.

Division 3 Making of complaints to, and investigation by, Investigating Committee

26 Complaints against veterinary surgeons

- (1) The Investigating Committee, the Board or any other person may make a complaint to the Investigating Committee that a registered veterinary surgeon:
 - (a) has been convicted in New South Wales or elsewhere by any court of any offence, or
 - (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug, or
 - (c) has been guilty of misconduct, or serious misconduct, in a professional respect, or
 - (d) has had the veterinary surgeon's registration to practise veterinary science cancelled under the law in force regulating the practice of veterinary science in a place outside New South Wales other than at the veterinary surgeon's own request or has been suspended from practice as a person so entitled under any such law, or
 - (e) is not of good character, or
 - (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise veterinary science, or
 - (g) has contravened any condition imposed on the registration of the veterinary surgeon under section 17A, 25B (4), 25E (4) (e), 28 (1) or 32 (1).
- (2) A complaint shall be made in writing.
- (3) The Investigating Committee, by notice in writing served on the complainant:
 - (a) may require further particulars of any complaint to be given, and
 - (b) may require the complaint or any further particulars to be verified by statutory declaration,within such time as may be specified in the notice.
- (4) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the Investigating Committee, the Investigating Committee may refuse to investigate the complaint.
- (5) The Investigating Committee may investigate a complaint relating to the conduct of a registered veterinary surgeon notwithstanding that it does not appear to constitute misconduct, or serious misconduct, in a professional respect or any other ground on which a complaint may be made under subsection (1), but where the Investigating Committee considers that the matter to which any such complaint relates does not

warrant the making of the complaint, the Investigating Committee shall refuse to investigate the complaint any further.

(6) Where:

- (a) a person is convicted in New South Wales of an offence, other than a prescribed offence, and
- (b) the court before which the person is convicted has reasonable grounds to believe that the person is a registered veterinary surgeon,

that court shall cause a certificate of conviction in respect of the person to be furnished to the Investigating Committee.

(7) If the Investigating Committee so directs, a certificate of conviction received by it under subsection (6) shall be deemed to be a complaint made to it in accordance with this section.

(8) A person other than:

- (a) a member of the police force,
- (b) a member of the Public Service, or
- (c) a member of the committee of the New South Wales Division of the Australian Veterinary Association, or
- (d) a member of the Board, or
- (e) a member of the Investigating Committee,

acting in the person's capacity as such a member, who makes a complaint to the Investigating Committee against a registered veterinary surgeon shall deposit with the Investigating Committee the sum of \$20 at the time of lodging the complaint.

(8A) Subsection (8) does not apply in respect of the Board or the Investigating Committee.

(9) For the purposes of subsection (1) (f), a registered veterinary surgeon is unfit to practise veterinary science only if the veterinary surgeon, because of his or her infirmity, injury or illness, would be unable to carry out the inherent requirements of the practice of veterinary science.

(10) The following are to be taken into account in determining whether a registered veterinary surgeon would be unable to carry out the inherent requirements of the practice of veterinary science:

- (a) the veterinary surgeon's past training, qualifications and experience relevant to such practice,

- (b) if the veterinary surgeon is already practising as a veterinary surgeon, the veterinary surgeon's performance in such practice,
- (c) all other relevant factors that it is reasonable to take into account.

27 Investigation by Investigating Committee

- (1) The Investigating Committee shall, except as provided by section 26 (4) and (5), cause all complaints against registered veterinary surgeons made to it in accordance with section 26 to be investigated.
- (2) Where in the course of the investigation of a complaint against a registered veterinary surgeon:
 - (a) it appears to the Investigating Committee that, having regard to the matters arising during the investigation:
 - (i) another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it, or
 - (ii) a complaint could be made to it against another registered veterinary surgeon, and
 - (b) the Investigating Committee is of the opinion that the other complaint, or the complaint against the other veterinary surgeon, is one that could be made to it in accordance with section 26,

the Investigating Committee may itself make that other complaint or the complaint against that other veterinary surgeon, which shall thereupon be deemed to be a complaint made to it in accordance with section 26.

- (3) The proceedings of the Investigating Committee shall be held in the absence of the public.
- (4) For the purposes of any investigation conducted by it, the Investigating Committee may conduct the investigation in such manner as it thinks fit and is not bound to observe rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.
- (5) Without limiting subsection (4), the Investigating Committee may delegate its function of collecting evidence in relation to an investigation to any person that the Investigating Committee considers appropriate.

28 Decision of Investigating Committee on complaint

- (1) The Investigating Committee:
 - (a) may dismiss any complaint made to it,

- (b) if it is satisfied of the truth of the complaint but considers that the complaint is not sufficiently serious to warrant its being referred to the Tribunal, may do all or any of the following:
 - (i) by order, caution or reprimand the veterinary surgeon,
 - (ii) order that the prescribed costs of, or incidental to, investigating the complaint be paid by the veterinary surgeon,
 - (iii) by order impose conditions on the registration of the veterinary surgeon with respect to the practice of veterinary science, being conditions of a temporary nature (including limitations on the right to practise) in connection with the veterinary surgeon's continuing education, acquisition of skills and professional supervision, or
- (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the Tribunal, shall refer the complaint accordingly.

- (2) Where the Investigating Committee considers that the conduct of a registered veterinary surgeon warranted the making of the complaint but the conduct does not constitute misconduct in a professional respect or any other ground on which a complaint may be made under section 26 (1), the Investigating Committee may deal with the veterinary surgeon under subsection (1) (b) in respect of the conduct.
- (3) The Investigating Committee must, before exercising its powers under subsection (1) (b) or (c), give the registered veterinary surgeon concerned an opportunity to make written representations to the Committee. If, after receiving written representations, the Committee is still considering whether or not it should exercise those powers, it must give that veterinary surgeon an opportunity to appear before it to make oral representations.

29 Miscellaneous provisions relating to investigations of complaints

- (1) Where the persons constituting the Investigating Committee are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, but if those persons are equally divided in opinion, the decision shall be in favour of the registered veterinary surgeon concerned.
- (2) The chairperson of the Investigating Committee may direct that:
 - (a) any specified evidence during the investigation of a complaint made to the Investigating Committee,
 - (b) the subject-matter of a complaint, and
 - (c) details of, and reasons for, the decision of the Investigating Committee with respect to a complaint,

may be published in a publication intended primarily for the use of the legal or veterinary profession.

- (3) A person shall not publish any particular referred to in subsection (2) unless the publication is in accordance with a direction of the chairperson.

Maximum penalty: 20 penalty units or 12 months' imprisonment, or both.

- (4) Where an amount is deposited pursuant to section 26 (8) and the Investigating Committee:

- (a) in the course of investigating the complaint has required further particulars of the complaint to be given or the complaint or further particulars to be verified by statutory declaration and that requirement is not complied with, or
- (b) after investigating the complaint is of the opinion that the complaint is vexatious or frivolous,

the Investigating Committee may so declare and the amount deposited shall be forfeited.

