

Queensland



# VETERINARY SURGEONS ACT 1936

**Reprinted as in force on 7 January 1997  
(includes amendments up to Act No. 37 of 1996)**

**Reprint No. 2B**

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# Information about this reprint

This Act is reprinted as at 7 January 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# VETERINARY SURGEONS ACT 1936

[as amended by all amendments that commenced on or before 7 January 1997]

**An Act relating to the qualifications and registration of veterinary surgeons and the regulation and control of the practice of veterinary surgeons, and for purposes connected therewith**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Veterinary Surgeons Act 1936*.

### Definitions

3. In this Act—

“**animal**” means an animal, bird, fish or reptile, of any species.

“**animal attendant**” means a person other than a veterinary surgeon who, under the supervision of a veterinary surgeon, engages in the care and handling of animals.

“**animal nurse**” means a person who has successfully completed a course of training approved by the board and who performs in relation to veterinary surgery such duties as are prescribed.

“**approved corporation**” means a corporation in respect of which an approval under section 18B is in force.

“**approved form**” see section 36A.<sup>1</sup>

“**board**” means the Veterinary Surgeons Board of Queensland constituted

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<sup>1</sup> Section 36A (Approval of forms)

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under this Act.

**“member”** means a member of the board.

**“person”** includes a corporation or joint stock company or a firm registered under the laws relating to the registration of firms.

**“practice”**, as regards veterinary surgery, includes the doing or performance for fee or reward of any act, procedure, matter or thing that forms part of veterinary surgery, whether on 1 or more than 1 occasion.

For the purpose of this definition, a person who accepts a gift for having done or performed any act, procedure, matter or thing that forms part of veterinary surgery is deemed to have done or performed the act, procedure, matter or thing for reward.

**“president”** means the president of the board, and includes the deputy president.

**“register of veterinary specialists”** means the register of veterinary specialists, Queensland.

**“register of veterinary surgeons”** means the register of veterinary surgeons, Queensland.

**“registrar”** means the registrar of the board, and includes a person appointed pursuant to this Act to be the deputy registrar and any person who for the time being performs the duties of the registrar or deputy registrar.

**“stock inspector”** means a person who is an inspector within the meaning of the *Stock Act 1915*.

**“tribunal”** means the Veterinary Tribunal of Queensland constituted under this Act.

**“veterinary centre”** means premises at which veterinary surgery is practised, approved by the board as a veterinary centre.

**“veterinary clinic”** means premises at which veterinary surgery is practised, approved by the board as a veterinary clinic.

**“veterinary hospital”** means premises at which veterinary surgery is practised, approved by the board as a veterinary hospital.



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**“veterinary premises”** means premises at which veterinary surgery is practised, approved by the board for use for veterinary surgery, and includes a veterinary centre, veterinary clinic and veterinary hospital.

**“veterinary specialist”** means a veterinary surgeon registered under this Act as a veterinary specialist with respect to a veterinary specialty and whose name remains upon the register of veterinary specialists with respect to such veterinary specialty.

**“veterinary specialty”** means a branch of veterinary surgery prescribed under this Act to be a veterinary specialty.

**“veterinary surgeon”** means a person registered as a veterinary surgeon under this Act and whose name remains upon the register of veterinary surgeons.

**“veterinary surgery”** means the art and science of veterinary surgery and veterinary medicine, and includes—

- (a) the diagnosis of diseases in and injuries to animals including tests performed on animals for diagnostic purposes; and
- (b) the giving of advice based upon a diagnosis pursuant to paragraph (a); and
- (c) the medical or surgical treatment of animals; and
- (d) the undertaking or performance of surgical operations on animals; and
- (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.

### **Constitution and composition of board, appointment and tenure of office of members**

**4.(1)** There shall be constituted a board called the Veterinary Surgeons Board of Queensland, which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act.

**(2)** The board shall consist of a president and 4 other members, appointed by the Governor in Council, all of whom shall be veterinary

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surgeons.

(2A) The president shall, in addition to being a veterinary surgeon, be a person who is, for the time being, a senior officer of the department.

(3) The president of the board and 1 other member shall be persons nominated by the Minister.

(3A) The 3 remaining members shall be persons elected by veterinary surgeons from among themselves.

(3B) The member of the board, other than the president, nominated by the Minister shall be the deputy president of the board.

(4) The president of the board shall hold office at the pleasure of the Governor in Council.

(4A) A member of the board other than the president—

(a) shall hold office for a term of 3 years, but if at the expiration of that term the member's successor has not been appointed, shall, subject to this Act, hold office until his or her successor is duly appointed;

(b) shall be eligible for reappointment.

(5) The Governor in Council may at any time remove a member of the board other than the president from office.

**Board to be a body corporate**

5.(1) The board shall be a body corporate under the name and style of 'the Veterinary Surgeons Board of Queensland,' and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, and disposing of real and personal property.

**Judicial notice of seal of board**

(2) All courts, justices, and persons acting judicially shall take judicial notice of the seal of the board affixed to any document or notice, and shall presume that it was duly affixed.

**Filling of vacancies on board**

(3) Any extraordinary vacancy which at any time occurs in the office of

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member by death, removal, resignation, or otherwise shall be filled as soon as may be by the appointment of another member; but a member appointed to fill any such vacancy shall be deemed to hold the office of the member's predecessor, and shall hold office only so long as the member's predecessor would have done had no such vacancy occurred.

(4) In the case of an elected member, a vacancy shall be filled by the appointment as prescribed of a person recommended by the Minister from a panel of 3 persons nominated by the Queensland division of the Australian Veterinary Association Limited.

(5) If that association fails within 14 days after a request in writing in that behalf by the Minister to submit a nomination, the Minister may without that nomination recommend to the Governor in Council a person who is in the opinion of the Minister a suitable person, as a member of the board, and the person so recommended shall be deemed to be duly nominated.

**President to be executive officer of board**

6.(1) The president shall be the executive officer of the board.

(2) Every appointment, and every order, notice, certificate, or other document of the board relating to the execution of this Act shall be sufficiently authenticated if signed by the president or any 2 members of the board.

**Disqualifications from membership of board**

7. The office of a member other than the president shall become vacant if such member—

- (a) dies or becomes a patient within the meaning of that term in the *Mental Health Act 1974*; or
- (b) becomes bankrupt or compounds with his or her creditors; or
- (c) is absent without leave of the board from 3 consecutive meetings of which due notice has been given to the member; or
- (d) resigns office by signed notice addressed to the Minister; or
- (e) is removed from office by the Governor in Council; or
- (f) is convicted of an indictable offence or of an offence against this

Act; or

- (g) ceases to be a veterinary surgeon.

### **Board to hold triennial election**

**8.(1)** There shall be a triennial election of the elective members of the board.

**(1A)** The first such election shall be held on such day in February, 1938, as the board by resolution appoints, and thereafter such election shall be held on such day in February in every third year as the board by resolution appoints.

**(2)** The registrar shall be the returning officer at any election held under this Act, and each registered veterinary surgeon shall be entitled to vote and shall have 1 vote only.

**(3)** Notice of every election, the form of ballot paper and method of voting thereat, and the time and manner of nomination of every candidate for elective membership shall be as prescribed.

### **Power of Governor in Council on failure to elect**

**9.** If at the time prescribed or appointed for holding an election—

- (a) no election is held; or
- (b) no candidates are nominated; or
- (c) the number of candidates nominated is less than the number of candidates to be elected;

the Governor in Council may appoint a qualified person or a sufficient number of such persons to be a member or members of the board, as the case may require, to fill the vacancies which ought to be filled at such election, and the person or persons so appointed shall be deemed to have been duly elected at such election.

### **Business of board**

**10.** The board shall meet as often as is necessary for the due administration of this Act at such times and places as it thinks fit and shall

conduct its business in the manner prescribed or, so far as not prescribed, as it determines from time to time.

### **Validation of proceedings**

**12.(1)** If any member refuses or neglects to act or to attend any duly convened meeting of the board, all lawful acts and proceedings of the board shall be as valid and effectual as if they had been done or authorised by the full board.

