

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 2001

EXPLANATORY NOTES

GENERAL OUTLINE

Short Title

The short title of the Bill is the Primary Industries Legislation Amendment Act 2001.

Objectives of the Legislation

The Bill amends the following Acts administered by the Minister for Primary Industries and Rural Communities:

- *Grain Research Foundation Act 1976*
- *Chicken Meat Industry Committee Act 1976*
- *Timber Utilisation and Marketing Act 1987*
- *Plant Protection Act 1989*
- *Chemical Usage (Agricultural and Veterinary) Control Act 1988*
- *Veterinary Surgeons Act 1936*
- *Meat Industry Act 1993*
- *Sugar Industry Act 1999*

The Bill also repeals the following Acts administered by the Minister for Primary Industries and Rural Communities:

- *Wheat Marketing (Facilitation) Act 1989*
- *Dairy Adjustment Program Agreement Act 1976*
- *Dairy Adjustment Program Agreement Act 1977*

Reasons for the Bill*Grain Research Foundation Act 1976*

Currently the Act requires that one of the members of the Queensland Grain Research Foundation (GRF) be a nominee of the Queensland Grain Growers Association (QGGA). The QGGA no longer exists, having been absorbed into AgForce Ltd as AgForce Grains.

Chicken Meat Industry Committee Act 1976

The amendment will substitute an annual contract registration fee in lieu of statutory levy funding for the Chicken Meat Industry Committee (CMIC). The former statutory levy funding for the CMIC has been withdrawn due to doubts as to its Constitutional validity.

Registration of agreements between growers and processors will assist with the dispute resolution function of the CMIC, as the CMIC will be able to ascertain with certainty the documents which comprise the contractual agreement between any given grower and processor.

Timber Utilisation and Marketing Act 1987

The main object of the Act is to afford consumer protection through the control of the sale of borer, termite and decay susceptible timber and the moisture content of timber and timber products by prohibiting, restricting and authorising certain conduct.

For certain offences under the Act, some proceedings have not been instituted because the limitation period for prosecutions (where 12 months have elapsed since the commission of an offence) is within 6 months after the commission comes to the knowledge of the complainant. An extension of time to institute proceedings for prosecuting breaches of the Act is necessary because the investigation and testing of timber to decide whether proceedings should be instituted takes up to a year.

The amendment will also remove any reference to the term “duty” when describing forest officers’ statutory responsibilities under the Act. It is misleading to describe forest officers as having “duties” under the Act as that implies they have mandatory obligations under the Act. This is not so as all forest officers’ powers under the Act are discretionary. This discretion is essential for officers to prioritise investigations due to lack of resources to investigate every potential breach of the Act.

Plant Protection Act 1989

The purpose of the amendment to the Act is to clarify a definition for the purposes of certification under the Interstate Certification Assurance

Scheme. The scheme is designed to give other States assurance that where a plant pest or disease exists in Queensland, plants leaving Queensland have been treated to meet the other State's requirements. The other State receives that assurance by sighting an assurance certificate issued by a person accredited under the Act.

Under agreements with other States, there are often a number of disinfestation treatments that the other States will accept. A person may only be accredited for one of these treatments. It is not certain, as the Act is currently worded, that the accredited person could not validly issue an assurance certificate in respect of one of the other treatment methods. For example, a person accredited to supply mangoes sprayed with a particular chemical may issue a certificate having fumigated them with a gas. Because the person has not proved the person's competence in using that fumigation method:

- a potential health risk arises; and
- the integrity of the assurance system is compromised. This could lead to States refusing to accept Queensland produce or imposing a more stringent treatment regime involving supervised treatments at the grower's expense.

Chemical Usage (Agricultural and Veterinary) Control Act 1988

The objective of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* is "to control the use of certain chemicals and the use of substances in or on which is the residue of certain chemicals and for related purposes". The objectives of this Act are achieved by:

- imposing a prohibition on any person using a chemical product unless it is a chemical product registered by the National Registration Authority for Agricultural and Veterinary Chemicals (NRA); and
- requiring the use of a registered chemical product:
 - in compliance with the approved label; or
 - in accordance with the conditions of a permit issued by the NRA.

Experience of enforcing offence provisions has identified implications for the continued effective operation of the Act in controlling the use of agricultural and veterinary chemicals in Queensland.

The current provisions state that a person must not use a registered chemical product in a way that contravenes an instruction on the approved

label for containers for the product. This means that a way of use not specified on the label may be acceptable even though such a use may be hazardous. For example, a product that the label states is designed to control a particular pest in eg lettuce may be used on another crop not mentioned on the label and for which it is not registered, eg peas. This may result in residue levels that are a threat to human health and market access.

Through an amendment to the Act, it is sought to remedy any potential deficiency by making it clear that a person adheres to the product's label instructions unless other statutory exemptions apply.

Another reason for the Bill is to amend certain definitions under the Act. It is intended to incorporate definitions of terms under the *Agricultural and Veterinary Chemicals (Queensland) Act 1994 (Cth)*, also referred to as the Agvet Code. Incorporation into the Act of these Agvet Code definitions will promote consistency across national legislation and the Queensland statute book.

Veterinary Surgeons Act 1936

The Bill will amend the Act to implement the recommendations of the review of the Act conducted under the auspices of the National Competition Policy (NCP). The recommendations of the review that require legislative amendment are:

- maintaining a list of prohibited practices that restrict who can perform veterinary science;
- removing the restriction that only veterinary surgeons or corporations with a veterinary surgeon as a director can own veterinary practices;
- removing the restriction on veterinary businesses and veterinary surgeons advertising their practices;
- retaining the Veterinary Surgeons Board (the Board) controls on veterinary premises in legislation, but relinquishing the Board's control on the use of business names of veterinary practices.

In addition, the Bill provides for other amendments such as-

- amending the constitution of the Board from 5 to 6 members and allowing the appointment of a layperson to the Board to provide a consumer perspective;
- amending the way the Board conducts its business so as to accord with current societal expectations of how a statutory body operates;

- amending the Act to incorporate the TransTasman Mutual Recognition principles;
- replacing the definition of “veterinary surgery” with “veterinary science” to reflect current academic thought on the description of the body of knowledge of veterinary medicine and surgery; and
- modernising the Act generally.

The Bill also makes an amendment requested by the Queensland Audit Office (QAO) to clarify that the Board is part of the Department of Primary Industries for the purposes of the *Financial Administration and Audit Act 1977*. In practical terms, this clarification allows the Board accounts to be audited with the Department’s accounts. It also clarifies that the Board represents the State of Queensland.

Meat Industry Act 1993

The Queensland Abattoir Corporation (QAC) is no longer competing as a State-owned business against the private sector, and an orderly divestment strategy, as approved by the Government in early 1999 is underway. Because of this an administrator is currently running the QAC.

Activities completed to date include:

- the sale of both the QAC Cannon Hill and Churchill (Ipswich) abattoirs to private sector operators;
- the closure of the antiquated Toowoomba abattoir and the subsequent disposal of the land;
- the handing-over of the extensive former abattoir reserve at Bundaberg to the Co-ordinator General; and
- the negotiations for the handing-back of the Bohle (Townsville) abattoir and saleyards reserves (held under a lease in trust arrangement by QAC) to the Department of Natural Resources and Mines.