- (5) If no declaration under subsection (4) is made, the amount deposited shall be refunded to the person by whom it was deposited.

- (6) (Repealed)

- (7) At the conclusion of the investigation of a complaint, the Investigating Committee shall notify the Board of:

- (a) the name and address of the registered veterinary surgeon concerned, and
- (b) any action taken by the Investigating Committee under section 28,

and may, in addition, notify the Board of:

- (c) the name and address of the person who made the complaint,
- (d) the name and address of any witness, and
- (e) any other particulars it thinks fit.

Division 4 Proceedings before the Tribunal

30 Inquiries by Tribunal

- (1) If in the course of an inquiry into a complaint against a registered veterinary surgeon:
- (a) it appears to the Tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it, and

(b) the Tribunal is satisfied that the Investigating Committee has not, under section 28 (1) (a) or (b), dealt with that other complaint or a complaint that was substantially the same as that other complaint, and

(c) the Tribunal is of the opinion that the other complaint is one that could have been made to the Investigating Committee in accordance with section 26,

the Tribunal may itself make that other complaint and it is to be taken to have been referred to the Tribunal in accordance with section 28 (1) (c).

(2) If in the course of any inquiry into a complaint against a registered veterinary surgeon the Tribunal makes another complaint against the veterinary surgeon under subsection (1), the other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

30A (Repealed)

31 Right to apply to Tribunal for review of orders of the Investigating Committee

A veterinary surgeon against whom the Investigating Committee has made an order under section 28 (1) (b) may apply to the Tribunal for a review of the order.

32 Tribunal's powers when complaint proved

(1) If the matter of a complaint against a registered veterinary surgeon has been proved to the satisfaction of the Tribunal, the Tribunal may make any one or more of the following orders:

(a) an order reprimanding or cautioning the veterinary surgeon,

(b) an order suspending the veterinary surgeon from practice for a period not exceeding 12 months,

(c) an order directing that the name of the veterinary surgeon be removed from the register of veterinary surgeons or the register of specialists,

(d) an order imposing a fine on the veterinary surgeon of an amount not exceeding \$10,000,

(e) an order imposing conditions on the registration of the veterinary surgeon with respect to the practice of veterinary science,

(f) an order requiring the veterinary surgeon to pay specified costs relating to the hearing.

(2) Even though the matter of a complaint against a registered veterinary surgeon may have been proved to the satisfaction of the Tribunal, the Tribunal must not make an order of the kind referred to in subsection (1) (b) or (c) if the Tribunal is of the opinion that:

- (a) because the matter of the complaint is of a trivial nature, or
 - (b) because of the circumstances in which that matter occurred, or
 - (c) for any other reason, it is in the public interest that the veterinary surgeon should be allowed to continue to practise veterinary science.
- (3) If the Tribunal considers that the matter of a complaint against a registered veterinary surgeon has not been proved to the satisfaction of the Tribunal, but the Tribunal nevertheless considers that the conduct of the veterinary surgeon was sufficiently unacceptable to warrant the making of the complaint, the Tribunal may make an order against the veterinary surgeon under subsection (1) (a) or (f), or both.
- (4) On directing the name of a person to be removed from a register, the Tribunal may fix a time after which the person may apply for restoration of the person's name to the register.
- (5) While an order under this section suspending a person from practice remains in force, the person is taken not to be a registered veterinary surgeon.
- (6) An order under this section does not take effect until 21 days after notice of the order is given to the veterinary surgeon by the Registrar, subject to any decision of an Appeal Panel of the Tribunal on appeal under section 34.

Division 5 General provisions relating to disciplinary proceedings

33 Disciplinary proceedings against veterinary surgeon who ceases to be registered

- (1) The Investigating Committee and the Tribunal may continue to deal with a complaint against a registered veterinary surgeon even though the veterinary surgeon ceases to be registered.
- (2) If the Tribunal so directs, the name of the former veterinary surgeon is taken to have been removed from the register of veterinary surgeons under the order of the Tribunal under section 32.

34 Appeal against orders of the Tribunal in its original jurisdiction

- (1) Any of the following persons may appeal against an order made under section 32 to an Appeal Panel of the Tribunal under Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*:
 - (a) the registered veterinary surgeon or former registered veterinary surgeon against whom the order was made,
 - (b) the person who made the original complaint, but only:
 - (i) on a point of law, or

- (ii) with respect to any penalty imposed.
- (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):
 - (a) the registered veterinary surgeon or former registered veterinary surgeon against whom the order was made,
 - (b) the person who made the original complaint, but only:
 - (i) on a point of law, or
 - (ii) with respect to any penalty imposed.
- (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.
- (4) Without limiting section 120 of the *Administrative Decisions Tribunal Act 1997*, the Supreme Court may, in respect of the veterinary surgeon concerned:
 - (a) make any decision that could have been made under section 32, or
 - (b) vary any decision made by the Appeal Panel.

35 Restoration of name to register etc

- (1) Subject to section 32 (4), any person whose name has been removed from a register by the Tribunal under section 32 may apply to have the person's name restored to that register.
- (2) The provisions of this Act relating to applications for registration are, so far as applicable, to apply to any such application for restoration.
- (3) The Tribunal may, if it thinks fit, terminate any period of suspension imposed by the Tribunal under section 32 before the expiration of the period specified in the order of suspension.
- (4) Subject to any order referred to in section 32 (4) that is made by the Supreme Court on an appeal, the Tribunal may direct that any name removed from a register at the direction of the Tribunal under section 32 be restored to that register.
- (5) The name of any person which has been removed from a register under section 32 is not be restored to the register until the prescribed restoration fee is paid.

36 Recording of proceedings and decision of Investigating Committee and orders of

Tribunal and Board

- (1) The Registrar of the Tribunal is to notify the Board of any orders the Tribunal makes under section 32.
- (2) The Registrar of the Board, or a person appointed by the Registrar, is to keep a record of:
 - (a) all proceedings and decisions of the Investigating Committee, and
 - (b) all orders of the Tribunal made under section 32.
- (3) The Registrar of the Board is to make a notation in the register of veterinary surgeons or, if applicable, the register of specialists of the terms of:
 - (a) an order of the Tribunal under section 32 or the Appeal Panel of the Tribunal in an appeal under section 34, and
 - (b) an order of the Investigating Committee under section 28 (1) (b), and
 - (c) an order of the Board under section 25B (4).

