

VETERINARY SURGEONS ACT AMENDMENT ACT

No. 65 of 1990

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Queensland



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ELIZABETHAE SECUNDAE REGINAE

No. 65 of 1990

An Act to amend the Veterinary Surgeons Act 1936-1986
in certain particulars

[ASSENTED TO 18TH SEPTEMBER, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Veterinary Surgeons Act Amendment Act 1990*.

2. Commencement. (1) Section 1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) The remaining provisions commence on a day appointed by Proclamation.

3. Citation. (1) In this Act, the *Veterinary Surgeons Act 1936-1986* is referred to as the Principal Act.

(2) The Principal Act, as amended by this Act, may be cited as the *Veterinary Surgeons Act 1936-1990*.

4. Amendment of s. 3. Meaning of terms. Section 3 of the Principal Act is amended by—

(a) inserting after the definition "Animal nurse" the following definition:—

““Approved corporation”—A corporation in respect of which an approval under section 18B is in force;”;

(b) inserting after the definition "Regulations" the following definition:—

““Stock inspector”—A person who is an inspector within the meaning of the *Stock Act 1915-1989*;”;

(c) in the definition "Veterinary premises", inserting after the word "practised" the words ", approved by the Board for use for veterinary surgery";

(d) in the definition "Veterinary surgery"—

(i) omitting from paragraph (d) "." and substituting ",";

(ii) adding after paragraph (d) the following words:—

“(e) the administering of anaesthetics to animals; and

(f) the signing or issuing of certificates relating to the description, health, diagnosis or treatment of animals.”.

5. Amendment of s. 11. Rules in the Schedule. Section 11 of the Principal Act is amended by omitting the word "Amendment" and substituting the word "Amendment".

6. Amendment of s. 15D. Acting members of Tribunal. Section 15D of the Principal Act is amended in subsection (4) (a) by omitting the word "determined" and substituting the word "determined".

7. Amendment of s. 15F. Proceedings of Tribunal. Section 15F of the Principal Act is amended in subsection (3) (b) by omitting the word "has" (second occurring).

8. Amendment of s. 18. Registration of veterinary surgeons. Section 18 of the Principal Act is amended in subsection (1) by omitting paragraph (b) and substituting the following paragraph:—

"(b) he is the holder of a degree or diploma in veterinary surgery of a university or other body or a member of a college or other body of veterinary surgeons (other than a university, college or other body specified in an Order in Council made pursuant to paragraph (a)) in either case granted after due examination and recognized by the Governor in Council by Order in Council—

- (i) as entitling the holder or member, as the case may be, to practise veterinary surgery in the country in which the degree, diploma or membership was obtained; and
- (ii) as not furnishing sufficient evidence that he possesses the skill, knowledge and ability efficiently to practise veterinary surgery in the State without compliance with the further requirements specified in subsection (2);

and he has complied with those further requirements."

9. Amendment of s. 18A. Performance of certain acts by approved persons. Section 18A of the Principal Act is amended in subsection (1) by omitting the word "supervision" and substituting the word "direction".

10. New s. 18B. The Principal Act is amended by inserting after section 18A the following section:—

"**18B. Approval of corporations.** (1) The Board may, upon an application made to it by a corporation, grant an approval to the corporation to practise veterinary surgery.

(2) An approval shall not be granted to a corporation unless—

- (a) each member and director of the corporation is a veterinary surgeon; or
 - (b) in the case of a corporation with only 2 members— one member, being the majority shareholder of the corporation, is a veterinary surgeon.
- (3) An application shall—
- (a) be in writing in a form approved by the Board;
 - (b) be made on behalf of the applicant by a person who is concerned in the management of the applicant;
 - (c) specify—
 - (i) the name of the applicant;
 - (ii) the address of the registered office in Queensland of the applicant;
 - (iii) the place or places at which the applicant proposes to carry on business; and
 - (iv) the name and address of each member and officer of the applicant; and
 - (d) contain such other particulars, and be accompanied by such documents, relating to the application as the

Board, by notice in writing given to the applicant, requires.

(4) A corporation to which an approval has been granted shall not alter its membership or shareholding without the approval in writing of the Board.

(5) Where, in respect of an application, the Board refuses to grant an approval to the applicant, the Board shall give to the applicant a notice in writing of the refusal setting out the reasons for that refusal.

(6) An approval under subsection (1) shall be made by instrument.”.

11. **New s. 19E.** The Principal Act is amended by inserting after section 19D the following section:—

“**19E. Special registration.** (1) A person is entitled to special registration as a veterinary surgeon if, upon an application made to it, the Board is satisfied that the person—

- (a) is entitled under a law in force in a place outside Australia to practise veterinary surgery in that place; and
- (b) is visiting, or is proposing to visit, the State for the purpose of engaging in research or teaching in veterinary surgery.

(2) An application shall—

- (a) be in writing in a form approved by the Board;
- (b) be made on behalf of the person in whose name registration is sought by—
 - (i) the university, college or other educational institution; or
 - (ii) the professional association, being an association whose objects relate to the practice or theory of veterinary surgery;

at or in connexion with which the person proposes to engage in research or teaching; and

- (c) be accompanied by the prescribed fee.