Subject to the satisfactory completion of site remediation works at Cannon Hill and Bohle, and other residual matters, it should be possible to commence a formal process for the winding-up of QAC within the next 12 months. However, the *Meat Industry Act 1993* is deficient in not having formal winding-up provisions.

It is also necessary to extend the life of the Act, which currently ‘sunset’ on 1 January 2002, for a further 12 months to allow the Administrator to complete the tasks required before winding-up, as well as to complete the actual winding-up process.

The extension is also necessary to allow time for food safety schemes under the *Food Production (Safety) Act 2000* (the FPS Act) to be made. Once food safety schemes are made, a proclamation can be made commencing the FPS Act. The FPS Act will then replace the *Meat Industry Act 1993* as the Act governing the food safety aspects of meat in Queensland.

Sugar Industry Act 1999

The Bill will amend the Act to correct a deficiency in the Act in regard to the absence of a time requirement for a cane production board to make decisions.

Cane growers in some areas have expressed concern that Cane Production Boards (CPBs) could delay decisions on, for example, applications for cancellations of cane production area (CPA) or hectares for excessive lengths of time. If that occurred the growers would be unable to exercise appeal rights under the Act because no decision had yet been made.

To overcome this problem, the Act is to be amended to enable a grower to appeal against a failure by a CPB to make a decision.

Wheat Marketing (Facilitation) Act 1989

The *Wheat Marketing (Facilitation) Act 1989* (the WMF) Act was enacted in 1989 primarily to allow the Australian Wheat Board (the AWB), at that time a statutory authority constituted under Commonwealth legislation, to operate as a buyer and seller of wheat and other grains on the domestic market within Queensland. Such legislative authorisation was required because the prevailing legal opinion at the time was that the Commonwealth only had Constitutional power to legislate for the AWB to engage in interstate and international trade and commerce (as per section 51 of the Constitution) as opposed to intrastate trade which lay within the legislative purview of each State.

Hence the WMF Act was a complementary statute to the AWB's enacting legislation at the Commonwealth level, namely the *Wheat Marketing Act 1989*. Each of the other States enacted a statute to enable the AWB to engage in intrastate ("domestic") trade in wheat and other grains. These were essentially similar in scope and actual wording.

However, in Queensland, the WMF Act also contained a raft of provisions, considered to be necessary at the time, to constrain the AWB so that it could be made to take account of the "special requirements" of the Queensland grain industry.

It is no longer necessary to have State legislation to underpin intrastate grain trading activities by the Board.

Dairy Adjustment Program Agreement Act 1976 and Dairy Adjustment Program Agreement Act 1977

The Acts relate to agreements between the Commonwealth and Queensland State Governments ('the Agreements') about a dairy industry adjustment program ('the program') implemented in the 1970's. This program was operated by the Queensland State Government with financial assistance from the Commonwealth Government.

The purpose of the Acts was simply to ratify an already existing agreement and agreements to amend the original agreement. There is no need for State legislative ratification of the Agreements, which operate independently of State legislative support. Accordingly, the Acts are considered redundant and are to be repealed.

As part of the program, loans were issued to eligible dairy farmers for a number of purposes including to install refrigerated vats, to develop farms to economically viable levels and to convert uneconomic dairy farms to other rural uses. The Agreements formed the legal and operative basis for the administration of the loans. No new loan applications have been accepted for some years.

Repeal of the Acts will not impact on the outstanding loans. The Acts simply ratified the Agreements that already existed between the Commonwealth and State Government. Repeal of the Acts does not terminate the Agreements, which are legally executed documents between the Commonwealth and Queensland State Governments.

In any event, section 20(1) of the Acts Interpretation Act 1954 provides, in part, that the repeal of an Act does not—

- '(b) affect the previous operation of the Act or provision or anything suffered, done or begun under the Act or provision; or
- (c) affect a right, privilege or liability acquired, accrued or incurred under the Act or provision; ...'

The way in which the policy objectives are to be achieved by the Bill

Grain Research Foundation Act 1976

The Bill amends the section of the Act that sets out the membership of the Queensland Grain Research Foundation (GRF). A nominee of the defunct QGGA will no longer be a member of the Board, being replaced by

a nominee of the peak industry body representing grain growers in the State's grain industries. That peak body would currently be AgForce Grains.

Chicken Meat Industry Committee Act 1976

The amendment creates a new contract registration system under which processors who enter into agreements with growers must register the contract with the CMIC. Under the amendment a fee may be fixed by regulation and charged to processors upon registration of the contract and with the Committee and annually thereafter for the life of the contract.

This fee will represent both payment for the administrative costs of registering the agreement and keeping information on the contract up to date, and for the provision of services by virtue of the general functions of the Committee.

Timber Utilisation and Marketing Act 1987

The amendment will extend the period within which proceedings may be commenced for prosecuting breaches of the Act.

To provide certainty for defendants, the provision will also be amended to cap the time to which proceedings can be taken to 7 years from the date of the commission of the offence. A lengthy cap such as 7 years is required as timber damage may take 7 years to emerge. A cap currently does not exist.

The amendment will also delete the reference to “duty/duties” from provisions in the Act setting out forest officers’ powers and replace it with the term “functions” or “performance of functions”. The use of the term “functions” more appropriately describes forest officers’ statutory obligations and also provides consistency throughout the Act by using the one term of “functions”.

Plant Protection Act 1989

In order to put beyond doubt the meaning of ‘acceptable assurance certificate’ and to convey the intended policy intent, the Bill will amend the definition of this term to reflect that an acceptable assurance certificate is one given by an accredited person in accordance with the conditions of the person’s accreditation.

Chemical Usage (Agricultural and Veterinary) Control Act 1988

The Bill will amend the Act to:

- address a judicial interpretation of s 8A that was considered inconsistent with the policy intent of the provision;

- amend the exemptions on use contained in s 8D(5) and (6) to provide for an exemption from the use obligation in s 8A where a chemical product is used to control another pest, including a disease or pest plant and where the registered label for the product does not expressly prohibit such use;
- amend the exemption contained in s 8D(7) to clarify that an alternative method of using a chemical product is acceptable provided that the label instruction does not prohibit the alternative method of use;
- remove certain redundant definitions for ‘crop’, ‘disease’, ‘manufactured stock food and plant’ and replaces with definitions for ‘animal’, ‘pest’ and ‘plant’ that are consistent with the Agvet Code.