**(2)** No proceedings of the board or of any person acting as president or member shall be invalidated by reason of any defect in the person's appointment, or election, or nomination, or of any disqualification of any such person, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below 3.

### **Appointment of deputy member**

**13.(1)** If a member is likely from any cause to be absent from meetings of the board for more than 4 months, the Governor in Council may appoint a deputy to act for such member during the member's absence.

**(1A)** In appointing a deputy to act during the absence of an elected member, the Governor in Council may have regard to the nomination of the Queensland division of the Australian Veterinary Association Limited.

**(2)** A deputy shall have the same powers, rights, and duties as the member in whose place the deputy is appointed.

### **Officers**

**14.(1)** A registrar and deputy registrar of the board are to be employed under the *Public Service Act 1996*.

**(2)** The board may appoint such other officers as the board thinks necessary to give effect to this Act.

**(3)** Subject to any applicable award of an industrial court, tribunal or authority or any industrial agreement, persons appointed pursuant to

subsection (2) shall be paid such remuneration and shall be employed under such conditions as are fixed by the board.

### **Funds of board**

**15.(1)** All moneys received by the board or the registrar, including fees and penalties, shall be paid into the funds of the board.

**(2)** The remuneration of the registrar and other officers appointed under this Act, the costs of the tribunal and all other expenses of and incidental to the administration of this Act, shall be paid by the board out of its funds.

**(2A)** However, where such funds are insufficient for the purpose of the administration of this Act there may be made from the consolidated fund such payments to the funds of the board as the Governor in Council may deem necessary for such purpose, which payments are hereby appropriated for the purpose.

**(3)** Any surplus moneys of the board which are not required for the purposes of subsection (2) may be expended by the board for the purposes of the advancement of veterinary science in such manner as it may determine.

## **PART 2A—THE TRIBUNAL**

### **Constitution of tribunal**

**15A.** There shall be constituted a tribunal to be called the Veterinary Tribunal of Queensland which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed on the tribunal by or under this Act.

### **Members of tribunal**

**15B.(1)** The tribunal shall consist of 3 members each of whom shall be appointed by the Governor in Council of whom—

- (a) 1 shall be a barrister, solicitor, stipendiary magistrate or a person

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who has been a stipendiary magistrate, nominated by the Minister; and

- (b) 1 shall be a veterinary surgeon nominated by the Minister; and
- (c) 1 shall be a veterinary surgeon who is a member of the Queensland division of the Australian Veterinary Association Limited and is nominated by that division.

(2) If the Queensland division of the Australian Veterinary Association Limited fails or refuses to nominate a veterinary surgeon who is a member of that division to be a member of the tribunal within 7 days after a date fixed by the Minister in that behalf the Governor in Council may appoint any veterinary surgeon who is a member of that division as a member of the tribunal and where the Governor in Council does so the veterinary surgeon so appointed shall be deemed to have been nominated by the Queensland division of the Australian Veterinary Association Limited.

(3) The person appointed pursuant to subsection (1)(a) shall be the chairperson of the tribunal.

(4) The persons appointed as members of the tribunal shall hold office at the pleasure of the Governor in Council.

**Vacating office**

**15C.(1)** A member of the tribunal shall be deemed to have vacated the member's office if the member—

- (a) dies; or
- (b) becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (c) becomes bankrupt or compounds with his or her creditors; or
- (d) is convicted in Queensland of an indictable offence or elsewhere than in Queensland of an offence which if committed in Queensland would be an indictable offence; or
- (e) resigns office by signed notice given to the Minister; or
- (f) where the member was appointed pursuant to section 15B(1)(a)—ceases to be qualified for appointment in terms of that paragraph; or

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- (g) where the member was appointed pursuant to section 15B(1)(b)—ceases to be a veterinary surgeon; or
- (h) where the member was appointed pursuant to section 15B(1)(c)—ceases to be a veterinary surgeon or a member of the Queensland division of the Australian Veterinary Association Limited; or
- (i) is removed from office by the Governor in Council.

(2) When a vacancy arises in the office of a member of the tribunal the Governor in Council may appoint a person qualified to hold the office vacated and, in the case of a vacancy occurring in the office of the member appointed pursuant to section 15B(1)(c), nominated by the Queensland division of the Australian Veterinary Association Limited, as a member.

(3) Where a vacancy occurs in the office of the member appointed pursuant to section 15B(1)(c) and (2) shall apply to and in respect of the filling of that vacancy.

(4) Where pursuant to this section a person is appointed to fill a vacancy in the office of a member who was the chairperson of the tribunal that person shall, by virtue of the person's appointment, be the chairperson of the tribunal.

**Acting members of tribunal**

**15D.(1)** The Governor in Council may appoint a person who is not a member to act as a member of the tribunal where a member is unable or unwilling to act and whilst so acting the person shall be deemed to be a member of the tribunal and may exercise the powers and authorities and shall perform the functions and duties of the member in whose place the person is acting.

(2) A person appointed to act in the place of a member—

- (a) appointed pursuant to section 15B(1)(a) shall be a barrister, solicitor, stipendiary magistrate or a person who has been a stipendiary magistrate nominated for that purpose by the Minister;
- (b) appointed pursuant to section 15B(1)(b) shall be a veterinary surgeon nominated for that purpose by the Minister;



- (c) appointed pursuant to section 15B(1)(c) shall be a veterinary surgeon who is a member of the Queensland division of the Australian Veterinary Association Limited and is nominated by that division.

(3) If the Queensland division of the Australian Veterinary Association Limited fails or refuses to nominate a veterinary surgeon who is a member of that division to be an acting member of the tribunal within 7 days after a date fixed by the Minister in that behalf, the Minister may appoint any veterinary surgeon who is a member of that division as an acting member of the tribunal and where the Minister does so the veterinary surgeon so appointed shall be deemed to have been nominated by the Queensland division of the Australian Veterinary Association Limited.

(4) The appointment of a person as an acting member shall terminate—

- (a) in the case of an appointment expressed to be for the purpose of any proceeding—upon that proceeding being determined by the tribunal; or
- (b) in the case of an appointment expressed to be for a period—upon the expiration of that period; or
- (c) upon its being revoked by the Governor in Council.

### **Jurisdiction and decisions of tribunal**

**15E.(1)** The tribunal shall have jurisdiction to hear and determine—

- (a) any charge alleging misconduct in a professional respect brought by the board against any veterinary surgeon;
- (b) any application made pursuant to section 22C;
- (c) show cause proceedings brought pursuant to section 22D.

(2) The decision of the chairperson of the tribunal on a question of law shall be taken to be the tribunal's decision.

(3) Subject to subsection (2), save where the tribunal is unanimous the decision of the majority of its members shall be taken to be the tribunal's decision.

(4) In any proceedings before it the tribunal may make such order as to the costs of the proceedings as it thinks fit.

**Proceedings of tribunal**

**15F.(1)** The tribunal shall meet as often as is necessary for the purpose of exercising its jurisdiction under this Act at such times and places as it thinks fit and shall conduct its business in such manner as may be prescribed or, where or to the extent not prescribed, as it determines from time to time.

**(2)** Proceedings before the tribunal shall if so required by the board or the veterinary surgeon concerned take place in public otherwise such proceedings shall take place in private.

**(3)** In proceedings before the tribunal—

- (a) a barrister or solicitor or a member or officer of the board may appear for the purpose of adducing evidence or assisting the tribunal;
- (b) a person against whom a charge is brought or in respect of whom an application is made pursuant to section 22C or who has been called upon to show cause pursuant to section 22D may be represented by a barrister or solicitor or a person nominated by the person as his or her agent.

**(4)** For the purpose of exercising its jurisdiction under this Act the tribunal may receive and admit in evidence the transcript of proceedings of any court having jurisdiction in the State where, in the opinion of the tribunal, the transcript is relevant to the matter before it.

**(5)** The tribunal may proceed to hear and determine proceedings instituted pursuant to this Act in the absence of the person in respect of whom the proceedings are brought where the tribunal is satisfied that the person has been given notice of the time and place at which the proceedings are to be heard and, where the same have been adjourned or further adjourned, of the time and place to which they have been adjourned.