(3) Special registration granted under this section—

- (a) remains in force for such period, not exceeding 6 months, as the Board specifies;
- (b) may, from time to time, on payment of the prescribed fee, be renewed for such further period, not exceeding 3 months, as the Board specifies in respect of any such renewal; and
- (c) shall be granted subject to such terms, conditions or restrictions as are prescribed or so far as are not prescribed as the Board determines.

(4) The Board may remove from the Register of Veterinary Surgeons the name of a person to whom special registration has

been granted or suspend for such period as it thinks fit the special registration of a person where—

- (a) the Board is of the opinion that the person has been guilty of misconduct in a professional respect;
- (b) the person is convicted in the State of an indictable offence, or elsewhere of an offence which, if committed in the State, would be an indictable offence; or
- (c) the person contravenes or fails to comply with a term, condition or restriction subject to which the registration was granted.”.

12. Amendment of s. 22F. Misconduct in a professional respect. Section 22F of the Principal Act is amended by—

- (a) in paragraph (d), inserting after the words “that is” the words “incomplete or is”;
- (b) omitting the word “or” where it appears at the end of paragraph (k);
- (c) inserting after paragraph (k) the following words:—
“(ka) fails to keep such records as are prescribed or so far as are not prescribed as the Board directs;
or”.

13. Amendment of s. 25. Prohibited practices. Section 25 of the Principal Act is amended by—

- (a) in subsection (1), omitting the words “other than a corporation,” and substituting the words “other than an approved corporation or a”;
- (b) inserting after subsection (1A) the following subsection:—
“(1B) Notwithstanding subsection (1), a stock inspector may carry out tuberculosis testing of animals in accordance with an authorization of the Minister under section 33E.”;
- (c) in subsection (7)—
 - (i) omitting the words “Where a corporation,” and substituting the words “Where an approved corporation or a”;
 - (ii) omitting the word “comprising” and substituting the words “who is a member of or comprises”.

14. Amendment of s. 25A. Restriction on use of certain names. Section 25A of the Principal Act is amended by—

- (a) in subsection (1)—
 - (i) omitting all words from and including the words “the name,” to and including the words “abbreviation thereof” and substituting the

words “any word, name, initial, title, symbol or description that indicates, or is intended to indicate, that the premises are veterinary premises”;

(ii) omitting the words “surgery are a “veterinary centre”, “veterinary clinic” or “veterinary hospital” ” and substituting the words “surgery are veterinary premises”;

(b) adding at the end of the section the following subsection:—

“(3) For the purposes of determining—

(a) whether an approval relating to premises should be given by the Board under subsection (1); or

(b) whether any terms, conditions or restrictions to which an approval relating to premises is subject have been or are being complied with;

a member or any deputy member or officer of the Board may at any reasonable time enter the premises and inspect the premises and any equipment, records or documents in or on the premises.”.

15. Amendment of s. 26. Veterinary surgeon may sue for fees, etc. Section 26 of the Principal Act is amended in the second paragraph by omitting the words “or a corporation,” and substituting the words “, an approved corporation or a”.

16. Amendment of s. 28. Person not be be a member of both the Board and the Tribunal. Section 28 of the Principal Act is amended in the note appearing in and at the beginning of the section by omitting the word “be” (first occurring) and substituting the word “to”.

17. Amendment of s. 29A. Construction, management and the like of veterinary centres, clinics and hospitals. Section 29A of the Principal Act is amended by—

(a) omitting the note appearing in and at the beginning of the section and substituting the note “Control of veterinary premises.”;

(b) omitting the words “Veterinary centres, veterinary clinics and veterinary hospitals” and substituting the words “Veterinary premises”.

18. Amendment of s. 30. Penalty for forging registration. Section 30 of the Principal Act is amended by omitting the words “shall be liable to” and substituting the words “is guilty of an offence punishable, on conviction, by”.

19. Amendment of s. 33C. Veterinary surgeon to produce records. Section 33C of the Principal Act is amended by adding at the end of the section the following subsections:—

“(3) Where records are produced to the Board under this section, the Board may—

(a) retain possession of those records for such period as it considers necessary for the purposes of the Board; and

(b) inspect, make copies of, or take extracts from, those records.

(4) The Board shall, during the period it retains possession of any records in accordance with subsection (3), permit a person otherwise entitled to possession of those records to inspect, make copies of, and take extracts from, the records at such places and times as the Board thinks appropriate.”