Veterinary Surgeons Act 1936

The Bill will implement the NCP review recommendations of the Act by:

- omitting any prohibited practices relating to advertising, ownership and naming of veterinary practices. Remaining prohibited practices are to be redrafted as general offence provisions, with a penalty of 40 penalty units each;
- omitting any sections of the Act that restrict the ownership of veterinary practices or control on the use of business names. This means that any person (natural or corporate) can conduct a veterinary practice subject to the veterinary premises being approved by the Board;
- omitting any sections or regulation making powers that restrict the advertising of veterinary practices. This means that veterinary practices can be advertised without limitation or fear of prosecution;
- amending the professional misconduct provisions to remove the grounds of professional misconduct relating to advertising or using any title or description other than that contained in the description of qualifications used for registration.;
- creating a new Part 4A in the Act that provides for the Board approving premises to be used as veterinary premises. This Part modernises the current approval process to incorporate a comprehensive decision making model with adequate procedural fairness for applicants and sufficient avenues of review to the

Veterinary Tribunal of Queensland. 2 new offences have been created to ensure that veterinary surgeons, owners and managers of veterinary practices comply with the new Part 4A. An additional ground of professional misconduct relating to non compliance with the approval process is also created. A transitional provision will provide that existing approvals of veterinary premises will be valid approvals under the new Part 4A.

The amendments relating to the constitution of the Board, its relationship to the State and Board business are incorporated in the new Part 2 of the Act dealing with all matters relating to the Veterinary Surgeons Board of Queensland. A transitional provision will allow existing members to continue their office term.

The amendments will commence by proclamation. This ensures that the commencement of the new provisions coincides with the consequential amendments to the *Veterinary Surgeons Regulation*.

Meat Industry Act 1993

The Bill amends the Act to:

- insert provisions to allow the Queensland Abattoir Corporation (QAC) to be formally wound-up by the Administrator who is running the affairs of the Corporation; and
- extend the life of the Act, which currently ‘sunsets’ on 1 January 2002, for a further twelve months to allow the administrator to complete the tasks required before the winding-up, as well as to complete the actual winding up process.

Sugar Industry Act 1999

The Act is to be amended to enable a grower to appeal against a failure by a CPB to make a decision.

Wheat Marketing (Facilitation) Act 1989

The Bill repeals the Act which is no longer required due to the privatisation of the Australian Wheat Board (as “AWB Limited”).

Dairy Adjustment Program Agreement Act 1976 and Dairy Adjustment Program Agreement Act 1977

The Bill repeals these Acts.

Estimated costs for government implementation

These amendments will not result in any costs to government.

Consistency with fundamental legislative principles

The provisions of the Bill are in the main consistent with fundamental legislative principles as set out in the *Legislative Standards Act 1992*.

There is one exception. It is arguable that the proposed extension of the time to institute proceedings for an offence under the *Timber Utilisation and Marketing Act 1987* is a breach of fundamental legislative principles (FLPs) by adversely affecting rights and liberties of defendants in such proceedings. This breach arguably occurs because there is an increased time in which a person can be prosecuted under the Act. However the small extension in time (from 6 months to 12 months) from the date the offence comes to the knowledge of the complainant is necessary. The extension will give the investigating officers sufficient time to test timber to assess whether a breach of the Act has occurred.

This extension of time is balanced by the cap of 7 years in which proceedings can be instituted. The current legislation contains no cap. Introducing a limitation period will give greater certainty to defendants subject to prosecution under the Act.

CONSULTATION**Community**

The following bodies have been consulted in regard to the proposed amendments relevant to them, namely:

- Chicken Meat Industry Committee (*Chicken Meat Industry Committee Act*);
- Grain Research Foundation and AgForce Grains (*Grain Research Foundation Act 1976*);
- Grainco Australia Ltd and AWB Limited (*Wheat Marketing (Facilitation) Act 1989*);
- the Veterinary Surgeons Board (*Veterinary Surgeons Act 1936*); and
- the Administrator of the QAC (*Meat Industry Act 1993*).

Government

There has been consultation with Department of the Premier and Cabinet (DP&C), Queensland Treasury, Department of State Development (DSD)—Business Regulation Reform Unit (BRRU), Department of Justice and the Attorney-General (DJAG), Department of Local Government and Planning (DLGP) and the Queensland Audit Office (QAO).

RESULTS OF CONSULTATION**Community**

The bodies consulted each support the proposed amendments relevant to them.

Government

Those Departments and agencies consulted support the amendments.

NOTES ON PROVISIONS**PART 1—PRELIMINARY****Short title**

Clause 1 provides that the short title of the Act will be the *Primary Industries Legislation Amendment Act 2001*.

Commencement

Clause 2 provides that amendments made by the Bill to the *Chicken Meat Industry Committee Act 1976* and *Veterinary Surgeons Act 1936* commence by proclamation. This will ensure that the amendments to the Act coincide in commencement with the necessary consequential amendments to the regulations associated with each of these Acts.

PART 2—AMENDMENT OF CHEMICAL USAGE (AGRICULTURAL AND VETERINARY) CONTROL ACT 1988

Act amended in pt 2

Clause 3 provides that the Act amended by Part 2 is the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

Amendment of s 4 (Definitions)

Clause 4 provides for an amendment to section 4 of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*. The amendment requires the removal of certain redundant definitions and replaces others with definitions consistent with the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)* (the ‘Agvet Code’).

The terms ‘pest’, ‘animal’ and ‘plant’ are well defined under the Agvet Code and in the case of ‘pest’, includes pests and diseases of both animals and plants. These definitions under the Agvet Code have been incorporated into the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* to promote consistency across national legislation and in the language used in the Queensland statute book.

Amendment of s 8A (Use of registered chemical products in contravention of labels)

Clause 5 amends s 8A of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* which provides for the use of registered chemical products in contravention of a label.

The amendment seeks to address a judicial interpretation of s 8A that was considered inconsistent with the policy intent of the provision. The new s 8A makes it clear that, subject to certain exceptions, a person must use a registered chemical product in a way stated in the instructions on the approved label for containers for the product.

Amendment of s 8D (Compliance with instructions)

Clause 6 amends s 8D of the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* which provides certain exceptions from the requirement to comply with the instructions of an approved label.

The amendment seeks to incorporate new terminology as provided by the definition of ‘pest’ inserted by *clause 4*. The amendment further clarifies that unless the instruction states that an alternative method must not be used, a person does not contravene an instruction about a method of using a chemical product if the method used by the person is different from the instruction, for example where:

- a chemical product is used to control another pest, including a disease or pest plant and where the registered label for the product does not expressly prohibit such use; or
- the chemical product is applied in a different method from that set out on the label. For example applying directly to soil rather than spraying on foliage.

Amendment to omit headings following cross references

Clause 7 amends those sections of *the Chemical Usage (Agricultural and Veterinary) Control Act 1988* that contain cross references to a provision of the Act followed by a heading to the provision in round brackets. The amendment will omit the brackets and the words in brackets.

PART 3—AMENDMENT OF CHICKEN MEAT INDUSTRY COMMITTEE ACT 1976

Act amended in pt 3

Clause 8 provides that the Act amended by Part 3 is the *Chicken Meat Industry Committee Act 1976*.

Amendment of s 17 (Finance)

Clause 9 omits section 17(2) of the Act. That section gave the Chicken Meat Industry Committee (CMIC) the power to impose a general levy on growers and processors. The levy power is no longer used due to doubts as to its Constitutional validity. Instead the CMIC's finances will be raised through the imposition of a registration fee on agreements between growers and processors being inserted in the Act by *clause 11* of the Bill.