**Registrar of tribunal**

**15G.** The registrar of the board shall, by virtue of office, be the registrar of the tribunal.

## **PART 3—THE REGISTERS**

### **Keeping registers**

**16.(1)** The registrar shall make and keep in the forms respectively prescribed the following registers—

- (a) the register of veterinary surgeons, Queensland;
- (b) the register of veterinary specialists, Queensland.

**(1A)** Unless the regulations prescribe to the contrary, the register of veterinary surgeons, Queensland existing at the date proclaimed under the *Veterinary Surgeons Act Amendment Act 1986*, section 2(2) shall be the register of veterinary surgeons, Queensland.

**(2)** The registrar shall enter in the register of veterinary surgeons, Queensland—

- (a) the full names and the addresses of all persons registered as veterinary surgeons under this Act; and
- (b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred; and
- (c) in the case of a veterinary surgeon who is also registered as a veterinary specialist—a reference to such registration; and
- (d) such other particulars as may be prescribed.

**(2A)** The registrar shall enter in the register of veterinary specialists, Queensland—

- (a) the full names and the addresses of all veterinary surgeons registered as veterinary specialists under this Act; and
- (b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred; and
- (c) a reference to the registration of the veterinary specialist concerned as a veterinary surgeon; and
- (d) such other particulars as may be prescribed.

**(3)** Where a register referred to in subsection (1) is kept by making

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entries in a bound or loose-leaf book, that register shall be deemed to be a book of such a public nature as to be admissible in evidence on its mere production from the proper custody, and the registrar shall be the person having the proper custody thereof.

(4) A certificate by the registrar that any person is registered as a veterinary surgeon or a veterinary specialist and possesses the qualifications therein named shall be prima facie evidence that the person named in such certificate is so registered and possesses the qualifications so mentioned and no other qualifications whatsoever; and a certificate by the registrar that the person named therein is not registered as a veterinary surgeon or, as the case may be, a veterinary specialist or does not possess certain qualifications shall be prima facie evidence that the person named therein is not so registered or does not possess the qualifications mentioned, as the case may be.

(4A) Any certificate purporting to be a certificate by the registrar as aforesaid shall be admissible in all proceedings whatsoever, and every court and justice shall take judicial notice of the signature of the registrar thereto.

(5) The registrar shall in the month of January in each year transmit a copy of the register of veterinary surgeons and of the register of veterinary specialists, each certified by the registrar to be correct up to 31 December of the year next preceding, to the Minister who shall thereupon cause the same to be published in the gazette as the roll of veterinary surgeons of Queensland for the year (insert number of year) or, as the case may be, the roll of veterinary specialists of Queensland for the year (insert number of year).

(6) A copy of the gazette containing the roll of veterinary surgeons of Queensland or, as the case may be, the roll of veterinary specialists of Queensland for any year shall be prima facie evidence in all proceedings that the persons named in such roll are registered and possess the qualifications therein mentioned; and the absence of the name of any person from such roll shall be prima facie evidence that such person is not registered; and the fact that the roll does not show that registration has been granted in respect of any particular qualification shall be prima facie evidence that the person concerned does not possess that qualification.

**Roll fee**

**17.(1)** Save where exemption from payment thereof is provided for by the regulations, every veterinary surgeon shall pay to the registrar the prescribed annual roll fee and every veterinary surgeon who is a veterinary specialist shall pay to the registrar such additional annual roll fee as is prescribed.

**(1A)** Such annual roll fee (including in the case of a veterinary specialist the additional annual roll fee prescribed) shall be paid to the registrar by the veterinary surgeon concerned before 31 January in each year.

**(2)** If a veterinary surgeon does not pay the prescribed annual roll fee before the time prescribed by subsection (1A), the board may remove the veterinary surgeon's name from the register of veterinary surgeons.

**(2A)** If a veterinary specialist does not pay the prescribed additional annual roll fee before the time prescribed by subsection (1A), the board may remove the veterinary specialist's name from the register of veterinary specialists.

**(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 on receiving all arrears and on payment of such restoration fees as are prescribed.

## **PART 4—VETERINARY SURGEONS AND VETERINARY SPECIALISTS**

**Registration of veterinary surgeons**

**18.(1)** A person shall be entitled to be registered as a veterinary surgeon if the person applies to the board in the approved form and satisfies the board that the person is of good fame and character and that—

- (a) the person is—
  - (i) the holder of a degree or diploma in veterinary surgery of a university or other body; or

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- (ii) a member of a college or other body of veterinary surgeons; in either case granted after due examination and recognised by the Governor in Council by regulation—
  - (iii) 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
  - (iv) as furnishing sufficient evidence that the person possesses the skill, knowledge and ability efficiently to practise veterinary surgery in the State;
- (b) the person 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 by regulation) in either case granted after due examination and recognised by the Governor in Council by regulation—
- (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 the person 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 the person has complied with those further requirements.

**(1A)** The board may deem a person to be the holder of a qualification referred to in subsection (1)(a)(i) or (ii) or (b)(i) or (ii) if the person satisfies the board that he or she is entitled to that qualification and that the same will be conferred upon the person in due course according to the practice of the university, college or other body in question.

**(2)** The further requirements referred to in subsection (1)(b) are—

- (a) that the person has been resident in the Commonwealth for the prescribed period;
- (b) that the person has undergone and passed prescribed examinations conducted in the English language.

**(3)** The board may refuse the application for registration as a veterinary

surgeon of a person who is a patient within the meaning of that term in the *Mental Health Act 1974*.

### **Performance of certain acts by approved persons**

**18A.(1)** The board may upon application grant approval to a person who possesses the qualifications specified in section 18(1)(b), but who has not complied with the further requirements specified in section 18(2), to do or perform any act, procedure, matter or thing the doing or performance of which forms part of the practice of veterinary surgery, in the course of the person's employment with and under the direction of a veterinary surgeon.

**(2)** An application under this section—

- (a) shall be in the approved form;
- (b) shall contain the prescribed particulars;
- (c) shall be accompanied by the prescribed fee;
- (d) shall be supported by such evidence as the board requires.

**(3)** The board shall consider each application made under this section and may grant or refuse it, and where the board grants an application it shall issue an approval.

**(4)** An approval granted and issued under this section—

- (a) shall be in the approved form;
- (b) shall be subject to such terms, conditions or restrictions as are prescribed, and specified therein;
- (c) shall remain in force—
  - (i) until the person to whom it was granted is registered under this Act as a veterinary surgeon; or
  - (ii) until the expiration of the period of 5 years commencing on the date on which the approval was granted;

whichever first occurs, and thereupon shall cease to be of any force or effect.

**(5)** Where a person in respect of whom an approval is in force under this section—

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- (a) 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;
- (b) is convicted of an offence against this Act;
- (c) is adjudged by the board after an inquiry to be guilty of misconduct which, if the person had been a veterinary surgeon, would be misconduct in a professional respect;
- (d) contravenes or fails to comply with any term, condition or restriction subject to which the approval was granted;

the board may cancel the approval or suspend the approval for such period as the board determines.

(6) Where an approval is suspended under subsection (5) that approval shall be of no force or effect during the period of suspension and shall remain in force only for the period during which it would have remained in force but for the suspension.

**Approval of corporations**

**18B.(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—1 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; and
- (b) be made on behalf of the applicant by a person who is concerned in the management of the applicant; and
- (c) specify—
  - (i) the name of the applicant; and
  - (ii) the address of the registered office in Queensland of the



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- applicant; and
- (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.

**Application for registration**

**19.(1)** Application to the board for registration as a veterinary surgeon or as a veterinary specialist shall—

- (a) be made as prescribed; and
- (b) be supported by such evidence as the board may require; and
- (c) be accompanied by the prescribed fee, save where exemption from the payment thereof is provided for in the regulations.

(3) Every registered veterinary surgeon on changing his or her place of business shall forthwith give notice of the fact by post to the registrar.

(4) Every district registrar of deaths in Queensland on registering the death of any veterinary surgeon shall forthwith transmit notice thereof to the registrar.