Part 5 Regulation of practice of veterinary surgeons

37 Offence for unregistered person to practise

- (1) A person, other than a registered veterinary surgeon, shall not:
 - (a) do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science,
 - (b) use the title or description “veterinary surgeon” or “veterinary”, or any abbreviation or derivative thereof, either alone or in connection with any other title or description, or
 - (c) hold any prescribed office or position or any office or position of a prescribed class or description.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) (b) does not prohibit persons from using the description “veterinary” only as indicating that they carry on the business of suppliers of goods or materials used in connection with veterinary science.
- (3) Notwithstanding subsection (1), a society registered under the [Co-operatives Act 1992](#) may provide a veterinary service for its members and charge for that service if the persons employed or engaged by the society to do or perform any act, matter or thing in connection with any such service forming part of the practice of veterinary science are registered veterinary surgeons.

- (4) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may, in respect of an animal, do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if the person is:
- (a) the owner of the animal, or
 - (b) an employee of the owner of the animal and the act, matter or thing was done or performed incidentally to the primary duties of that employment.
- (5) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may do or perform any act, matter or thing permitted by section 44 or 45.

38 Offence to practise as specialist unless registered as specialist

A registered veterinary surgeon shall not:

- (a) use the title or description "specialist" or any abbreviation or derivative thereof or any title, description, words or letters implying, or capable of being understood as implying, that the veterinary surgeon is a specialist in a branch of veterinary science, or
- (b) advertise or hold out that the veterinary surgeon is a specialist in a branch of veterinary science,

unless the veterinary surgeon is registered under this Act as a specialist in that branch.

Maximum penalty: 20 penalty units.

39 Practice to be carried on in veterinary surgeon's name

- (1) A registered veterinary surgeon shall not carry on the practice of veterinary science under a name other than the veterinary surgeon's own name, except where:
- (a) the veterinary surgeon is a member of a partnership carrying on business under the name or names of one or more of the partners,
 - (b) the veterinary surgeon is employed by another registered veterinary surgeon and is carrying on business under the name of that employer or under the name or names of a partnership of which that employer is a member,
 - (c) the veterinary surgeon is duly appointed as the locum tenens of a registered veterinary surgeon,
 - (d) the veterinary surgeon is duly acting as the superintendent of a veterinary hospital,
 - (e) the veterinary surgeon is carrying on the practice of a deceased veterinary surgeon pursuant to an authorisation under subsection (3), or
 - (f) the Board otherwise permits in writing.

Maximum penalty: 20 penalty units.

- (2) For the purpose of subsection (1) (c), a person is not duly appointed as the locum tenens of a registered veterinary surgeon unless the person:
- (a) is appointed in writing by the veterinary surgeon, and
 - (b) is employed only during the temporary absence of the veterinary surgeon and for a period not exceeding 3 months or such longer period as the Board may in any particular case permit in writing.
- (3) On the death of a registered veterinary surgeon, the Board may postpone the removal of the veterinary surgeon's name from the register of veterinary surgeons or the register of specialists, and may authorise the veterinary surgeon's executor, administrator or trustee to carry on under the same name the practice formerly carried on by the veterinary surgeon on the condition that the practice is carried on under the personal superintendence of a registered veterinary surgeon.

40 Signing certificates

A person, other than a registered veterinary surgeon, shall not sign any certificate required by law to be signed by a veterinary surgeon.

Maximum penalty: 20 penalty units.

41 Use of false qualification

A person shall not use or publish in connection with veterinary science, or the practice of veterinary science, any title, description, words or letters implying, or capable of being understood as implying, qualification in veterinary science, or as a veterinary surgeon, or qualification for registration as a veterinary surgeon, other than such title, description words or letters as truly indicate the academic award or other qualification which the person in fact holds or possesses.

Maximum penalty: 20 penalty units.

42 Advertising by registered veterinary surgeons and others

A person, including a registered veterinary surgeon, shall not advertise that the person is able or willing to do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science unless the advertisement is authorised by the regulations or the Board.

Maximum penalty: 20 penalty units.

43 Unregistered person may not recover fees or charges

A person, other than a registered veterinary surgeon, is not entitled to recover any fee or charge for doing any act, matter or thing which is required by this Act to be done or

performed by a registered veterinary surgeon.

44 Permitted practices for unregistered persons

- (1) A person, other than a registered veterinary surgeon, may:
- (a) de-worm any animal,
 - (b) perform the Mules operation on sheep that are less than 12 months of age,
 - (c) dehorn:
 - (i) cattle that are less than 12 months of age, or
 - (ii) goats that are less than 1 month of age,
 - (d) horn tip any animal,
 - (e) castrate:
 - (i) cattle, sheep or goats that are less than 6 months of age, or
 - (ii) pigs that are less than 2 months of age,
 - (f) tail sheep that are less than 6 months of age,
 - (g) carry out any immunising procedure except an immunising procedure:
 - (i) prescribed under paragraph (e) of the definition of **veterinary science** in section 3 (1), or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act,
 - (h) carry out any artificial breeding procedure, within the meaning of the [Stock \(Artificial Breeding\) Act 1985](#), if the person is authorised so to do by a certificate of competency issued under that Act,
 - (i) determine the sex of chickens,
 - (j) under the immediate and direct supervision of a registered veterinary surgeon, administer an anaesthetic to an animal,
 - (k) where a registered veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment,
 - (l) diagnose pregnancy in sheep by external ultrasonic techniques, subject to compliance with such conditions as may be prescribed, or
 - (m) do or perform any other act, matter or thing prescribed for the purposes of this paragraph.

- (2) A person other than a registered veterinary surgeon may, with the approval in writing of the Board, do or perform any act, matter or thing the doing or performance of which:
 - (a) forms part of the practice of veterinary science, and
 - (b) is not authorised by subsection (1).
- (3) Application for an approval shall:
 - (a) be made in such manner as the Board may require,
 - (b) be supported by such evidence as the Board may require, and
 - (c) be accompanied by the prescribed fee.
- (4) An approval shall:
 - (a) remain in force from the date it is given until the expiration of the period specified in the approval, and
 - (b) be subject to any conditions specified in the approval.
- (5) The Board may, for any reason, by notice served on a person to whom an approval has been given cancel the approval or suspend the approval for such period as it sees fit.
- (6) In this section:

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.