Omission of s 21 (Processors to notify committee of agreements)

Clause 10 omits section 21 of the Act. Section 21 required processors to notify the CMIC within 2 months after entering into an agreement with a grower. The provision is no longer required because the CMIC will now be informed about new contracts through the Part 3A of the Act (Registration of agreements and annual fees) being inserted by clause 11 of this Bill.

Insertion of new pt 3A

Clause 11 inserts a new part 3A into the Act, dealing with registration and annual fees. Registration of agreements between growers and processors will assist with the dispute resolution function of the CMIC, as the CMIC will be able to ascertain with certainty the documents which comprise the contractual agreement between any given grower and processor.

**NEW PART 3A—REGISTRATION OF AGREEMENTS
AND ANNUAL FEES***New Division 1—Registration***New section 24A—Committee to keep register**

New section 24A requires the CMIC to keep a register of agreements between chicken growers and processors.

New section 24B—Application for registration

New section 24B requires a processor who enters into an agreement with a chicken grower or growers or had an agreement in force on the commencement of new Part 3A to apply to the CMIC to register the agreement. The application must be:

- made within the timeframes set out in the new section;
- in the form decided by the committee; and

- accompanied by a prescribed fee.

New section 24C—Registration

New section 24C requires the CMIC to:

- register an agreement for which application has been made under new section 24B; and
- give the applicant notice of the registration.

New Division 2 – Annual fees**New section 24D—Payment of annual fee**

New section 24D requires that an annual fee is payable by processors on each anniversary of the registration of an agreement. The fee must be accompanied by a return in a form decided by the CMIC. The annual return will enable the CMIC to keep information on agreements up to date, thereby assisting it to provide the dispute resolution function of the CMIC.

Insertion of new pt 5

Clause 12 inserts a new Part 5 into the Act which provides for a transitional arrangement for those agreements between growers and processors that are currently in existence. New section 27 provides that contracts already in existence will be treated as if they were entered into on commencement. This means that these agreements will need to be registered in accordance with the requirements of new section 24B. The new part will expire 60 days after the commencement of the part because by that time it will have fulfilled its purpose and become redundant.

PART 4—AMENDMENT OF GRAIN RESEARCH FOUNDATION ACT 1976

Act amended in pt 4

Clause 13 provides that this part amends the *Grain Research Foundation Act 1976*.

Amendment of s 4 (Definitions)

Clause 14 omits the definition of “the Association” from section 4 of the Act and inserts a definition of association. This amendment is consequential to the amendment to section 7 of the Act made by clause 15 of the Bill. In particular it reflects the fact that there will now no longer be a requirement that the Grain Research Foundation Board contain a member nominated by a specific association. Rather, a member will be nominated by whichever association at the time of nomination represents grain growers in the State’s grain industries.

Amendment of s 7 (Membership of the Foundation)

Clause 15 amends section 7 of the Act. Section 7 sets out those persons who may be appointed as members of the Board of the Grain Research Foundation. This amendment will mean that a nominee of the defunct QGGA will no longer be a member of the Board, being replaced by a nominee of the peak industry body representing grain growers in the State's grain industries. That peak body would currently be AgForce Grains.

PART 5—AMENDMENT OF MEAT INDUSTRY ACT 1993

Act amended in pt 5

Clause 16 provides that this part amends the *Meat Industry Act 1993*.

Replacement of pt 7B hdg

Clause 17 omits the heading of Part 7B of the Act, "Abattoir Corporation Administrator" and replaces it with the new heading "Administrator and winding-up of Abattoir Corporation". This change reflects the insertion by this Bill of new provisions into Part 7B to enable the winding up of the Queensland Abattoir Corporation (QAC).

Amendment of s 162H (Appointment of administrator)

Clause 18 amends section 162H (3)(b) of the Act by adding a new ground for termination of the appointment of the administrator of the QAC. Under the new ground the administrator's appointment will cease automatically upon dissolution of the QAC. On dissolution, an administrator's job will be complete.

Amendment of s 162K (Additional functions of administrator)

Clause 19 amends section 162K of the Act (additional functions of the administrator) by inserting a new paragraph in sub-section (1). The new paragraph provides that it is an additional function of the administrator, when directed by the Minister, to wind up the QAC and provide the Minister with a final report on the winding up if required.

Insertion of new ss 162L—162N

Clause 20 inserts new sections 162L to 162N into the Act.

New section 162L—Administrator's powers

New section 162L provides the administrator with the power to do anything necessary or convenient to be done for administering or winding-up the QAC, including:

- having control of the QAC's businesses, property and affairs;
- carrying on the business and managing the property and affairs of the QAC;
- terminating or disposing of all or parts of the business; or
- dealing with, or disposing of, any of the property.

New section 162M—Completion of winding-up

New section 162M applies if the Minister directs the winding-up of the QAC. On completion any net proceeds must be paid to the QAC and any debts remain the debts of QAC. Within 14 days of completion of the winding-up, the administrator must give the Minister a report on the winding-up and any other documents or information requested by the Minister to fully explain the winding-up. The Minister must table the report in the Legislative Assembly within 14 sitting days after receipt.

New section 162N—Dissolution of abattoir corporation

New section 162N provides for what occurs on the dissolution of the QAC. On dissolution:

- the net proceeds of the winding-up vest in the State or any debts become the debts of the State;
- the QAC is dissolved; and
- the administrator is released from any further liability to account for the administration of the QAC or the winding up except in the case of liability caused by fraud or dishonesty.

Amendment of s 167 (Expiry of Act)

Clause 21 amends section 167 of the Act to extend the expiry date for the Act by 12 months from 1 January 2002 until 1 January 2003. This extra time is needed to allow the administrator to complete the tasks required before the winding-up, as well as to complete the actual winding up process.

Amendment to omit headings following cross references

Clause 22 amends those sections of the Act that contain cross references to a provision of the Act followed by a heading to the provision in round brackets. The amendment will omit the brackets and the words in brackets. This amendment is being made to reflect current drafting practice.

PART 6—AMENDMENT OF PLANT PROTECTION ACT 1989

Act Amended in pt 6

Clause 23 provides that the Act amended by Part 6 is the *Plant Protection Act 1989*.

Amendment of s 3 (Definitions)

Clause 24 provides for an amendment to the definition of ‘acceptable assurance certificate’ under section 3 of the *Plant Protection Act 1989*. To remove any doubt, the amendment clarifies that an acceptable assurance certificate is one given by an accredited person in accordance with the conditions of the person’s accreditation.

PART 7—AMENDMENT OF SUGAR INDUSTRY ACT 1999

Act amended in pt 7

Clause 25 provides that this part amends the *Sugar Industry Act 1999*.

Amendment of s 234 (Appeal to Magistrates Court)

Clause 26 amends section 234 of the Act to extend matters that may be appealed against under the Act to include a failure by a cane production board to make a decision.

PART 8—TIMBER UTILISATION AND MARKETING ACT 1987

Act amended in pt 8

Clause 27 provides that the Act amended by Part 8 is the *Timber Utilisation and Marketing Act 1987*.