**Provisional registration**

**19A.(1)** Where a person has applied to the board in the approved form to be registered as a veterinary surgeon and has paid the prescribed fee for registration, the president or in the absence of the president a member of the

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board authorised generally in that behalf by the board, upon being satisfied that such person is entitled to be registered as a veterinary surgeon, may grant to the person a certificate in the approved form of provisional registration as a veterinary surgeon.

(2) A person to whom a certificate of provisional registration as a veterinary surgeon has been granted shall be deemed to be registered under this Act as a veterinary surgeon and this Act shall apply to and with respect to that person accordingly—

- (a) until the date stated in the certificate; or
- (b) until such later date as is fixed by the board.

(3) The date stated or the later date fixed by the board pursuant to subsection (2) shall not in any case be more than 3 months from the date on which the certificate was granted.

(4) Notwithstanding subsections (1) and (2), the board may at any time before the date stated or fixed, as the case may be, cancel a certificate granted and thereupon the person to whom it was granted shall cease to be deemed to be registered as a veterinary surgeon under this Act, and the cancellation shall, for the purposes of this Act, be deemed to be a refusal by the board of the application of that person to be registered as a veterinary surgeon.

(5) If a person to whom a certificate of provisional registration has been granted becomes registered as a veterinary surgeon while that certificate is still in force, the person's registration shall, unless otherwise determined by the board, date from the granting of that certificate.

**Registration for limited period**

**19B.(1)** A person may apply to the board to be registered as a veterinary surgeon for a period not exceeding 30 days.

(2) Where a person has applied to the board in the approved form to be registered as a veterinary surgeon pursuant to subsection (1) and has paid the prescribed fee, the president or, in the absence of the president, a member of the board authorised generally in that behalf by the board, upon being satisfied that such person is of good fame and repute and is registered as a veterinary surgeon in a State (other than Queensland) or in a Territory, may direct the registrar to register such person as a veterinary surgeon for a

period, in no case exceeding 30 days, and the registrar shall comply with that direction.

(3) Where a person is registered pursuant to this section and that person's registration as a veterinary surgeon in a State (other than Queensland) or a Territory is cancelled or suspended under the laws of that State or Territory then, on and from the date of that cancellation or suspension, the person's registration pursuant to this section shall be of no further force or effect and the board may remove the person's name from the register of veterinary surgeons.

### **Registration of veterinary specialists**

**19C.(1)** A veterinary surgeon shall be entitled to be registered as a veterinary specialist if the veterinary surgeon applies to the board in the approved form, pays the prescribed fee and satisfies the board that—

- (a) he or she has gained special skill in the veterinary specialty with respect to which he or she applies to be registered; and
- (b) the special skill was gained in practising veterinary surgery for a period of at least 5 years; and
- (c) he or she is the holder of a degree, diploma or other qualification recognised by regulation that relates to that veterinary specialty.

(2) The board may refer an application made under subsection (1) to the body known as the advisory committee on registration of veterinary specialists for the purpose of obtaining its advice in respect of the application.

### **Veterinary specialties**

**19D.** The Governor in Council may, by regulation prescribe the branches of veterinary surgery which are to be veterinary specialties in respect of which a veterinary surgeon may be registered as a veterinary specialist.

### **Special registration**

**19E.(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—

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- (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; and
- (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 connection 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; and
- (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; or
- (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.

### **Certificates of registration**

**20.** The board may issue certificates of registration as prescribed.

### **Removal from register and suspension**

**21.(1)** The board may remove from the register of veterinary surgeons the name of any person—

- (a) who becomes incapable of performing the duties of a veterinary surgeon because of physical or mental incapacity; or
- (b) whose name has been ordered to be so removed by the tribunal; or
- (c) who has had his or her qualification for registration as a veterinary surgeon withdrawn or cancelled by the university, college or other body by which it was awarded; or
- (d) who has requested the board in writing so to do; or
- (e) who is deceased.

**(2)** Where the name of a veterinary surgeon who is also a veterinary specialist is removed from the register of veterinary surgeons pursuant to subsection (1) the board shall also remove the name from the register of veterinary specialists.

**(3)** The board may remove from the register of veterinary specialists the name of any person who has had his or her qualification for registration as a veterinary specialist withdrawn or cancelled by the university, college or other body by which it was awarded.

**(4)** A suspension of the registration of a veterinary surgeon pursuant to this Act shall—

- (a) while the suspension continues in force, have the same effect as a removal of the name of the suspended person from the register of veterinary surgeons under this Act;
- (b) where the person is also a veterinary specialist and while the

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suspension continues in force, have the same effect as a removal of the name of the suspended person from the register of veterinary specialists under this Act.

**Investigation by board**

**22.(1)** The board may of its own motion or upon the complaint of a person aggrieved cause an investigation to be made of the conduct of a veterinary surgeon.

**(2)** A person aggrieved by the conduct of a veterinary surgeon who desires to complain of such conduct shall furnish to the board the person's complaint in writing.

**(2A)** The board may require that the writing be in the form of a statutory declaration made pursuant to the *Oaths Act 1867*.

**(3)** Where the board is of the opinion that there is sufficient evidence available with which to establish a prima facie case of misconduct in a professional respect against a veterinary surgeon it may proceed pursuant to section 22A or cause a charge to be drawn against the veterinary surgeon and refer such charge to the tribunal for hearing and determination.

**(4)** Every such charge shall contain or be accompanied by sufficient particulars to inform the tribunal and the veterinary surgeon against whom it is made of the matter alleged in the charge.

**Board may punish**

**22A.(1)** Subject to section 22B, where the board is of the opinion that a veterinary surgeon has been guilty of misconduct in a professional respect and considers that the misconduct is not of such a nature as to warrant its charging the veterinary surgeon therewith it may, in lieu of so charging the veterinary surgeon—

- (a) order the veterinary surgeon to pay to the board by way of penalty a specified sum of money in no case exceeding 10 penalty units; or
- (b) admonish or reprimand the veterinary surgeon; or
- (c) adjourn the matter of dealing with the veterinary surgeon pursuant to paragraph (a) or (b) for a period not exceeding 12 months.

(2) An order made pursuant to subsection (1)(a) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if the veterinary surgeon fails to pay the sum of money to the board within a specified time and, if the money is not paid within that time, his or her registration as a veterinary surgeon shall be suspended accordingly.

(2A) Suspension pursuant to subsection (2) shall be in addition to and not in lieu of payment of the sum of money.

(3) Where the board adjourns a matter for a period pursuant to subsection (1)(c) it shall reconsider the matter at the end of that period and, taking into consideration the conduct, demeanour and behaviour of the veterinary surgeon concerned during that period, proceed pursuant to subsection (1)(a) or (b) or take no further action.

(4) Where the board deals with a veterinary surgeon pursuant to subsection (1) it may order the veterinary surgeon to pay to the board such costs as it thinks fit.

### **Board to give notice of its intention to proceed pursuant to s 22A**

**22B.(1)** Before dealing with a veterinary surgeon pursuant to section 22A(1) the board shall give to the veterinary surgeon written notice of its intention so to do and shall state in the notice—

- (a) the misconduct in a professional respect of which, in the opinion of the board, the veterinary surgeon is guilty;
- (b) that within the time specified in the notice, which time shall not be earlier than 14 days after the date of the notice, the veterinary surgeon may—
  - (i) make written representations to the board concerning the alleged misconduct; or
  - (ii) request the board to hear him or her in relation to the alleged misconduct; or
  - (iii) require the board to charge him or her with being guilty of the alleged misconduct.

(2) Where a veterinary surgeon requests the board to hear him or her in relation to the alleged misconduct the board shall advise the veterinary

surgeon of a time and place at which the veterinary surgeon may appear before the board and the veterinary surgeon may at that time and place appear before the board and himself or herself make representations to it concerning the alleged misconduct.

(3) In dealing with a veterinary surgeon pursuant to section 22A(1), the board shall give due consideration and weight to any representations made by the veterinary surgeon concerned in relation to the alleged misconduct.