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

45 Approved persons may perform certain acts under supervision

- (1) A person, other than a registered veterinary surgeon, who has obtained an academic award referred to in section 12 (1) (b) (i) may do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if:
 - (a) there is in force an approval given to that person under this section, and
 - (b) that person does or performs the act, matter or thing in the course of the person's employment with, and under the supervision of, a registered veterinary surgeon.
- (2) The Board may give approval, by notice in writing, to a person to do or perform any act, matter or thing referred to in subsection (1) if the Board is satisfied that that person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) by reason only that:

- (a) the person has not passed the examination prescribed under section 12 (1) (b) (ii),
 - (b) the person has not been resident in Australia for a continuous period of 12 months or more, or
 - (c) the person has not passed that examination and has not been so resident.
- (3) An approval given under this section remains in force:
- (a) until the person to whom the approval was given becomes a registered veterinary surgeon, or
 - (b) until the expiration of the period of 5 years commencing on the day on which the approval is given,
- whichever first occurs.
- (4) A person to whom an approval has been given under this section shall not be given a further approval.
- (5) Application for an approval under this section shall:
- (a) be made in such manner as the Board may require,
 - (b) be supported by such evidence as the Board may require, and
 - (c) be accompanied by the prescribed fee.
- (6) The Board shall cancel an approval under this section if the person to whom the approval was given:
- (a) has ceased to possess or does not possess the qualification referred to in subsection (1), or
 - (b) has become a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act.
- (7) During the period an approval is in force, the person to whom the approval was given shall give notice in writing of:
- (a) the name and address of each registered veterinary surgeon by whom the person is employed, and
 - (b) each change of the person's private address,
- to the Registrar within 7 days of the person's becoming so employed or changing address.

Maximum penalty: 5 penalty units.

- (8) Where a person to whom an approval has been given under this section:
- (a) is convicted in New South Wales or elsewhere by any court of any offence, or
 - (b) fails to give any notice as required by subsection (7),
- the Board may cancel the approval or suspend the approval for such period as the Board thinks fit.
- (9) Part 4 applies to a person in respect of whom an approval is in force under this section as if that person were a registered veterinary surgeon and a reference in that Part:
- (a) to the suspension for any period from practice of a registered veterinary surgeon shall be construed as a reference to the suspension under this section for that period of the approval, and
 - (b) to the removal of the name of a registered veterinary surgeon from a register shall be construed as a reference to the cancellation under this section of the approval.

Part 6 Veterinary hospitals

46 Veterinary hospitals to be licensed

A person shall not conduct a veterinary hospital unless:

- (a) a licence to conduct the veterinary hospital has been issued to the person by the Board and the licence is in force, and
- (b) the veterinary hospital is managed by a superintendent who has been nominated in accordance with section 54.

Maximum penalty: 20 penalty units.

47 Classes of licences

The regulations may prescribe different classes of licences for different classes of veterinary hospitals.

48 Application for licence

An application for a licence for a veterinary hospital shall:

- (a) be made to the Board,
- (b) be in the form approved by the Board,
- (c) specify the class of licence applied for,
- (d) be accompanied by such documents as the Board may require, and
- (e) be accompanied by the licence fee prescribed in respect of the class of licence applied

for.

49 Issue or refusal of licence

- (1) The Board may issue or refuse to issue a licence for a veterinary hospital to an applicant for the licence.
- (2) The Board shall not issue a licence for a veterinary hospital unless:
 - (a) the applicant is a registered veterinary surgeon or a person who, in the opinion of the Board, has the necessary qualifications and experience to conduct a veterinary hospital, and
 - (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a licence is made.
- (3) Where the Board refuses to issue a licence of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, the Board may, if satisfied that that place conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue a licence for a veterinary hospital of that other class.
- (4) Where the Board refuses to issue to an applicant a licence for a veterinary hospital of any class, the Board shall serve on the person notice in writing of the refusal and of the reasons for that refusal.
- (5) Where the Board issues a licence of a different class to that applied for, the Board shall refund to the applicant any amount by which the licence fee for the licence applied for exceeds the licence fee for the licence issued.

50 Duration of licence

A licence for a veterinary hospital shall, subject to this Act, continue in force until it is cancelled.

51 Annual licence fee

- (1) A licensee shall, on or before 30 June in each year, pay to the Board the prescribed annual licence fee in respect of the class of licence issued to the licensee.
- (2) The regulations may prescribe different annual licence fees for different classes of licences.
- (3) An annual licence fee is payable under this section notwithstanding that the licence is suspended.

52 Suspension or cancellation of licence

- (1) The Board may suspend a licence for a period not exceeding 12 months or may cancel a licence if:
 - (a) the annual licence fee is not paid in accordance with section 51 (1),
 - (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations,
 - (c) the licensee or the superintendent is, because of an order in force under Division 2A of Part 4, or as a consequence of a complaint under Division 3 of that Part, suspended from practice as a veterinary surgeon or is no longer registered as a veterinary surgeon,
 - (d) the place in respect of which the licence was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class,
 - (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class,
 - (f) the veterinary hospital is not conducted as prescribed,
 - (g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital, or
 - (h) in the case of the cancellation of a licence—the licensee so requests.
- (2) The Board may, under subsection (1) (h), cancel a licence on the occurrence of an event specified in the request.
- (3) The Board shall not suspend or cancel a licence under subsection (1) (d), (e) or (f) unless:
 - (a) the Board has first served on the licensee a notice specifying:
 - (i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed,
 - (ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed, or
 - (iii) the manner in which the veterinary hospital is not being conducted as prescribed,

as the case may require, and stating that, unless the works or repairs are carried out, the additional staff is employed or the veterinary hospital is conducted as prescribed within a time specified in the notice, the Board may suspend or cancel the licence, and

- (b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.
- (4) Where the Board suspends or cancels a licence, the Board shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.
- (5) A suspension or cancellation of a licence (except at the request of the licensee) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be made, or where such an appeal is made, until the appeal is determined or withdrawn.
- (6) Where a licence is cancelled at the request of the licensee, the Board may refund to the licensee part of the annual licence fee last paid by the licensee.

53 Reviews by the Tribunal

A person may apply to the Tribunal for a review of any of the following decisions:

- (a) the refusal of the Board to issue a licence to the person under this Part,
- (b) a decision of the Board to issue the person with a licence under this Part of a class other than the class that the person applied for,
- (c) the suspension of the person's licence by the Board under this Part,
- (d) the cancellation of the person's licence (other than at the person's request) by the Board under this Part.

54 Superintendents of veterinary hospitals

- (1) A licensee of a veterinary hospital may, by instrument in writing in the form approved by the Board, nominate himself or herself or another person to be the superintendent of the veterinary hospital as on and from such date as may be specified in the instrument.
- (2) A person is not qualified to be nominated as the superintendent of a veterinary hospital:
 - (a) unless the person is a registered veterinary surgeon, and
 - (b) if the person is the superintendent of another veterinary hospital, except with the permission in writing of the Board and subject to such conditions, if any, as the Board specifies in that permission.

(3) Within 7 days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Board:

- (a) the instrument by which that person was nominated to be the superintendent, or
- (b) a notice, in writing, specifying the day on which that person ceased to be the superintendent,

as the case may require.

Maximum penalty (subsection (3)): 5 penalty units.

Part 6A Finance

54A-54C (Repealed)

54D Board to establish and maintain account at financial institution

The Board must establish and maintain an account at a bank, building society or credit union located in New South Wales, or at any other financial institution approved by the Treasurer, and ensure that all money received by the Board is paid into the account.

54E Investment of money

The Board may invest money held in the account referred to in section 54D:

- (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.