Amendment of s 6 (Interpretation)

Clause 28 omits the definition of “duty” from section 6 of the Act. Since the powers of forest officers under this Act are discretionary, the term “duty” to describe forest officers’ statutory responsibilities is misleading as it implies a mandatory obligation to exercise powers under the Act. The Act provides that such powers are to be exercised with discretion.

Amendment of s 38 – (Powers of forest officers)

Clause 29 replaces section 38(2) of the Act. That section provided that a forest officer may remove samples of timber or preservatives in exercising any power or performing any duty or function under the Act. The new section 38(2) is redrafted to remove the term “duty” from the provision. This amendment is to provide consistency throughout the Act in the use of the term “function” to describe the forest officers’ statutory responsibilities. The provision has also been redrafted to accord with current drafting style.

Amendment of s 40 (Forest officer may require name and address)

Clause 30 omits the term “duties under this Act” and replaces it with “functions” in section 40 of the Act. This amendment is to provide consistency throughout the Act in the use of the term “function” to describe forest officers’ statutory responsibilities.

Amendment of s 41 (Obstruction of forest officer etc.)

Clause 31 generally omits the term “duty” from section 41 and replaces it with the term “performance of the forest officers powers or functions” or “function/s” as appropriate. These amendments are to provide consistency in the Act in the use of the term “function/s” to describe forest officers’

statutory responsibilities. The section was also slightly redrafted to accord with modern drafting style.

Amendment of s 44 (Offences)

Clause 32 omits section 44(5) of the Act. That provision provided for the limitation period in which proceedings are to be instituted under the Act. Under s44(5) of the Act, proceedings for an offence may be instituted within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period. This limitation period was insufficient to allow forest officers to investigate, conduct and test timber so they could decide whether to initiate proceedings. Some proceedings have not been instituted because the limitation period expired prior to adequate investigation taking place. *Clause 33* below provides for a more workable limitation period.

Insertion of new s 44A

Clause 33 inserts a new s 44A. This provision replaces the existing limitation period set out in s44 (5) of the Act (see clause 32). The new limitation period extends the limitation period to 1 year from when the commission of the offence comes to the knowledge of the complainant or within 1 year after the offence is committed. To provide certainty for defendants, the new section places a cap of 7 years on instituting proceedings from the date the offence was committed. The old limitation period did not provide a cap on the time in which a prosecution can take place. A lengthy cap such as 7 years is required as timber damage may take 7 years to emerge.

It may be arguable that the increased time for a complainant to institute proceedings is a potential breach of fundamental legislative principles as the extension adversely affects the rights of defendants. However, the extension of time is only 6 months and it will remedy a previously unworkable limitation period. Also, the extension in the limitation period is balanced by the cap of 7 years in which proceedings can be instituted. This gives potential defendants a time limit for their liability for offences under the Act.

PART 9—AMENDMENT OF VETERINARY SURGEONS ACT 1936

Act amended in pt 9

Clause 34 provides that the Act amended by Part 9 is the *Veterinary Surgeons Act 1936*.

Amendment of title

Clause 35 amends the long title of the *Veterinary Surgeons Act 1936*. The old long title provided that the Act regulated and controlled the practice of veterinary surgeons. The new long title provides that the Act regulates and controls the practice of veterinary science. This amendment is to better reflect the subject matter of the Act.

Amendment of s3 (Definitions)

Clause 36 replaces section 3. That section contained definitions of words used in the Act. The new section 3 inserts a dictionary in the Schedule that defines particular words used in the Act. The new section 3 omits certain definitions of words that are no longer used in the Act. The new section 3 also inserts some new definitions of words used throughout the Act, for example-

- “Veterinary premises” is defined as premises approved for use as veterinary premises under Part 4A of the Act. This definition is used in the new Part 4A of the Act that provides for the new system of the Board approving premises to be used as veterinary premises (see Clause 54).

Insertion of new ss2A and 3

Clause 37 inserts a new section 2A and section 3. The new section 2A defines the term “veterinary science”. Since this term is integral to the Act, it has been defined in a stand-alone provision rather than included in the dictionary. The term “veterinary science” replaces the term “veterinary surgery.” This amendment reflects current academic thought on describing the body of knowledge and procedures relating to veterinary surgery and medicine. The definition provides a non exhaustive list of branches of veterinary science.

The provision also provides that a regulation may declare some animal husbandry and dentistry procedures not to be veterinary science. This means that such procedures may be legally performed by persons who are not veterinary surgeons. (“exempted procedures”). The list of exempted procedures are to be prescribed by regulation as they may need to be amended quickly to accord with community and professional expectations of which procedures are appropriate to be performed by people who are not veterinary surgeons. Examples of procedures that will be included in the regulation as exempted animal husbandry procedures include the desexing, dehorning and artificial insemination of some farmed animals. An example of an exempted animal dentistry procedure will be the filing of horses’ teeth.

The new section 3 provides that the operation of mutual recognition laws within Australia and with New Zealand are not affected by this Act. The mutual recognition principle of entitling interstate and Trans Tasman registration of occupations is applied in the Board’s registration of veterinary surgeons in Queensland.

Replacement of s4 (Constitution and composition of board, appointment and tenure of office of members)

Clause 38 replaces section 4 of the Act. That section provided for the constitution and composition of the Board, appointment and tenure of the office of members. The clause inserts a new Part 2 titled “Veterinary Surgeons Board of Queensland”. The new Part 2 establishes the Board, defines the Board’s relationship with the State, sets out the Board’s powers and provides for the election of members and their responsibilities. This new Part 2 incorporates most of the old provisions relating to the Board and also adds new provisions to reflect society’s current expectations of the conduct of statutory bodies.

The new sections 4E to 4G replace parts of the old sections 4 and 7 of the Act. The substance of these sections are retained but redrafted to accord with current drafting style.

NEW PART 2—VETERINARY SURGEONS BOARD OF QUEENSLAND

New Division 1—Establishment and powers

New section 4—Establishment of the Board

New section 4 establishes the Board, provides that the Board is a body corporate, has a common seal and may be sued and be sued in its corporate name.

New section 4A—Board’s relationship with the State

New section 4A clarifies that the Board represents the State of Queensland and is part of the Department of Primary Industries for the purposes of the Financial Administration and Audit Act 1977. In practical terms, this means the Board’s financial accounts are part of the Department’s accounts for auditing purposes. Because the Board represents the State of Queensland, it also obtains the benefits of the State’s privileges and immunities.

New section 4B—Powers of board

New section 4B provides that the Board has all the powers of an individual and may do anything else necessary or convenient for the performance of its functions.

New Division 2—Membership

New section 4C—Membership

The new s4C amends the membership of the Board to increase the membership from 5 to 6 members. The new section provides for the Minister to nominate 4 of the members, 3 of which must be veterinary surgeons and 1 of which must be a senior officer of the Department. The old section 4 provided that all members of the Board are to be veterinary surgeons. The new s4C allows the Minister to nominate a layperson as one of the members to provide a consumer perspective. The other 2 members of the Board are to be elected under s8 of the Act.

New section 4D—Chairperson and deputy chairperson

The new s4D identifies the chairperson of the Board as the member who is the senior officer of the Department and provides that the deputy chairperson of the Board must be a veterinary surgeon. The term “chairperson” and “deputy chairperson” have replaced the old terms “president” and “deputy president”.