(4) Where pursuant to a notice under subsection (1) a veterinary surgeon requires the board to charge him or her with being guilty of the alleged misconduct it is not competent to the board to proceed to deal with the veterinary surgeon pursuant to section 22A(1).

### **Board may apply to tribunal for an order to remove the name of a veterinary surgeon from the register**

22C.(1) Where a veterinary surgeon is convicted in Queensland or elsewhere of an offence, whether indictable or not, which in the opinion of the board renders the veterinary surgeon unfit to practise veterinary surgery the board may apply to the tribunal for an order that the name of the veterinary surgeon be removed from the register of veterinary surgeons.

(2) An application made pursuant to this section shall contain or be accompanied by sufficient particulars to inform the tribunal and the veterinary surgeon concerned of the matter alleged in the application.

(3) Where the tribunal is satisfied that the veterinary surgeon has been convicted of an offence, whether in Queensland or elsewhere and whether indictable or not, of such a nature that it renders the veterinary surgeon unfit to practise veterinary surgery the tribunal may order that the veterinary surgeon's name be removed from the register of veterinary surgeons.

(4) In proceedings brought pursuant to this section the tribunal shall have regard to the facts and circumstances surrounding the commission of the offence of which it is alleged that the veterinary surgeon concerned has been convicted and which are adduced in evidence before it.

### **Where veterinary surgeon medically unfit**

22D.(1) If it comes to the notice of the board, whether by reason of an



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investigation conducted by it or otherwise, that a veterinary surgeon may be medically unfit to practise veterinary surgery it may appoint a committee consisting of persons who are registered as medical practitioners under the *Medical Act 1939* (the “**committee**”) to determine whether or not the veterinary surgeon is medically fit to practise veterinary surgery.

(2) The board may, by written notice given to the veterinary surgeon, require the veterinary surgeon to appear before the committee and on being so required the veterinary surgeon shall report to the committee at a time and place specified in the notice and shall submit himself or herself to examination by the committee and to such tests and other examinations as the committee may require.

(3) Upon completing its examination of the veterinary surgeon and considering the results of the tests and other examinations the committee shall report to the board on the veterinary surgeon’s medical fitness to practise veterinary surgery.

(4) Where the veterinary surgeon fails to report to the committee or fails to submit himself or herself when and as required pursuant to subsection (2), the committee shall report the veterinary surgeon’s failure to the board.

(5) Where the committee’s report states that the veterinary surgeon is medically unfit to practise veterinary surgery or failed to report to it or failed to submit himself or herself to a test or examination when and as required pursuant to subsection (2), the board may by notice in writing given to the veterinary surgeon call upon the veterinary surgeon to show cause before the tribunal at a time and place specified in the notice as to why the veterinary surgeon’s name should not be removed from the register of veterinary surgeons.

(6) If at the time and place specified in the notice given under subsection (5) or at the time and place to which the proceedings to show cause are adjourned, the veterinary surgeon to whom the notice was given fails to appear or, having appeared, fails to show to the satisfaction of the tribunal that the veterinary surgeon is medically fit to practise veterinary surgery, the tribunal may order that the veterinary surgeon’s name be removed from the register of veterinary surgeons.

**Orders of tribunal on charge of misconduct in a professional respect**

**22E.(1)** Where the tribunal finds a veterinary surgeon guilty of a charge of misconduct in a professional respect brought pursuant to this Act it may—

- (a) order that the veterinary surgeon's name be removed from the register of veterinary surgeons; or
- (b) order that the veterinary surgeon's registration as a veterinary surgeon be suspended for a specified period; or
- (c) order that the veterinary surgeon pay to the board by way of penalty a specified sum of money in no case exceeding 40 penalty units; or
- (d) admonish or reprimand the veterinary surgeon.

**(2)** An order made pursuant to subsection (1)(c) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if the veterinary surgeon fails to pay the sum of money to the board within a specified time and, if the money is not paid within that time, the veterinary surgeon's registration as a veterinary surgeon shall be suspended accordingly.

**(3)** Suspension pursuant to subsection (2) shall be in addition to and not in lieu of payment of the sum of money.

**Misconduct in a professional respect**

**22F.** Without limiting the meaning of the term "**misconduct in a professional respect**" a veterinary surgeon shall be guilty of such misconduct who—

- (a) is habitually drunk or is addicted to any deleterious drug; or
- (b) in connection with the practice of his or her profession, makes use of any title or description other than a title or description contained in the description of qualifications in respect of which registration has been granted to the veterinary surgeon or other prescribed title or description; or
- (c) conducts any veterinary premises or other place for the practice of veterinary surgery where the veterinary surgeon himself or

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herself is not in full-time attendance thereat, unless a veterinary surgeon employed by him or her is in full-time attendance thereat for the purpose of practice and supervision during the hours at which such premises are open for the practice of veterinary surgery, and the name of such veterinary surgeon employed by him or her is conspicuously posted up or indicated on the premises by means of a name plate or other device in letters of equal dimensions to those of the veterinary surgeon's name; or

- (d) signs or gives in his or her professional capacity a certificate, notice, report or like document that is incomplete or is false or misleading in a material respect; or
- (e) contravenes or fails to comply with, or counsels, procures, aids or abets another person to contravene or fail to comply with, or does or omits to do any act for the purpose of enabling another person to contravene or fail to comply with, any Act or other law with respect to dangerous drugs whether or not the contravention or failure to comply is the subject of court proceedings; or
- (f) advertises directly or indirectly otherwise than in accordance with the regulations or employs or sanctions the employment of an agent for the purpose of procuring clients; or
- (g) contravenes or fails to comply with section 25(3), (4), (6), (8) or (8A); or
- (h) practises fraud or deception in the practice of his or her profession; or
- (i) is negligent or incompetent in the practice of his or her profession; or
- (j) is convicted of an offence involving cruelty to an animal; or
- (k) fails to keep the premises on which the veterinary surgeon practises his or her profession and all equipment contained therein in a clean and sanitary condition; or
- (ka) fails to keep such records as are prescribed or so far as are not prescribed as the board directs; or
- (l) assaults, resists, obstructs or hinders or threatens or intimidates a member or deputy member of the board or any officer of the board, in the exercise of his or her powers under this Act.

**Initiation of proceedings**

**22G.(1)** A charge alleging misconduct in a professional respect referred to the tribunal for hearing and determination shall be lodged with the registrar of the tribunal.

(2) An application under section 22C shall be lodged with the registrar of the tribunal.

(3) A copy of the notice under section 22D(5) calling upon a veterinary surgeon to show cause as to why the veterinary surgeon's name should not be removed from the register of veterinary surgeons shall be lodged with the registrar of the tribunal.

(4) At least 30 days prior to the date fixed for the hearing of a charge referred to in subsection (1) or of an application referred to in subsection (2), the registrar of the tribunal shall give notice in writing to the person against whom the charge is made or to whom the application relates informing the person of the charge or, as the case may be, the application, particulars thereof and the time and place for hearing.

**Appeals**

**22H.(1)** A person aggrieved by—

- (a) a refusal by the board, on any ground other than that the person does not possess the necessary academic qualifications, of the person's application to be registered as a veterinary surgeon; or
- (b) an order or determination of the tribunal made in respect of the person under section 22C(3), 22D(6) or 22E(1);

may appeal therefrom to a judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and be given effect to by the board.

(2) An appeal shall be by way of rehearing and shall be instituted within 30 days after notification of the refusal or order or determination to the person aggrieved and no later, by filing a notice of appeal in the registry of the District Court at Brisbane setting out the grounds of appeal.

(3) Rules of court may be made under the *District Courts Act 1967* with respect to the institution, conduct and disposal of an appeal.

(3A) Until such rules of court are made or in so far as the rules made do not extend to a particular case, the judge hearing the appeal may give such directions as to the hearing as the judge thinks fit and such directions shall be complied with.

(4) Where upon an appeal the judge orders a penalty to be paid by an appellant the judge shall order the penalty to be paid to the board and, for the purposes of its enforcement, the order shall be deemed to be an order made by the tribunal.