54F 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*.

Part 7 Miscellaneous

55 Power of entry and examination

- (1) An inspector may, 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 registered veterinary surgeon constitutes misconduct, or

serious misconduct, in a professional respect,

at any reasonable time enter any premises in which a registered veterinary surgeon is, or any premises in which the inspector has reasonable cause to believe that any person is, doing or performing any act, matter or thing that forms part of the practice of veterinary science.

(2) An inspector may:

- (a) make such examinations, inspections and inquiries,
- (b) collect and take away such samples and specimens,
- (c) take such photographs, and
- (d) seize and take away such records,

in or from premises entered in accordance with subsection (1) 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 shall 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.

(6) The Board may appoint as an inspector for the purposes of this Act:

- (a) any member of its staff, or
- (b) with the approval of the Minister, any public servant.

(7) The Board may, at any time, revoke the appointment of an inspector.

(8) 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.

56 Power to examine on oath

- (1) The President of the Board or any other member authorised by the Board may, for the purpose of the exercise of the Board's functions, examine any person on oath or take a statutory declaration from any person.
- (2) The chairperson of the Investigating Committee may, for the purpose of an investigation of a complaint under Part 4, examine any person on oath or take a statutory declaration from any person.

57 Power to summon witnesses and require written information

- (1) The President of the Board or any other member authorised by the Board may, by notice in writing, summon any person to attend at the place and time specified in the notice:
 - (a) for the purpose of giving evidence before the Board, or
 - (b) for the purpose of providing any document,with respect to any matter within the jurisdiction of the Board.
- (2) The chairperson of the Investigating Committee may, by notice in writing, summon any person to attend at the time and place specified in the notice:
 - (a) for the purpose of giving evidence before the Investigating Committee, or
 - (b) for the purpose of providing any document,with respect to any investigation of a complaint by that Committee.
- (3) A person who is duly summoned shall not, without reasonable cause:
 - (a) fail or neglect to attend after reasonable expenses have been paid or tendered to the person,
 - (b) refuse to be sworn or to make a statutory declaration, or
 - (c) refuse to answer any lawful question.

Maximum penalty (subsection (3)): 20 penalty units.

- (4) A registered veterinary surgeon who is duly summoned is guilty of misconduct in a professional respect if the veterinary surgeon, without reasonable cause:
 - (a) fails or neglects to attend after reasonable expenses have been paid or tendered to the veterinary surgeon, or
 - (b) refuses to be sworn or to make a statutory declaration, or
 - (c) refuses to answer any lawful question.

- (5) The chairperson of the Investigating Committee may, by notice in writing, require any person to provide, in accordance with directions in the notice and within the time specified in it, such information, verified by statutory declaration, as is relevant to the investigation of a complaint and is specified in the notice.
- (6) A person must not, without reasonable cause, refuse or fail to comply with a requirement under subsection (5).

Maximum penalty: 20 penalty units.
- (7) A veterinary surgeon who fails, without reasonable cause, to comply with a requirement under subsection (5) is guilty of misconduct in a professional respect.

57A Board may delegate function of collecting evidence

The Board may delegate, to any person that the Board considers appropriate, the function of collecting any evidence that the Board considers necessary for the exercise of its other functions under this Act.

58 False or misleading statements

- (1) A person shall not, in or in connection with an application:
 - (a) for registration, or restoration of registration, as a veterinary surgeon or as a specialist,
 - (b) for an approval under section 45, or
 - (c) for a licence for a veterinary hospital,or in respect of any other matter before the Board, make a statement which the person knows to be false or misleading in a material particular.
- (2) A person shall not, in respect of any matter before the Investigating Committee or the Tribunal, make a statement which the person knows to be false or misleading in a material particular.
- (3) This section does not apply to evidence given on oath or a statement verified by statutory declaration.
- (4) In this section, **statement** means a verbal or written statement.

Maximum penalty: 20 penalty units or 12 months' imprisonment, or both.

59 Document under hand of Registrar to be prima facie evidence

A document purporting to be a certificate under the hand of the Registrar and stating any one or more of the following matters:

- (a) that any person was or was not on any date or during any period mentioned in the

certificate registered as a veterinary surgeon or as a specialist under this Act,

- (b) that on any date or during any period mentioned in the certificate the registration of any person was suspended,
- (c) that any person was or was not on any date or during any period mentioned in the certificate a person in respect of whom an approval was in force under section 45,

shall in all courts and before all persons and bodies authorised by law to receive evidence be prima facie evidence of the facts stated.

60 Prima facie evidence of entry in register may be given in all courts

- (1) Prima facie evidence of any entry in a register under this Act may be given in all courts and before all persons and bodies authorised by law to receive evidence:
 - (a) by production of a document purporting to be a true copy of such entry and purporting to be certified as such by the Registrar, or
 - (b) by production of a copy of that register purporting to be printed by the Government Printer which is for the time being the latest copy so printed.
- (2) An entry in a register under this Act shall be prima facie evidence in all courts and before all persons and bodies authorised by law to receive evidence of the truth of all matters contained in it.

61 Certificate of President or Registrar of Board to be evidence

In any proceedings before any court or before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the President or Registrar of the Board and certifying that, on a day or during a period specified in the certificate:

- (a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act,
- (b) a person specified in the certificate was or was not a person to whom a licence had been issued in respect of a veterinary hospital specified in the certificate,
- (c) a person specified in the certificate was or was not a person nominated as a superintendent in accordance with section 54,
- (d) a person specified in the certificate was or was not duly appointed as an inspector under section 55,

shall be prima facie evidence of the facts stated in the certificate.

62 Proof of certain matters not required

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Board or the Investigating Committee,
- (b) any resolution or determination of the Board or the Investigating Committee,
- (c) the appointment of, or the holding of office by, any member of the Board or the Investigating Committee, or
- (d) the presence or nature of a quorum at any meeting of the Board or the Investigating Committee.

63 Service of notices etc

Any notice or other instrument issued, made or given for the purposes of this Act or the regulations may be served:

- (a) by delivering it personally to the person to whom it is addressed,
- (b) by delivering it to the last known place of residence or business of the person to whom it is addressed and by leaving it there with some person apparently of or above the age of 14 years for the person to whom it is addressed, or
- (c) by post addressed to the last known place of residence or business of the person.

64 Service of documents on Board or Committee

- (1) A document may be served on the Board or the Investigating Committee by leaving it at, or by sending it by post to:
 - (a) the office of the Board or that Committee, or
 - (b) if the Board or that Committee has more than one office—any one of its offices.
- (2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board or the Investigating Committee in a manner not provided for by subsection (1).