New section 4E—Qualifications for membership

The new s4E sets out events that disqualify a person from being a member or continuing to be a member of the Board.

New section 4F—Vacation of office

The new s4F provides for events that mean the member’s office is vacated.

New section 4G—Term of appointment

The new s4G provides for the term of appointment for the members. This section provides members (other than the chairperson) have a maximum appointment of 3 years. This is subject to reappointment. The chairperson may have an unlimited appointment.

Amendment of s5 (Board to be a body corporate)

Clause 39 omits section 5(1) and (2) of the Act. Section 5(1) provided that the Board is a body corporate. The substance of section 5(1) is provided for in the new section 4 (see clause 38). Section 5(2) provided for the judicial notice of the seal of the Board has been omitted. This provision has been omitted as judicial notice of the Board’s seal is provided for under s42A of the Evidence Act 1977. That section provides that judicial notice must be taken of the imprint of any seal of an entity established under an Act. The remaining subsections of section 5 are renumbered.

Insertion of new Pt 2, div 3, hdg

Clause 40 inserts a new Division 3 in Part 2 titled “Division 3- Election of members”.

Omission of s7 (Disqualifications from membership of board)

Clause 41 omits section 7 that provided for disqualifications from membership of the Board. This provision is redrafted in the new section 4F of the Act to reflect current professional standards on the grounds of disqualification from membership of the Board.

Replacement of ss 10 and 12

Clause 42 omits section 10 that dealt with how the Board is to conduct its business. *Clause 42* also omits section 12 that dealt with quorum. The substance of the old sections 10 and 12 are incorporated in the new Division 5 in Part 4 of the Act entitled “Division 4—Board business”.

*New Division 4—Board Business***New section 10—Conduct of business**

The new section 10 provides that the Board may conduct its business, including its meetings, in a way it considers appropriate.

New section 11—Quorum

The new section 11 provides that quorum of the Board is to be 3 members of the Board. This is the same as the quorum under the old section 12.

New section 12—Presiding at meetings

The new section 12 provides that the chairperson shall preside at meetings of the Board. If the chairperson is absent, the deputy chairpersons will preside. If the chairperson and the deputy chairperson are absent, the other members decide who will preside at meetings.

New section 12A—Conduct of meetings

The new section 12A provides for voting at meetings and also provides for improved meeting procedures such as using technology in meetings, for example, the use of teleconferencing.

New section 12B—Minutes

The new section 12B provides that the Board must keep minutes of its meetings and a record of resolutions made at the meetings.

New Section 12C—Disclosure of interests

The new section 12C provides for disclosure of interests. The section provides that members must disclose an interest that could conflict with the performance of the member's duty in considering a board matter. The clause provides for penalties of 40 penalty units if the member fails to disclose the conflict and then takes part in a decision about the matter. The clause provides that if the member is a veterinary surgeon, the member does not have an interest in a matter, merely because the member is a veterinary surgeon.

Insertion of new pt 2, div 5, hdg

Clause 43 inserts a new Division 5 in Part 2 titled "Division 5—Other provisions about the Board".

Amendment of s14 (Officers)

Clause 44 amends section 14 of the Act to insert that there is to be a registrar of the Board and to provide that the registrar is employed under the *Public Service Act 1996*. Clause 44 also omits the reference to the employment of the deputy registrar of the Board. The position of deputy registrar is to be omitted under the Act.

Amendment of s15E (Jurisdiction and decisions of tribunal)

Clause 45 inserts additional jurisdiction of the Veterinary Tribunal of Queensland (Tribunal). Currently the Tribunal only hears charges of professional misconduct in its original jurisdiction. The additional jurisdiction relates to hearing appeals from decisions of the Board on:

- imposing a condition (other than the condition of entry for the Board) on approval for veterinary premises under the new s25D;
- refusing an application to approve veterinary premises under the new s25E; or

- suspending or cancelling an approval of veterinary premises under the new s25I.

The new sections 25D, 25E and 25I relate to the new system of the Board approving premises to be used as veterinary premises. This new system is set out in clause 54.

Amendment of s 15F (Proceedings of tribunal)

Clause 46 replaces section 15F(3) (a) and (b). That section provided for legal and other representation before the Tribunal to assist the Tribunal and for the veterinary surgeon being charged for professional misconduct. Under its additional jurisdiction, the Tribunal also hears appeals from decisions of the Board (see clause 45). To take into account the new appeals the Tribunal will hear, the section has been redrafted.

The section allows the Tribunal to be assisted by a lawyer or member of the Board. In addition, the new section provides that a party to the proceedings (either the Board, the appellant or the veterinary surgeon charged with professional misconduct) may be represented by a lawyer or another person unless the Tribunal considers it appropriate in the interests of justice to direct otherwise. This means that the Tribunal has the discretion to disallow the Board or the appellant legal representation if it is unfair to either party to have such legal representation.

Insertion of new pt 4, div 1 hdg

Clause 47 inserts a new Division 1 in Part 4 of the Act—“Registration of veterinary surgeons and veterinary specialists, and approvals to practice veterinary science.”

Omission of s18B (Approval of corporations)

Clause 48 omits section 18B of the Act. That section provided for regulation of corporations to practise veterinary surgery. This omission allows any person (natural or corporate) to apply to the Board to operate a veterinary practice at veterinary premises. Under the old section 18B, a corporation could only own or operate a veterinary practice if the majority shareholders or directors of the corporation were veterinary surgeons. The omission of section 18B gives effect to the recommendation of the NCP review to remove the restriction on the ownership of veterinary practices.

Amendment of s19B (Registration for a limited period)

Clause 49 amends s19B of the Act. That section provided for limited registration for interstate registered veterinary surgeons who need Queensland registration for short term work only. The amendment clause allows veterinary surgeons registered in New Zealand to also apply for limited registration. The amendment is consistent with the *Trans Tasman Mutual Recognition (Queensland) Act 1999*. The clause also redrafts section 19B(2) and (3) to accord with current drafting practice.

Insertion of new pt 4, div 2 hdg

Clause 50 inserts a new Division 2 in Part 4 of the Act titled—“Matters about conduct of veterinary surgeons”.

Amendment of s22F (Misconduct in a professional respect)

Clause 51 omits 3 grounds of professional misconduct from section 22F, that is—

- The omission of section 22F(b)—This ground of professional misconduct related to a veterinary surgeon using a title other than contained in the veterinary surgeon’s professional qualifications for registration as a veterinary surgeon;
- The omission of section 22F (f)—This ground of professional misconduct related to a veterinary surgeon advertising in contravention of the regulations and procuring clients through an outside agency as a ground of misconduct. The omission of this ground gives effect to the NCP recommendation that restrictions on advertising should be removed;
- The omission of section 22F(g)—This ground of professional misconduct related to a veterinary surgeon contravening a “prohibited practice” set out in the old section 25. That section is omitted under clause 54 so the ground of misconduct is redundant.