(5) The judge may make such order as to costs (including the costs of the proceedings in which the order or determination appealed against was made) to be paid by either party to the appeal as the judge thinks fit.

(6) An order for costs made pursuant to subsection (5) may be enforced in the same manner as a judgment of the District Court.

### **Surrender of certificate**

23.(1) A person whose name has been removed from a register or whose registration as a veterinary surgeon has been suspended shall, within 14 days from the date of receipt by that person of the notification of removal or suspension, surrender to the board every certificate of registration issued to the person under this Act.

(2) The board may dispense with the requirement contained in this section upon evidence satisfactory to the board being given that the certificate has been lost or destroyed.

### **Restoration of name**

24.(1) Where the board removes the name of any person from a register kept pursuant to this Act, the name of that person shall not be again entered on the register except by direction of the board or by order of a judge of the District Court at Brisbane.

(2) The board may if it thinks fit in any case restore to a register kept pursuant to this Act any name removed therefrom by order of a judge of the District Court or of the tribunal without payment of fee or on payment of such fee, not exceeding the registration fee, as the board may direct.

**Prohibited practices**

**25.(1)** A person other than a person registered under this Act as a veterinary surgeon and a corporation, firm or association other than an approved corporation or a firm or association consisting wholly of persons registered under this Act as veterinary surgeons shall not practise veterinary surgery or take or use or by inference adopt the name, initial, title, symbol or description of veterinary surgeon or any word or words being a combination or an abbreviation of the words ‘veterinary surgeon’ or use or have attached to or exhibited at the person’s place of business or residence or at its place of business any name, initial, title, symbol or description that implies or is calculated to imply or is likely to imply that the person or the corporation, firm or association is registered under this Act or is entitled to practise veterinary surgery or is carrying on the practice of veterinary surgery.

**(1A)** Notwithstanding subsection (1), the body known as the School of Veterinary Science of the University of Queensland may practise veterinary surgery provided that any act, procedure, matter or thing forming part of veterinary surgery done or performed on behalf of that body is done or performed by a veterinary surgeon.

**(1B)** Notwithstanding subsection (1), a stock inspector may carry out tuberculosis testing of animals in accordance with an authorisation of the Minister under section 33E.

**(2)** A person other than a veterinary surgeon shall not advertise or hold himself or herself out as being, or in any manner pretend to be or to possess the status of, a veterinary surgeon, or take or use or by inference adopt alone or in combination with any other name, title, word or initial, the name, title, word or initial of veterinary doctor, veterinary chemist, animal surgeon, animal physician, animal doctor, or any other veterinary, medical or surgical name, title, word or initial that implies or is calculated to imply or is likely to imply that the person is registered under this Act or entitled to practise veterinary surgery or is carrying on the practice of veterinary surgery.

**(3)** Except with the prior approval of the board, a veterinary surgeon, in any advertisement, poster or other public notice—

- (a) shall not hold out a person who is not registered under this Act as being the veterinary surgeon’s partner, assistant or associate;
- (b) shall not use words that imply or are calculated to imply that a

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person who is not registered under this Act is the veterinary surgeon's partner, assistant or associate.

**(4)** Save by or under the authority of this Act, a veterinary surgeon—

- (a) shall not hold out that a person who is not registered under this Act will do or perform any act, procedure, matter or thing in relation to veterinary surgery;
- (b) shall not cause, suffer or permit a person who is not registered under this Act to do or perform any act, procedure, matter or thing in relation to veterinary surgery that has been entrusted to or is in the charge of that veterinary surgeon.

**(4A)** A veterinary surgeon shall not be convicted of an offence against subsection (4)(b) if the veterinary surgeon proves that at the time the person did or performed the act, procedure, matter or thing in relation to veterinary surgery the person was undertaking a course of study in veterinary science conducted by a university situated in Australia and was acting at the veterinary surgeon's direction and under his or her supervision.

**(5)** A person other than a veterinary surgeon at any time—

- (a) shall not by advertisement or in any other manner hold out that the person or any other person who is not a veterinary surgeon will do or perform any act, procedure, matter or thing in relation to veterinary surgery;
- (b) shall not do or perform any act, procedure, matter or thing in relation to veterinary surgery for fee or reward.

**(5A)** For the purposes of subsection (5)(b), a person who accepts a gift for having done or performed any act, procedure, matter or thing in relation to veterinary surgery is deemed to have done or performed that act, procedure, matter or thing for reward.

**(5B)** For the purposes of subsections (5) and (5A), the Governor in Council may by regulation declare certain operations that may be done in or in connection with animal husbandry and specified therein not to constitute veterinary surgery.

**(5C)** A person shall not be convicted of an offence against subsection (5)(b) if the person proves that at the time the person did or performed the act, procedure, matter or thing in relation to veterinary surgery he or she was undertaking a course of study in veterinary science

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conducted by a university situated in Australia and was acting at the direction and under the supervision of a veterinary surgeon.

(6) A veterinary surgeon shall not practise veterinary surgery under a name other than the veterinary surgeon's own name.

(7) Where an approved corporation or a firm or association consisting wholly of veterinary surgeons practises veterinary surgery, there shall be exhibited in or on any sign at the place of business thereof and on office stationery and in any advertisement, in addition to the name of that corporation, firm or association the name and qualifications in respect of which registration has been granted of every veterinary surgeon who is a member of or comprises that corporation, firm or association.

(8) A veterinary surgeon shall not, without the approval of the board first had and obtained, take or use, or have attached to or exhibited at his or her residence or any place of business (either alone or in combination with other words or letters) the words 'veterinary services' 'veterinary rooms' or similar words or any word or words being a combination or an abbreviation thereof, or the word 'consultant' or similar word or an abbreviation thereof.

(8A) A person, other than a veterinary specialist, shall not take or use or by inference adopt the name, initial, symbol or description of veterinary specialist or any word or words being a combination or an abbreviation of the words 'veterinary specialist' or use or have attached to or exhibited at the person's place of business or residence any name, initial, title, symbol or description that implies or is calculated to imply that the person is a veterinary specialist.

(9) Notwithstanding any other Act or law, a person commits an offence against this section, if the act complained of is done or omitted on 1 occasion only.

(10) A person who is guilty of an offence against this section is liable upon conviction to a penalty of 40 penalty units and in addition to a penalty of 2 penalty units for every day during which that offence continues after the date of conviction.

**Restriction on use of certain names**

**25A.(1)** A veterinary surgeon shall not, without the approval of the board in writing first had and obtained, take or use or by inference adopt, or use or



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have attached to or exhibited at the veterinary surgeon's place of business or residence any word, name, initial, title, symbol or description that indicates, or is intended to indicate, that the premises are veterinary premises, or by advertisement or in any other manner hold out that the premises at which the veterinary surgeon practises veterinary surgery are veterinary premises.

(2) The approval of the board for the purposes of this section shall be in the discretion of the board upon such terms, conditions or restrictions as are prescribed or so far as not prescribed as the board determines.

(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.

**Veterinary surgeon may sue for fees etc.**

26.(1) A veterinary surgeon may sue in any court of competent jurisdiction for the recovery of the veterinary surgeon's fees or other remuneration for professional services in veterinary surgery.

(2) No person other than a veterinary surgeon, an approved corporation or a firm or association consisting wholly of persons who are veterinary surgeons shall demand, claim, accept, receive or retain or sue or counterclaim for, set off or recover any fee, charge, or remuneration for any operation, attendance, or advice in or in respect of veterinary surgery.

(3) However, nothing in this section shall prejudice or affect the right of a person lawfully entitled to compound, dispense, or supply any veterinary medicine from recovering the price of any such medicine so compounded, dispensed, or supplied by the person.

**Continuation of name of deceased veterinary surgeon**

27. Notwithstanding any other provision of this Act, upon the death of a

registered veterinary surgeon the board may permit the veterinary surgeon's name to remain upon the register, and may authorise the veterinary surgeon's executor, administrator, or trustee to carry on in the name of the deceased veterinary surgeon the practice formerly carried on by the veterinary surgeon, provided that the practice shall be carried on under the personal superintendence of a registered veterinary surgeon whose name shall be registered as superintendent of the practice.