65 Authentication of certain documents

Every summons, process, demand, order, notice, statement, direction or other document requiring authentication:

- (a) by the Board may be sufficiently authenticated without the seal of the Board if signed by the President of the Board or by any member of the staff of the Board authorised to do so by the President,
- (b) by the Investigating Committee may be sufficiently authenticated if signed by the chairperson of that Committee, or
- (c) (Repealed)

66 Recovery of charges, fines etc

- (1) Any charge, fee or money due to the Board under this Act may be recovered by the Board as a debt in a court of competent jurisdiction.
- (2) Any costs or fine payable by order of the Investigating Committee under Part 4 may be recovered by the Registrar as a debt in a court of competent jurisdiction.

67 (Repealed)

68 Liability of members etc

No matter or thing done by the Board or the Investigating Committee, any member of the Board or of that Committee or any person acting under the direction of the Board or that Committee shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board, a member of that Committee, or a person so acting personally to any action, liability, claim or demand.

69 Offences by corporations

- (1) Where a corporation contravenes, whether by Act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision unless the person satisfies the court that:
 - (a) the corporation contravened the provision without the knowledge of the person,
 - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
 - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

70 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
- (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.

71 Regulations

- (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:
- (a) regulating the proceedings of the Board,
 - (b) regulating the duties of the staff of the Board,
 - (c) regulating the keeping of the register of veterinary surgeons and the register of specialists,
 - (d) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations,
 - (e) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science,
 - (f) prescribing fees payable under this Act,
 - (f1) requiring the payment to the Board of such other prescribed fees for services provided by the Board as will assist the Board to operate on a cost-recovery basis,
 - (g) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise,
 - (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including:
 - (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals and staff and other persons,
 - (ii) furniture and equipment,
 - (iii) operating theatres, dressing rooms, kennels and yards, and
 - (iv) the prevention of the ingress of, and the destruction of, flies and vermin,
 - (i) prescribing the manner in which veterinary hospitals are to be conducted, including:
 - (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment,
 - (ii) the manner of disposal of refuse and other matter,
 - (iii) the manner of disposal of dead animals,

- (iv) the provision to be made for the storage, preparation and serving of food for animals,
 - (v) the manner in which care and attention shall be given to animals,
 - (vi) the manner of isolation or removal of animals suffering from infectious diseases,
 - (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented, and
 - (viii) the methods to be used to ensure cleanliness of a veterinary hospital,
 - (j) prescribing the duties of the superintendent of a veterinary hospital,
 - (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital,
 - (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of the veterinary hospital,
 - (m) prescribing any continuous period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to nominate another superintendent, and
 - (n) regulating the manner and extent to which a veterinary hospital may be advertised.
- (2) A regulation may create an offence punishable by a penalty not exceeding 10 penalty units.
- (3) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

72 Savings, transitional and other provisions

Schedule 4 has effect.

73 Repeals

The following Acts are repealed:

Veterinary Surgeons Act 1923 No 25

Veterinary Surgeons (Amendment) Act 1974 No 6

Veterinary Surgeons (Artificial Breeding of Stock) Amendment Act 1985 No 197

Schedule 1 Provisions relating to the members and procedure of the Board

(Section 5 (3))

1 Definition

In this Schedule:

member means member of the Board.

2 Nomination of members

Where, for the purposes of section 5 (2) (a) or (c), nominations of persons to constitute a panel 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 shall be deemed to have been duly nominated.

3 (Repealed)

4 President of the Board

- (1) The Governor may remove a member from the office of President of the Board.
- (2) A person who is a member and President shall be deemed to have vacated office as President if the person:
 - (a) is removed from that office by the Governor under subclause (1),
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

5 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, shall have and may exercise all the functions of the member and shall be deemed to be a member.
- (2) The Governor 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, shall have and may exercise all the functions of the President and shall be deemed to be the President.

- (3) The Governor may remove any person from any office to which the person was appointed under this clause.
- (4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause a vacancy in the office of a member or the President of the Board shall be deemed to be an absence from office of the member or President, as the case may be.

6 Terms of office

Subject to this Schedule, a member shall hold 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.

7 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

8 Filling of vacancy in office of member

- (1) If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.
- (2) Where a member referred to in section 5 (2) (a) is appointed to fill a casual vacancy in the office of a member, the panel from which the member is appointed may consist of not less than 3 persons instead of not less than 7 persons.

9 Casual vacancies

- (1) A member shall be deemed to have vacated office if the member:
 - (a) dies,
 - (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 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 temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards 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) (Repealed)
- (h) ceases to be a registered veterinary surgeon, or
- (i) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office.

9A Disclosure of pecuniary interests

(1) A Board 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 Board 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).

(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.

(4) After a Board 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:

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to the matter, or
 - (b) exercise any functions under this Act or the regulations with respect to that thing.
- (5) For the purposes of making a determination by the Board under subclause (4), if a Board member has a direct or indirect pecuniary interest in a matter to which the disclosure relates, he or she must not:
- (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (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.
- (7) This clause does not apply to or in respect of an interest of a Board member in a matter or thing that arises merely because the member is a registered veterinary surgeon or engaged in a veterinary science practice.
- (8) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

10 Effect of certain other Acts

- (1) The *Public Service Act 1979* 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.
- (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 provision shall 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.
- (3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

11 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

11A Transaction of business outside meetings or by telephone

- (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.

- (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.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),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.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (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.

12 Quorum

The quorum for a meeting of the Board is 4 members.

13 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 shall 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.

14 Voting

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

15 Minutes

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

Schedule 2 Provisions relating to the members and procedure of the

Investigating Committee

(Section 24 (4))

1 Definitions

(1) In this Schedule:

chairperson means the chairperson of the Investigating Committee.

member means member of the Investigating Committee.

(2) The chairperson may be referred to as the chairman or chairwoman, as the case requires.

2 Nomination of members

Where, for the purposes of section 24 (3) (c), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Minister may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to be a member.

3 (Repealed)

4 Acting members

(1) The Minister 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, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Minister may remove any person from any office to which the person was appointed under this clause.

(3) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause a vacancy in the office of a member shall be deemed to be an absence from office of the member.

5 Terms of office

Subject to this Schedule, a member shall hold office:

(a) in the case of a member referred to in section 24 (3) (a)-(c) or (e)—for such period not exceeding 3 years, or

(b) in the case of the member referred to in section 24 (3) (d)—for such period not

exceeding 1 year,

as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

6 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

7 Filling of vacancy in office of member

If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

8 Casual vacancy

(1) A member shall be deemed to have vacated office if the member:

- (a) dies,
- (b) 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,
- (c) becomes a mentally incapacitated person,
- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards 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,
- (e) resigns the office by instrument in writing addressed to the Minister,
- (f) (Repealed)
- (g) ceases to hold the qualification by virtue of which the member was appointed, or
- (h) is removed from office by the Minister under subclause (2).

(2) The Minister may remove a member from office.

9 Effect of certain other Acts

(1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.