Clause 51 also inserts some additional grounds of misconduct, that is:

- the insertion of section 22F(m)—This new ground of professional misconduct relates to a veterinary surgeon who directs or allows a person who is not a veterinary surgeon to practise veterinary science. This ground mirrors the new offence set out in the new section 25M;

- the insertion of the new section 22F(n)—This new ground of professional misconduct relates to a veterinary surgeon who holds out that a person who is not a veterinary surgeon may practise veterinary science. This ground mirrors the offence provisions of s25O. This mirroring allows the Board to elect to institute disciplinary proceedings rather than seek a prosecution in the Magistrates Court for the conduct;
- the insertion of the new sections 22F(o) and (p)—These new grounds of professional misconduct relate to a veterinary surgeon conducting a veterinary practice at premises other than veterinary premises or not complying with a condition of approval for the veterinary premises. These grounds are to ensure veterinary surgeons comply with the approval system of veterinary premises set out in Part 4A (see clause 54).

Insertion of new pt 4, div 3 hdg

Clause 52 inserts in Part 4 of the Act a new Division 3 titled—“Miscellaneous.”

Amendment of s22H (Appeals)

Clause 53 replaces s22H(3) and (3A) with the court procedure to be followed for appeals from the Tribunal to the District Court.

Replacement of ss25 - 27

Clause 54 omits section 25. That section provided for “prohibited practices”, all of which attracted the maximum penalty of 40 penalty units. The NCP review recommended that the prohibited practices be maintained and the list of exemptions reviewed. In that process, the prohibited practices in s25 have been omitted, redrafted or amended. The remaining prohibited practices have been inserted in the new Part 4B of the Act as separate offences.

The old section 25(5B) provided that a regulation may declare certain acts of animal husbandry not to be veterinary surgery. This regulation making power is retained and widened under an exemption to the definition of veterinary science (see clause 36).

The clause also omits s25A of the Act. That section provided that the Board controls the use of veterinary business names. This omission

follows the NCP recommendation to relinquish control on business names of veterinary businesses.

The clause also omits s26 of the Act. That section provided that veterinary surgeons may sue for fees. This section can be omitted, as it is a general principle of contract law that debts arising from a contractual relationship may be recovered.

The clause also omits s27 of the Act. That section allowed the Board to allow a veterinary practice to continue under the name of a deceased veterinary surgeon. This provision is to be omitted to implement the NCP recommendation of removing restrictions on the use of business names and ownership.

The clause also inserts new Part 4A- titled “Approvals to use premises as veterinary premises.” This part is required to implement the NCP recommendation to retain the controls on veterinary premises in legislation. Whilst this was provided for under s25A and s29A of the Act, a new part is required to modernise the approval process to incorporate procedural fairness and a clearer decision making model.

NEW PART 4A—APPROVALS TO USE PREMISES AS VETERINARY PREMISES

Division 1—Preliminary

New Section 25—Definitions for pt 4A

The new section 25 provides for a definition of “disqualifying offence” and “information notice”. “Disqualifying offence” sets out several offences that disqualify an applicant under the new s25F from obtaining the Board’s approval to use premises as veterinary premises. Such offences include indictable offences and also offences relating to the practice of veterinary science such as care and protection of animals or wrongful administering or prescription of drugs. “Information notice” is a shorthand definition for the written notice to applicants of the decision of the Board and appeal rights.

New Division 2—Obtaining approvals**New section 25A—Applying for approval**

The new section 25A sets out how a person may apply to the Board for approval to use premises as veterinary premises.

New section 25B—Additional information for application

The new section 25B provides that the Board may require the applicant to provide further information relevant to the application and may require the applicant to allow a member or officer of the Board to inspect the premises.

New section 25C—Deciding application

The new s25C provides for the time in which the Board must decide to grant or approve the application.

New section 25D—Grant of application

The new s25D provides that if the Board grants the application, it must:

- issue the approval within 14 days of the approval; and
- provide the holder with an information notice if conditions are imposed on the approval (other than to enter the premises to inspect).

New section 25E—Refusal of application

The new s25E provides that if the Board refuses the application, the Board must provide the applicant with an information notice within 14 days of making the decision.

New section 25F—Criteria for decision

The new section 25F provides for the only criteria the Board can use to refuse an application. Such grounds are:

- the premises are not suitable for use as veterinary premises when assessed against the standards for conducting veterinary premises as approved by the Board under s29A of the Act;
- a veterinary surgeon will not be practising veterinary science at the premises; or
- the person applying for the approval is convicted of a disqualifying offence.

New Division 3—Conditions

New section 25G—Conditions of approval

The new s25G provides that the Board may impose reasonable conditions on the approval and includes some examples of such conditions including:

- equipment to be used at the premises;
- hygiene practices;
- qualifications of staff;
- number of people to be employed; and
- the levels of veterinary science that may be practised.

Further, the new section provides that a mandatory condition on the approval is that the approval holder must allow an officer of the Board to inspect the premises to check for compliance with conditions of the approval.

New Division 4—Amendment, suspension or cancellation of approval

New section 25H—Amendment—grounds

The new section 25H provides that the Board may amend an approval in certain specified circumstances.

New section 25I— Suspension or cancellation—grounds

The new s25I provides that the Board may suspend or cancel an approval on various grounds such as-

- the application was approved because of a materially false or misleading representation or document;
- the premises were not suitable for use as veterinary premises;
- a veterinary surgeon was not practising at the premises;
- the holder of the approval has not complied with a condition of the approval;
- the holder committed a disqualifying offence.

New section 25J—Amendment, suspension or cancellation—procedure

The new section 25J provides for the procedure of amendment, suspension or cancellation so as to provide the approval holder with sufficient procedural fairness to show cause why the approval should not be amended, suspended or cancelled.

New section 25K—Notice of amendment, suspension or cancellation

The new s25K provides that if the Board decides to amend, suspend or cancel the approval, the Board must as soon as practicable give the approval holder an information notice.

Clause 54 also inserts a new Part 4B that provides for new offence provisions (s25L to s25Q). These new offences replace the prohibited practices set out in the omitted section 25 of the Act (see above).

NEW PART 4B—OFFENCE PROVISIONS**New section 25L—Conducting veterinary practice**

The new s25L provides that a person must not conduct a veterinary practice other than at veterinary premises approved by the Board. The maximum penalty for conducting a veterinary practice at unapproved premises is 40 penalty units. This offence is to ensure that persons operating veterinary practices have the Board's approval for the veterinary premises.

New section 25M—Persons who must not practise veterinary science

The new s25M provides that it is an offence for a person who is not a veterinary surgeon to practise veterinary science. The maximum penalty for this offence is 40 penalty units. S25M provides 2 exemptions to this offence, that is, where:

- a person is studying veterinary science and is being supervised by a veterinary surgeon; and
- the person practises veterinary science other than for a fee or reward. This exemption (which was provided for under the old s 25(5)b of the Act) is to allow people to perform acts of veterinary science if they are not being paid, for example farmers tending their own animals or local government and welfare groups euthanising animals. The *Animal Protection Act 1925* regulates such conduct to ensure it is not cruel.

The new s25M replaces and modernises the prohibited practice of s25(1) of the Act.