## **PART 5—MISCELLANEOUS**

### **Person not to be a member of both the board and the tribunal**

**28.** An appointment shall not be made under this Act such that a person would, at the same time, be both a member or deputy member of the board and a member or acting member of the tribunal and any such appointment shall be void and of no effect.

### **Tribunal deemed to be commission of inquiry**

**29.** For the purpose of exercising its jurisdiction under this Act—

- (a) the tribunal shall be deemed to be a commission of inquiry within the meaning of the *Commissions of Inquiry Act 1950* and, subject to this Act, the provisions of that Act shall apply to proceedings of the tribunal; and
- (b) the members of the tribunal shall be deemed to be commissioners under that Act and to have all the powers, authorities, rights, privileges and protection of commissioners conferred by that Act including, in the case of the chairperson of the tribunal, those of the chairperson of a commission of inquiry; and
- (c) witnesses before the tribunal shall have the protection conferred by that Act on witnesses before a commission of inquiry.

### **Control of veterinary premises**

**29A.** Veterinary premises shall be constructed and equipped, and

controlled, managed and operated in such manner as is prescribed or so far as not prescribed as the board determines.

### **Allowances and expenses**

**29B.(1)** Subject to subsection (2), each member of the board and each member of the tribunal shall be paid such fees and allowances as the Governor in Council approves from time to time.

**(2)** A fee or an allowance shall not be paid to a member who is—

- (a) a stipendiary magistrate for attendance at any meeting held during the hours during which a Magistrates Court office is normally open for the conduct of public business;
- (b) an officer of the public service for attendance at any meeting held during the ordinary office working hours of that officer.

**(3)** Each member of the board and each member of the tribunal shall be paid such expenses as are necessarily incurred by the member in the discharge of his or her duties as a member and as the Minister approves.

### **Penalty for forging registration**

**30.** Any person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself, herself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, is guilty of an offence punishable, on conviction, by a penalty of 20 penalty units.

### **Board to publish statement of receipts and disbursements**

**31.** The board shall as soon as practicable after 30 June in each year publish in the gazette a statement made up to that date showing the receipts and disbursements of the board during the preceding year certified by the auditor-general as in the auditor-general's opinion exhibiting a true and fair view of the financial transactions of the board for the period to which the statement relates.

**Evidence**

**32.(1)** In any proceeding by or on behalf of the board under this Act it shall not be necessary to prove the appointment or election of the members, president, or registrar of the board.

**(2)** A writing certified by the registrar to be a true copy of or a true extract from any register, book, certificate, notice, list, declaration, statement, document, or writing of any nature whatsoever in the custody of the board or of any officer of the board, shall for all purposes be prima facie evidence of the original of which it purports to be a copy or extract, and shall be receivable in evidence to the same extent as the original.

**(3)** A certificate purporting to be that of the registrar as to—

- (a) an order or determination made by the board or the tribunal; or
- (b) an amount owing to the board pursuant to an order of the board or the tribunal;

shall upon its production be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

**Board may sue**

**33.(1)** The board may in its own name, by its registrar or any person thereunto authorised in writing under the hand of the president, institute, carry on, prosecute, and defend any action, complaint, information, or proceeding whatsoever.

**(1A)** Every court of law shall take judicial notice of the signature of the president to any such authorisation.

**(2)** Where the tribunal or the board has ordered that a sum of money or costs be paid to the board and the order is not complied with the amount of such sum or costs outstanding shall be a debt due and owing by the person against whom the order was made to the board and may be sued for and recovered in a court of competent jurisdiction.

**Reports**

**33A.(1)** The tribunal shall prepare a written report, signed by the persons by whom it was constituted at the relevant time, in relation to all matters

heard and determined by it under this Act.

(1A) The report shall be lodged with the registrar of the tribunal.

(2) The board shall prepare a written report in relation to all matters dealt with by it under section 22A.

(2A) The report shall be lodged with the registrar of the board.

(3) Unless otherwise authorised by the board, a report referred to in subsection (1) or (2) shall not be made available to any person other than the Minister or a person acting in aid of the Minister, a member of the tribunal, a member or officer of the board or the person to whom it relates or that person's solicitor.

(4) The board may publish the whole or any part of a report to which this section applies in such manner as it thinks fit.

### **Veterinary surgeon to produce records**

33C.(1) The board may, by notice in writing given to the veterinary surgeon, direct the veterinary surgeon to produce to it, within the time specified in the notice, such records as relate to his or her practice of veterinary surgery as are specified in the notice.

(2) A veterinary surgeon who fails to comply with a direction of the board under subsection (1) commits an offence.

(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.

### **Power of entry etc.**

33D.(1) A prescribed person may at any reasonable time enter upon any

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land and into any premises on land upon or in which the prescribed person suspects, on reasonable grounds, that an act, procedure, matter or thing that forms part of veterinary surgery, is being or has been done or performed in order to ascertain whether an offence against this Act is being or has been committed or whether any veterinary surgeon is guilty of misconduct in a professional respect.

(2) Before a prescribed person enters a part of any premises which part is used exclusively as a dwelling house the prescribed person shall, save where the prescribed person has the permission of the occupier of that part to his or her entry, apply to a stipendiary magistrate for, and obtain from the stipendiary magistrate, a warrant to enter.

(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.

(3) A stipendiary magistrate who is satisfied upon the application of a prescribed person that there is reasonable cause to suspect that an act, procedure, matter or thing that forms part of veterinary surgery is being or has been done or performed in any premises may issue a warrant directed to the prescribed person to enter the premises at such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time.

(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

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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 authorised 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 authorised 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 the magistrate 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; and
- (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—

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- (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.

**(5)** A prescribed person who enters upon any land or into any premises pursuant to this section or to a warrant issued pursuant to this section may, subject, in the case of entry pursuant to a warrant, to the terms of the warrant—

- (a) search the land or premises and examine anything found thereon or therein;
- (b) interview any person found thereon or therein;
- (c) collect and take away samples and specimens of anything found thereon or therein;
- (d) photograph the land or premises or any part thereof and anything found thereon or therein;
- (e) seize and take away records which, in the prescribed person's opinion formed on reasonable grounds, may contain evidence in respect of an offence against this Act or of misconduct in a professional respect.

**(6)** In this section premises that are used as a dwelling house do not include the curtilage of those premises.

**(7)** Any person, other than a veterinary surgeon, who assaults, resists, obstructs or hinders, threatens or intimidates a prescribed person in the exercise of his or her powers under this section commits an offence against this Act.



Maximum penalty—20 penalty units.

(8) In this section—

“**prescribed person**” means a member or deputy member of the board or any officer of the board.

### **Authorisation of stock inspectors to carry out certain tests**

**33E.(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 authorisation be given for the purposes of this section;

the Minister may, by instrument, authorise 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* to carry out that testing.

### **Savings**

**34.(1)** Nothing in this Act or the *Agricultural Standards Act 1952* shall prejudice or affect or be deemed to prejudice or affect the *Health Act 1937*.

(1A) Nothing in this Act shall prevent or be deemed to prevent any pharmacist or any registered veterinary surgeon or other person from supplying any veterinary medicine registered in accordance with the provisions of the *Agricultural Standards Act 1952*.

(1B) However, the provisions of the *Health Act 1937* shall apply and extend to any such pharmacist, surgeon, or other person; and this Act and the *Agricultural Standards Act 1952* shall be read and construed with the *Health Act 1937* accordingly.

(2) In subsection (1)—

“**pharmacist**” has the meaning ascribed to that term by the *Pharmacy Act 1976*, and includes any company or association of persons entitled to carry on a practice of pharmacy under that Act.

### **Penalties**

**35.(1)** All penalties and fees imposed by or pursuant to this Act may be recovered in a summary way by complaint under the *Justices Act 1886*.

**(2)** Every person guilty of any breach or contravention of this Act for which no other penalty is provided shall be liable to a penalty not exceeding 10 penalty units.

**(3)** Any proceedings under this Act may be instituted within 12 months after the offence is committed, or within 12 months after the discovery of the offence, whichever is the later period.