(2) If, by or under any Act, provision is made:

- (a) 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

- (b) prohibiting the person from engaging in employment outside the duties of that office,

the 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.

- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

10 General procedure

The procedure for the calling of meetings of the Investigating Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Investigating Committee.

10A Transaction of business outside meetings or by telephone

- (1) Without limiting clause 10, the Investigating Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Investigating Committee 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 Investigating Committee.

- (2) The Investigating Committee 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.

- (3) For the purposes of:

- (a) the approval of a resolution under subclause (1), or
(b) a meeting held in accordance with subclause (2),

the person presiding at the meeting of the Investigating Committee and each member have the same voting rights as they have at an ordinary meeting of the Investigating Committee.

- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Investigating Committee.
- (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.

11 Quorum

The quorum for a meeting of the Investigating Committee is 3 members, including the chairperson.

12 Presiding member

The chairperson shall preside at a meeting of the Investigating Committee.

Schedule 3 (Repealed)

Schedule 4 Savings, transitional and other provisions

(Section 72)

Part 1 Preliminary

1A Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

the *Veterinary Surgeons Amendment Act 1995*

the *Veterinary Surgeons Amendment Act 2000*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or from a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of 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 publication.

Part 2 Provisions consequent on the enactment of this Act

1 Definition

In this Part:

former Act means the *Veterinary Surgeons Act 1923*.

2 Board

(1) In this clause:

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

(2) The Board is a continuation of, and the same legal entity as, the former Board.

(3) A person who was, immediately before the commencement of this Act, a member of the former Board, shall be deemed to have been appointed as a member of the Board for the balance of the term for which the person was appointed under the former Act.

(4) A person who was, immediately before the commencement of this Act, the President of the former Board shall be deemed to have been appointed as the President of the Board for the balance of the term for which the person was appointed under the former Act.

3 Investigating Committee

The persons holding office as members of the Investigating Committee under section 19C of the former Act immediately before the commencement of this Act:

- (a) shall cease to hold office as such on that commencement, and
- (b) are not entitled to any compensation for ceasing to hold office.

4 Disciplinary Tribunal

The person holding office as chairman of the Disciplinary Tribunal under section 19E of the former Act, immediately before the commencement of this Act, shall be deemed to have been appointed under section 25 as the chairperson of the Disciplinary Tribunal for the balance of the term for which the person was appointed under section 19E of the former Act.

5 Registrar and other staff

The Registrar of the Board, an inspector or any other person holding office under section 8 of the former Act immediately before the commencement of this Act shall be deemed to be employed under section 7.

6 Register of veterinary surgeons

- (1) The register kept under section 9 of the former Act immediately before the commencement of this Act shall be deemed to be the division of veterinary surgeons registered under section 12 (full registration) for the purposes of this Act.
- (2) A person who is, immediately before the commencement of this Act, registered as a veterinary surgeon under the former Act shall be deemed to be registered as a veterinary surgeon under section 12 (full registration).

7 Application for registrations under former Act etc

- (1) An application for registration or provisional registration as a veterinary surgeon pending under the former Act at the commencement of this Act shall be deemed to be an application under this Act for registration or provisional registration under section 12 (full registration).
- (2) The entitlement to registration or provisional registration of:
 - (a) any such applicant, or
 - (b) an applicant who holds a certificate of provisional registration under the former Act immediately before the commencement of this Act and who applies after that commencement for registration under section 12,shall be determined in accordance with the relevant provisions of the former Act instead of this Act.

8 Continuation of provisional certificates of registration

A provisional certificate of registration in force under section 15A of the former Act immediately before the commencement of this Act shall be deemed to be a provisional certificate of registration issued under section 17.

9 Continuation of certificates of registration

A certificate of registration issued under section 16 of the former Act and held by a veterinary surgeon immediately before the commencement of this Act shall be deemed to be a certificate of registration issued under section 18.

10 Continuation of approvals to perform certain acts under supervision

An approval in force under section 24A of the former Act immediately before the commencement of this Act shall be deemed to be an approval given under section 45.

11 Continuation of approval for executor etc of the practice of deceased veterinary surgeon

An authority in force under section 22 of the former Act immediately before the commencement of this Act shall be deemed to be an authorisation given under section 39 (3).

12 Failure to pay roll fee under former Act

The Board may exercise its powers under section 19 (2) to remove the name of a person from a register for failure to pay a roll fee where that roll fee was due under section 11 of the former Act and has not been paid.

13 Restoration of name of veterinary surgeon previously removed from register

- (1) The removal of the name of a veterinary surgeon from the register under section 11 (2) or 18 of the former Act before the commencement of this Act shall, for the purposes of section 19 (3) or 20 (2) and (3), as the case may require, be deemed to be a removal of that name from the register of veterinary surgeons under section 19 (2) or 20 (1).
- (2) The provisions of section 35 relating to the restoration of a person's name to a register apply to a person whose name was removed by the Disciplinary Tribunal under section 19H of the former Act or by the Board under section 18A of the former Act in the same way as those provisions apply to a person whose name is removed by the Disciplinary Tribunal under section 32.

14 Pending complaints against veterinary surgeons

- (1) A complaint against a veterinary surgeon made under section 19A of the former Act which has not been finally determined before the commencement of this Act shall be deemed to have been made under section 26.
- (2) Any such complaint which is, immediately before the commencement of this Act, being investigated by the Investigating Committee under the former Act may continue to be investigated and determined under this Act by the Investigating Committee constituted under this Act.
- (3) Any complaint referred to the Disciplinary Tribunal for inquiry under the former Act before the commencement of this Act and not finally determined by that Tribunal before that commencement may continue to be inquired into and determined under this Act by the Disciplinary Tribunal constituted by this Act.

15 Continuation of orders of Disciplinary Tribunal

- (1) A registered veterinary surgeon who is, immediately before the commencement of this Act, suspended from practice by order of the Disciplinary Tribunal under section 19H of the former Act shall be deemed to have been suspended from practice under section 32.
- (2) A direction given in an order of the Disciplinary Tribunal under section 19H (3) of the former Act and in force immediately before the commencement of this Act shall be deemed to have been given under section 32 (4).
- (3) An order under section 19H (5) of the former Act before the commencement of this Act shall be deemed to have been made under section 32 (6).
- (4) An order made by the Disciplinary Tribunal under the former Act which has not taken effect before the commencement of this Act shall take effect on the day determined in accordance with the provisions of section 19H (7) and (8) of the former Act.

16 Veterinary hospitals

- (1) A licence for a veterinary hospital in force under Part 4A of the former Act immediately before the commencement of this Act shall be deemed to be a licence for that hospital issued under Part 6.
- (2) An application for a licence for a veterinary hospital pending under Part 4A of the former Act at the commencement of this Act shall be deemed to have been made under Part 6.
- (3) The nomination or appointment of a superintendent of a veterinary hospital which was notified to the Director-General in accordance with section 24H of the former Act shall be deemed to be the nomination of a superintendent notified in accordance with section 54.
- (4) A licence for a veterinary hospital which is immediately before the commencement of this Act suspended under section 24E of the former Act shall be deemed to have been suspended under section 52.