20. Amendment of s. 33D. Power of entry, etc. Section 33D of the Principal Act is amended by—

(a) in subsection (2), omitting the words “obtain from a justice” and substituting the words “apply to a stipendiary magistrate for, and obtain from him,”;

(b) inserting after subsection (2) the following subsection:—

“(2A) An application to a stipendiary magistrate for the issue of a warrant—

(a) may be heard at any place and, subject to this section, in such manner as the magistrate thinks fit; and

(b) may be made—

(i) in person; or

(ii) where it appears to the prescribed person that, because of distance, urgency or other circumstances, it is impracticable for the person to apply in person—by means of telephone, radio, telex or other facility for distance communication.”;

(c) in subsection (3)—

(i) omitting the word “justice” and substituting the words “stipendiary magistrate”;

(ii) omitting the word “complaint” and substituting the word “application”;

(iii) omitting the word “complainant” and substituting the words “prescribed person”;

(d) omitting subsection (4) and substituting the following subsections:—

“(4) In issuing a warrant, a stipendiary magistrate shall—

(a) specify in the warrant the powers that may be exercised by the prescribed person; and

(b) record on the warrant the matters of fact on which the magistrate has relied to justify the issue of the warrant.

(4A) A warrant remains in force for a period of 21 days from the date of issue and is lawful authority for the prescribed person to whom it is directed and all persons acting in aid of that person—

(a) to enter the premises specified in the warrant; and

(b) subject to the terms of the warrant, to exercise the

powers conferred upon a prescribed person under this Act.

(4B) Where an application for a warrant is made in person, in determining whether to issue the warrant, the stipendiary magistrate shall not rely on any statement of facts unless it is provided by means of an oral or written statement made under oath or affirmation or under other sanction authorized by law.

(4C) Where an application for a warrant is made in a manner referred to in subsection (2A) (b) (ii), the stipendiary magistrate shall not issue the warrant unless the magistrate—

- (a) informs the applicant of the matters of fact on which the magistrate relies to justify the issue of the warrant; and
- (b) obtains from the applicant an undertaking that the applicant will furnish to the stipendiary magistrate, as directed by the magistrate, as soon as is practicable a written statement made on oath or affirmation or under other sanction authorized by law verifying those matters of fact.

(4D) Where, pursuant to an application for a warrant made in a manner referred to in subsection (2A) (b) (ii), the stipendiary magistrate issues the warrant—

- (a) the magistrate shall—
 - (i) inform the applicant that he has done so and of the terms of the warrant; and
 - (ii) within 7 days of the issue of the warrant, send the warrant to the Minister;
- (b) as soon as practicable, and, in any event, within 7 days, after the issue of the warrant, the applicant shall furnish to the magistrate a written statement in compliance with the undertaking given by the applicant under subsection (4C) (b); and
- (c) a form of warrant completed by the applicant substantially in the terms of the warrant issued by the magistrate and stating—
 - (i) the date on which and the place at which the warrant was issued; and
 - (ii) the name of the stipendiary magistrate who issued the warrant;

is for all purposes to be taken to be the warrant issued and to have force and effect accordingly.

(4E) If a person to whom subsection (4D) (b) applies fails to comply with that subsection, the warrant issued under this section is to be taken to be cancelled upon the expiration of the period of 7 days specified in that subsection.

(4F) The failure of a stipendiary magistrate to send a warrant to the Minister in accordance with subsection (4D) (a) (ii) does not affect the validity, force or effect of the warrant.”

(e) in subsection (5), omitting the words “this section may” and substituting the words “this section may, subject, in the case of entry pursuant to a warrant, to the terms of the warrant”.

21. New s. 33E. The Principal Act is amended by inserting after section 33D the following section:—

“33E. Authorization of stock inspectors to carry out certain tests. (1) Where the Board—

(a) considers that it is uneconomical or inappropriate for the tuberculosis testing of animals to be carried out by a veterinary surgeon; and

(b) recommends to the Minister that an authorization be given for the purposes of this section;

the Minister may, by instrument, authorize a stock inspector to carry out tuberculosis testing of animals during a specified period at a specified place or specified places.

(2) The power of a stock inspector to carry out tuberculosis testing of animals pursuant to this section does not derogate from, but is in addition to, any power the inspector may have under the *Stock Act 1915-1989* to carry out that testing.”.

22. Amendment of s. 37. Regulations. Section 37 of the Principal Act is amended by—

(a) in paragraph (ka), omitting the words “a corporation,” and substituting the words “an approved corporation or a”;

(b) inserting after paragraph (l) the following paragraph:—

“(la) the continuing education of veterinary surgeons, including the nature and extent of that education;”;

(c) in paragraph (o)—

(i) omitting the word “operation” and substituting the words “inspection, operation”;

(ii) omitting the words “veterinary centres, veterinary clinics, veterinary hospitals and other”;

(iii) adding at the end of the paragraph the words “maintenance of records in connexion therewith;”.

23. Amendments relating to penalties. The Principal Act is amended in the provisions and in the manner specified in the following Table:—

Provision	Omit	Substitute
Section 22A(1) (a)	\$500	10 penalty units
Section 22E(1) (c)	\$2000	40 penalty units
Section 25 (9) (b)	\$2000	40 penalty units
Section 25 (9) (b)	\$100	2 penalty units
Section 30	\$1,000	20 penalty units
Section 33D(7)	\$1000	20 penalty units
Section 35 (2)	\$500	10 penalty units
Section 37 (h)	\$500	10 penalty units