### **Penalties etc. to be paid into board’s funds**

**36.** All penalties and fees recovered by the board under this Act shall be paid to the board and become part of its funds.

### **Approval of forms**

**36A.** The chief executive may approve forms for use under the Act.

### **Regulation-making power**

**37.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may be made about the following matters—

- (a)** the powers, duties and functions of the registrar, deputy registrar and officers appointed by the board;
- (b)** registers and the manner of their keeping and the titles (including titles approved by the board in specific cases on the application of a veterinary surgeon), descriptions, qualifications and particulars to be inserted therein;
- (c)** the forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be

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used;

- (d) proceedings of the board and of the tribunal;
- (e) fees payable under this Act, the purposes for which those fees are payable, the variation of fees for different classes of veterinary surgeons;
- (ea) exemption from payment of fees and the persons to be so exempted;
- (f) fees and allowances payable to examiners and other persons under this Act;
- (g) applications to and approvals by the board;
- (h) penalties not exceeding 10 penalty units for contravention of or failure to comply with a regulation;
- (i) elections held under this Act;
- (j) proceedings in connection with complaints or charges against veterinary surgeons in respect of prohibited practices or for alleged misconduct in a professional respect;
- (k) the manner in which and the extent to which a veterinary surgeon—
  - (i) may advertise himself or herself as qualified to practise and the place where that practice takes place;
  - (ii) may make radio broadcasts or telecasts;
  - (iii) may write articles for or give statements to the press;
- (ka) the manner in which and the extent to which an approved corporation or a firm or association consisting wholly of persons who are veterinary surgeons may advertise the provision of professional services by its members, the place at which those services are offered and the qualifications of its members to practise veterinary surgery;
- (kb) the manner in which and the extent to which the School of Veterinary Science of the University of Queensland may advertise the provision of professional services by members of its staff who are veterinary surgeons;

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- (l) the holding of examinations and the persons required or eligible to sit for them; fees payable by examinees;
- (laa) appointment of examiners;
- (la) the continuing education of veterinary surgeons, including the nature and extent of that education;
- (m) the rules of professional conduct for veterinary surgeons;
- (n) the common seal of the board and the attesting of documents by or on behalf of the board;
- (o) inspection, operation, control and management of veterinary premises;
- (oa) care and attention of animals accommodated therein; the manner in which and the extent to which they may be advertised;
- (ob) standards of construction of buildings used in connection therewith;
- (oc) equipment and staff thereof;
- (od) methods of hygiene and standards of cleanliness therein;
- (oe) maintenance of records in connection therewith;
- (p) qualifications and courses of training for animal nurses and animal attendants, their functions and duties and regulation and control thereof;
- (q) the universities, colleges or like bodies and the degrees, diplomas or certificates granted by them that the Governor in Council may recognise in connection with applications for registration of persons as veterinary surgeons, and for approvals pursuant to section 18A;
- (r) the issue of certificates with respect to animals on which veterinary surgery has been done or performed;
- (s) the circumstances in which and the purposes for which those certificates may be issued;
- (t) the persons who may sign them.

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 January 1997. Future amendments of the Veterinary Surgeons Act 1936 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 15 of 1994	24 November 1994
2	to Act No. 58 of 1995	22 December 1995
2A	to Act No. 25 of 1996	20 August 1996

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
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## 6 List of legislation

### **Veterinary Surgeons Act 1936 1 Edw 8 No. 17**

date of assent 26 November 1936

commenced 11 March 1937 (proc pubd gaz 11 March 1937 p 975)

as amended by—

### **Veterinary Surgeons Act 1946 10 Geo 6 No. 52**

date of assent 9 December 1946

commenced on date of assent

### **Veterinary Surgeons Acts Amendment Act 1964 No. 64**

date of assent 23 December 1964

commenced on date of assent

### **Veterinary Surgeons Act Amendment Act 1973 No. 86**

date of assent 20 December 1973

commenced on date of assent

### **order published gazette—**

13 April 1974 p 1454

commenced on date of publication

**Veterinary Surgeons Act Amendment Act 1986 No. 6**

date of assent 6 March 1986

ss 1–2 commenced on date of assent

remaining provisions commenced 24 March 1986 (proc pubd gaz 22 March 1986 p 1178)

**Veterinary Surgeons Act Amendment Act 1990 No. 65**

date of assent 18 September 1990

ss 1–2 commenced on date of assent

remaining provisions commenced 10 November 1990 (proc pubd gaz 10 November 1990 p 1230)

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1**

date of assent 10 May 1994

commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Tobacco Industry (Restructuring) Act 1996 No. 25 ss 1, 28 sch 1**

date of assent 15 August 1996

commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**7 List of annotations****Long title** sub 1973 No. 86 s 2**Short title****s 1** sub 1995 No. 58 s 4 sch 1**Parts of Act****s 2** amd 1986 No. 6 s 4  
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om 1994 No. 15 s 3 sch 1

def “**pharmaceutical chemist**” om 1986 No. 6 s 5(b)

- def “**practice**” ins 1973 No. 86 s 3(c)  
 amd 1986 No. 6 s 5(c)  
 def “**prescribed**” om 1994 No. 15 s 3 sch 1  
 def “**register**” om 1986 No. 6 s 5(d)  
 def “**Register of Veterinary Specialists**” ins 1986 No. 6 s 5(d)  
 def “**Register of Veterinary Surgeons**” ins 1986 No. 6 s 5(d)  
 def “**registrar**” sub 1986 No. 6 s 5(d)  
 def “**regulations**” om 1994 No. 15 s 3 sch 1  
 def “**stock inspector**” ins 1990 No. 65 s 4(b)  
 def “**This Act**” om 1994 No. 15 s 3 sch 1  
 def “**Tribunal**” ins 1986 No. 6 s 5(e)  
 def “**veterinary centre**” ins 1973 No. 86 s 3(d)  
 def “**veterinary clinic**” ins 1973 No. 86 s 3(d)  
 def “**veterinary hospital**” ins 1973 No. 86 s 3(d)  
 def “**veterinary medicine**” sub 1973 No. 86 s 3(e)  
 om 1986 No. 6 s 5(f)  
 def “**veterinary premises**” ins 1986 No. 6 s 5(f)  
 amd 1990 No. 65 s 4(c)  
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 def “**veterinary specialty**” ins 1986 No. 6 s 5(f)  
 def “**veterinary surgeon**” amd 1986 No. 6 s 5(g)  
 def “**veterinary surgery**” amd 1973 No. 86 s 3(f); 1986 No. 6 s 5(h);  
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- s 4 amd 1946 10 Geo 6 No. 52 s 2; 1964 No. 64 s 2  
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- s 5 amd 1973 No. 86 s 5; 1986 No. 6 s 7

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amd 1994 No. 15 s 3 sch 1; 1996 No. 37 s 147 sch 2**Vacating office****s 15C** ins 1986 No. 6 s 13  
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amd 1995 No. 58 s 4 sch 1

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amd 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1

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**Special registration**

s 19E ins 1990 No. 65 s 11

**Removal from register and suspension**

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pres s 21 ins 1986 No. 6 s 23  
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**s 25A** ins 1973 No. 86 s 21  
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**s 26** amd 1986 No. 6 s 31; 1990 No. 65 s 15

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sch 1

**Approval of forms**

**s 36A** ins 1995 No. 58 s 4 sch 1

**Transitional provision about forms**

**s 36B** ins 1995 s 4 sch 1  
exp 28 May 1996 (see s 36B(3))

**Regulation-making power**

**prov hdg** sub 1996 No. 25 s 28 sch 1  
**s 37** sub 1973 No. 86 s 29  
amd 1986 No. 6 s 41; 1990 No. 65 ss 22–3; 1994 No. 15 s 3 sch 1

**Regulations, etc., to have effect**

**s 38** om 1986 No. 6 s 42

**SCHEDULE**

amd 1946 10 Geo 6 No. 52 s 4; o in c pubd gaz 13 April 1974 p 1454  
om 1994 No. 15 s 3 sch 1