New section 25N —Allowing or directing a person who is not a veterinary surgeon to practise veterinary science

The new s25N prohibits a veterinary surgeon from allowing or directing a person who is not veterinary surgeon to practise veterinary science in relation to an animal under the veterinary surgeon's care. The maximum offence is 40 penalty units. This offence is to deter veterinary surgeons from allowing support staff from performing acts of veterinary science as they are not qualified. The exemption to this offence is if the person who is not a veterinary surgeon is studying to become a veterinary surgeon and is working under the veterinary surgeon's supervision. This offence replaces and modernises the prohibited practices of s25 (4)b and (4A).

New section 25O—Directing veterinary surgeon to practise veterinary science

The new s25O prohibits the owner or manager of veterinary premises from directing a veterinary surgeon to practise veterinary science in a way that would be a ground of professional misconduct against the veterinary surgeon under s22G of the Act. The maximum penalty for this offence is 40 penalty units. This offence is to deter owners or managers of veterinary premises (who are not veterinary surgeons and so can not be charged under

the professional misconduct provisions) from directing employed veterinary surgeons from practising unprofessional veterinary science.

New section 25P—Claims about being a veterinary surgeon

The new s25P provides that it is an offence for a person who is not a veterinary surgeon to hold that person out or to hold another person out to be a veterinary surgeon. The maximum penalty for these offences is 40 penalty units. These offences partially replace and modernise the old prohibited practices set out in the omitted s25 (2) and s25 (5)(a) of the Act.

New section 25Q—Using titles etc

The new s25Q (1) and (2) prohibits a person who is not a veterinary surgeon or veterinary specialist from using the title (or like term) of veterinary surgeon or veterinary specialist. The maximum penalties for these offences are 40 penalty units. This provision replaces and modernises the prohibited practices set out in the omitted s25 (1) (2) and s25 (8A).

Amendment of s37 (Regulation-making power)

Clause 55 amends s37 of the Act that provides for regulation-making powers. The main amendments to this provision are:

- S37(2)(k), (ka), (kb) (the regulation-making powers to control veterinary surgeons, approved corporations and the University of Queensland School of Veterinary Science from advertising) are omitted to reflect the NCP recommendation to remove restrictions on advertising; and
- S37(2) (ob) (the regulation power relating to the power to control the standards of construction of veterinary premises) is omitted, as this Act does not regulate the standards of construction.

Insertion of new pt 6

Clause 56 inserts a new Part 6 into the Act that provides for a transitional arrangements relating to the amendments to the Act being made by this Bill.

New section 38—Continuation of board membership

New section 38 provides that members of the Board who are currently appointed under the old section 4 are to continue in office under the new section 4C of the Act.

New section 39—Continuing effect of approvals

New section 39 provides for a transitional arrangement for those persons who currently have the approval of the Board for their veterinary premises. The new section 39 provides that approvals of veterinary premises given under the old s25A of the Act are to be approvals of veterinary premises under the new Part 4A of the Act.

PART 9—MINOR AMENDMENTS AND REPEALS**Acts amended - schedule**

Clause 57 provides that the Schedule to the Bill amends the Acts it mentions.

Repeals

Clause 58 provides that the following Acts are repealed:

- *Dairy Adjustment Program Agreement Act 1976;*
- *Dairy Adjustment Program Agreement Act 1977;* and
- *Wheat Marketing (Facilitation) Act 1989*

These Acts have now become redundant.

SCHEDULE

MINOR AMENDMENTS

CHEMICAL USAGE (AGRICULTURAL AND VETERINARY) CONTROL ACT 1988

Paragraph 1 inserts a new heading after section 38 of the Act. The new heading will come before the definitions in the Act and will put the definitions into a schedule called “Dictionary”. This amendment is consistent with current drafting practice.

GRAIN RESEARCH FOUNDATION ACT 1976

Paragraph 1 corrects a minor error in subsection 7(1) of the Act. The word “and” had been missing between paragraphs 7(1)(a) and 7(1)(b).

MEAT INDUSTRY ACT 1993

Paragraph 1 omits section 2 of the Act. Section 2 provided for the commencement of certain parts of the Act by proclamation. Since those parts of the Act have now commenced, the section has become redundant.

Paragraph 2 amends section 162K(1) of the Act to improve the English expression used in the clause.

PLANT PROTECTION ACT 1989

Paragraph 1 amends section 6AA (2)(d) of the Act to rectify an incorrect reference to sections 38 and 39 of the *Sugar Industry Act 1999*. The reference will be amended to refer to sections 25 and 26 of the *Sugar Industry Act 1999*.

SUGAR INDUSTRY ACT 1999

Paragraph 1 amends section 4 of the Act to correct a error in the reference to the Schedule. Section 4 refers to "schedule 2" where in fact there is currently only one schedule to the Act.

Paragraph 2 corrects a typographical error in section 16(2) of the Act.

TIMBER UTILISATION AND MARKETING ACT 1987

Paragraph 1 omits the heading of section 6 of the Act "Interpretation" and inserts the heading "Definitions". The new heading reflects modern drafting practice.

Paragraphs 2 and 3 also make minor amendments to section 6 to accord with current drafting practice.

VETERINARY SURGEONS ACT 1936

Paragraph 1 replaces all references to veterinary surgery with veterinary science. This amendment reflects current academic thought on describing the body of knowledge and procedures relating to veterinary surgery and medicine.

Paragraph 2 replaces part of the heading in section 6 of the Act. The old heading provided that the President is to be the executive officer of the Board. The new heading provides that the chairperson is to be the chief executive officer of the Board. This amendment reflects the change in title of the senior member of the Board (see clause 38).

Paragraph 3 replaces the beginning of section 6 of the Act. That section provided that the president shall be the chief executive officer of the Board. The section now provides that the chairperson is the chief executive officer of the Board (see reasons above).

Paragraph 4 replaces part of section 6(2) of the Act. That part of the section provided that the president may authenticate a document of the Board. The replacement part of the section provides that the chairperson can authenticate the document (see reasons in paragraph 6).

Paragraph 5 replaces the term “elective” in section 8 of the Act with “elected”. This amendment reflects current drafting style.

Paragraph 6 replaces the term “State” in section 18(1)(a)(iv) with “State, or”. This amendment clarifies that section 18(1) a and section 18(1) b provide for alternate conditions for registration as a veterinary surgeon.

Paragraph 7 replaces references to “president” throughout the Act with the term “chairperson”.

Paragraph 8 amends section 29A. That section provides that veterinary premises shall be constructed and equipped and managed in such a manner as prescribed or determined by the Board. The amendment omits the reference to construction, as the Board is not to have statutory responsibility for the construction of premises.

Paragraph 9 omits section 31 of the Act. That section provided that the Board is to publish a yearly statement of receipts and disbursements. This section is redundant since the Board is part of the Department of Primary Industries (see clause 39). It is subject to particular financial reporting requirements as a departmental reporting entity under section 40 of the *Financial Administration and Audit Act 1977*.

Paragraph 10 inserts a new heading after section 37 of the Act. The new heading will come before the definitions in the Act and will put the definitions into a schedule called “Dictionary”. This amendment is consistent with current drafting practice.