17 Pending appeals etc

- (1) An appeal under the former Act to a court against a decision of the Board, the Disciplinary Tribunal or the Director-General and pending at the commencement of this Act shall be deemed to be an appeal under the corresponding provision of this Act.
- (2) An appeal may be made to a court under this Act against a decision of the Board, the Disciplinary Tribunal or the Director-General notwithstanding that the decision was made under the former Act if the period for making the appeal under the former Act has not expired.

18 (Repealed)

Part 3 Provisions consequent on enactment of **Veterinary Surgeons Amendment Act 1995**

19 Director-General defined

In this Part:

Amending Act means the *Veterinary Surgeons Amendment Act 1995*.

Director-General means the Director-General of the Department of Agriculture.

20 Investigation of complaints by Investigating Committee

- (1) A person appointed as the member of the Investigating Committee referred to in section 24 (3) (e) of this Act may participate in the investigation of a complaint made

to that Committee even though the complaint was made before the appointment.

- (2) The amendments made by Schedule 1 [8]-[11] to the Amending Act do not apply to complaints made to the Investigating Committee before those amendments took effect.

21 Constitution of Disciplinary Tribunal

The amendment made by Schedule 1 [5] to the Amending Act does not apply to the Disciplinary Tribunal in respect of any proceedings for which it was constituted before the amendment took effect.

22 Right of appeal to Disciplinary Tribunal

Section 30A of this Act does not apply to a veterinary surgeon against whom an order was made under section 28 (1) (b) of this Act before the commencement of Schedule 1 [14] to the Amending Act.

23 Powers of Disciplinary Tribunal to make orders

- (1) Section 32 of this Act (as in force after the commencement of Schedule 1 [18] to the Amending Act) applies to proceedings before the Disciplinary Tribunal that have not been finally disposed of before that commencement.
- (2) Section 32 (4) and (5) of this Act (as in force after the commencement of Schedule 1 [18] to the Amending Act) apply to a direction of the Disciplinary Tribunal under section 32 (4) of this Act (as in force immediately before that commencement) as if the direction were a direction of the chairperson of that Tribunal made under section 32 (4) of this Act (as in force after that commencement).

24 Appeal against order of Disciplinary Tribunal

Section 34 of this Act (as in force before the commencement of Schedule 1 [20]-[23] to the Amending Act) continues to apply to orders of the Disciplinary Tribunal made before that commencement.

25 Restoration of name to register

Section 35 of this Act (as in force after the commencement of Schedule 1 [24]-[26] to the Amending Act) applies to persons whose names were removed from a register by the Disciplinary Tribunal before that commencement as if their names had been removed from the register by the chairperson of that Tribunal.

26 Recovery of charges and fines

Section 66 of this Act (as in force before the commencement of Schedule 1 [30] to the Amending Act) continues to apply to costs or fines ordered to be paid by the Disciplinary Tribunal, but not recovered, before that commencement.

27 Licences issued by Director-General for veterinary hospitals

A licence issued by the Director-General under section 46 of this Act and in force immediately before the commencement of Schedule 2 [2] to the Amending Act is taken to be a licence issued by the Board under that section (as in force after that commencement).

28 Applications to Director-General for licences

An application for a licence for a veterinary hospital made to the Director-General under section 48 of this Act and not finally disposed of before the commencement of Schedule 2 [3] to the Amending Act is taken to be an application for such a licence made to the Board under that section (as in force after that commencement).

29 Licence fee recoverable by Board

A licence fee payable to the Director-General under section 51 of this Act but not paid or recovered before the commencement of Schedule 2 [3] to the Amending Act can be recovered by the Board under section 66 of this Act (as in force after the commencement of Schedule 2 [6] to that Act).

30 Suspension of licences for veterinary hospitals

- (1) A licence for a veterinary hospital suspended under section 52 of this Act at the commencement of Schedule 2 [3] to the Amending Act is taken to have been suspended by the Board on the date on which it was suspended by the Director-General, and the suspension has effect as if the amendment made by Schedule 2 [3] to that Act had been in force on that date.
- (2) If the Director-General has served a notice under section 52 (3) of this Act (as in force immediately before the commencement of Schedule 2 [3] to the Amending Act) and has not suspended or cancelled the relevant licence before that commencement, the notice is taken to have been served by the Board on the date on which it was served by the Director-General and as if the amendment made by Schedule 2 [3] to that Act had been in force on that date.

31 Appeals against decisions of Director-General

Section 53 of this Act (as in force after the commencement of Schedule 2 [3] to the Amending Act) applies to decisions of the Director-General made before that commencement as if those decisions had been made by the Board.

32 Superintendents of veterinary hospitals

Permission given, and conditions imposed, by the Director-General under section 54 of this Act and in force immediately before the commencement of Schedule 2 [3] to the Amending Act are taken to have been given or imposed by the Board under that section (as in force after that commencement).

33 Certificates given by Director-General

A certificate purporting to have been signed by the Director-General under section 61 of this Act (as in force before the commencement of Schedule 2 [5] to the Amending Act) is taken to have been signed by the Registrar of the Board under that section (as in force after that commencement).

34 Protection of Director-General from liability

Section 68 of this Act (as in force immediately before the commencement of Schedule 2 [7] to the Amending Act) continues to apply to and in respect of matters or things done before that commencement by or at the direction of the Director-General as if the amendment made by Schedule 2 [7] to that Act had not been enacted.

35 Former functions of Director-General to be exercisable by Board

Without limiting the operation of the other provisions of this Part, if:

- (a) any act or thing required or permitted to be done by the Director-General under this Act (as in force before the commencement of the amendments made by the Amending Act) has not been done or completed by the Director-General before that commencement, and
- (b) that act or thing would be required or permitted to be done by the Board under this Act after that commencement,

that act or thing is required or permitted to be done or completed by the Board.

Part 4 Provisions consequent on enactment of **Veterinary Surgeons Amendment Act 2000**

36 Investigating Committee

- (1) The person holding office as the member of the Investigating Committee referred to in section 24 (3) (b), as in force immediately before the amendment of that provision by the 2000 Act, ceases to hold office as such on the commencement of Schedule 1 [9] to that Act.
- (2) The person is not entitled to any remuneration or compensation for ceasing to hold that office.
- (3) The person appointed as a member of the Investigating Committee under section 24 (3) (b) as amended by the 2000 Act is taken to be appointed for the balance (if any) of the term for which the person referred to in subclause (1) was appointed.
- (4) In this clause:

the 2000 Act means the *Veterinary Surgeons Amendment Act 2000*.