

# Veterinary Surgeons Amendment Regulation 2023

Explanatory Notes for SL 2023 No. 167

made under the

*Veterinary Surgeons Act 1936*

## General Outline

### Short title

*Veterinary Surgeons Amendment Regulation 2023*

### Authorising law

Sections 2A(3) and 8 of the *Veterinary Surgeons Act 1936*

### Policy objectives and the reasons for them

#### Administration of pain relief by non-veterinarians

In October 2021, the Therapeutic Goods Administration (TGA) amended Schedule 5 of the Poisons Standard to allow the use of lidocaine on livestock for certain preparations and application. The amendment allowed the use of injectable preparations containing 2 per cent or less of lidocaine when packaged in a container with a tamper resistant cartridge which can only be dispensed through a ring applicator for tail docking and castration of lambs or castration of calves. The use of aqueous gel preparations containing 4.5 per cent or less of lidocaine for the dermal spray-on administration to the wounds associated with 'mulesing' of sheep; tail docking and castration of lambs; and castration and disbudding/dehorning in calves was also permitted under the amendment.

In making the decision to amend Schedule 5, the TGA concluded that the Poisons Standard should be amended to allow the expanded use of lidocaine because the potential to significantly benefit Australian farmers and their livestock. This was because the use of the medication would improve animal welfare following husbandry procedures that are known to be painful. The TGA also noted that the amendment will allow the purchase of the medication from the same livestock stores from which Australian farmers purchase the implements that are using to carry out the procedures.

The *Animal Care and Protection Regulation 2023* prescribes a Code of Practice about Sheep in Schedule 3 and a Code of Practice about Cattle in Schedule 4 (codes of practice). The codes of practice allow a person to perform husbandry procedures without veterinary attendance, such as castration or tail docking of sheep and castration and

dehorning of cattle provided that suitable pain relief is administered to the cattle. These husbandry procedures are generally performed by the livestock owners or contractors.

However, despite lidocaine being available in the prescribed formulations for purchase without prescription as a result of the TGA decision, it is unable to be administered by non-veterinarians for fee or reward in Queensland, such as contractors who are performing husbandry procedures on behalf of livestock owners. This is because under the *Veterinary Surgeons Act 1936* (the Act), the administration of anaesthetics to animals is an act of veterinary science that can only be performed by a veterinary surgeon.

The requirement for a veterinary surgeon to administer pain relief is problematic when livestock owners and contractors are carrying out routine husbandry procedures, such as castration and tail docking, over a number of days. It is impractical for veterinary surgeons to be readily available to administer pain relief when and where needed, particularly with a significant shortage of veterinarians practising in remote areas.

Excluding the use of lidocaine as prescribed in Schedule 5 of the Poisons Standard as an act of veterinary science will allow all persons to administer pain relief when carrying out the painful husbandry procedures according to the requirements in the codes of practice. In addition, although it is not mandatory under the codes of practice to administer pain relief to livestock that are less than 6 months old and undergoing the painful routine husbandry procedures, permitting non-veterinarians to administer the medication may encourage livestock owners and others to do so.

A policy objective of the Amendment Regulation is to exclude the use of lidocaine as listed in Schedule 5 of the Poisons Standard as an act of veterinary science under the Act to allow non-veterinarians to administer lidocaine in particular formulations and circumstances.

#### Elections of Veterinary Surgeons Board members

The Act provides that the Veterinary Surgeons Board must hold elections for elected members as prescribed by regulation.

The current provisions in the *Veterinary Surgeons Regulation 2016* (the Regulation) for holding elections, only provide for paper-based votes (mainly postal votes), and the publication of election notices in two newspapers circulating generally throughout the State. The current process is expensive and inefficient because of it being labour and time intensive. Ballot papers and information about candidates have to be printed and posted, and then ballot papers returned by post, receipted, and manually counted.

A policy objective of the Amendment Regulation is to allow for electronic polling and election notices while retaining the paper-based system of voting for those who prefer to vote in that manner.

## **Achievement of policy objectives**

The policy objectives will be achieved by amending the Regulation:

- amending section 3 (1) to exclude the use of lidocaine on livestock not to be an act of veterinary science in the following circumstances:

- when castrating cattle or sheep of less than 6 months or tailing sheep of less than 6 months it is injected in an injectable preparation containing 2 per cent or less of lidocaine that:
  - is packaged in a container designed to be resistant to opening; and
  - can only be dispensed through a rubber ring applicator that includes an injector.
- when castrating cattle or sheep of less than 6 months, dehorning cattle of less than 6 months, or tailing sheep of less than 6 months it is sprayed on an animal wound in an aqueous gel preparation designed to be sprayed on animal wounds that contain 4.5 per cent or less of lidocaine.
- to replace Part 3 (Procedures for elections of board members) to provide for both electronic ballots and postal votes and to omit the requirement for the publication of election notices in newspapers.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is not inconsistent with the policy objectives of the Act. The Act relates to the qualifications and registration of veterinary surgeons and the regulation and control of the practice of veterinary science, and for other purposes.

## **Inconsistency with policy objectives of other legislation**

This Amendment Regulation is not inconsistent with the policy objectives of any other legislation.

## **Alternative ways of achieving policy objectives**

The Amendment Regulation is the only effective means of achieving the policy objectives.

## **Benefits and costs of implementation**

There are growing community expectations that livestock owners should minimise animal suffering during castration and tail docking. However, the use of anaesthetics currently requires the presence of a veterinarian to prescribe and administer the medication which increases the costs and logistical difficulties. The costs are significant when there may be large numbers of animals undergoing these procedures and/or the livestock are in remote areas requiring a veterinary surgeon to travel long distances.

Allowing non-veterinarians to administer pain relief in specific formulations will raise animal welfare standards, assist in alleviating community concerns, and reduce the burden on livestock owners.

The Amendment Regulation will improve the election process for members of the Veterinary Surgeons Board by providing for an electronic voting system and ballots and removing the need for expensive and ineffectual newspaper advertisements. It will make voting more accessible because it provides veterinary surgeons a choice on their voting method as they may still use the current paper-based system.

It will result in greater efficiencies for the secretariat of the Veterinary Surgeons Board by reducing the human resources required to administer the election as well as also reducing the postage and printing costs. There will be no additional costs imposed on the community or the government.

## **Consistency with fundamental legislative principles**

The Amendment Regulation has been drafted with regard to, and is consistent with, the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

The TGA conducted extensive public consultation by inviting public submissions in two rounds for making the interim and final decisions to amend the Poisons Standard. The TGA received 91 and 14 public submissions respectively.

The TGA based its final decision on the interim decision and noted that 13 of the 14 submissions received for the final decision were fully supportive of the change. The opposing submission, which was received from the Australian Veterinary Association, argued that the packaging of the drug is not tamper proof and that a veterinarian is well placed to prescribe lidocaine and assess the risks and therapeutic needs.

However, the TGA stated that the husbandry procedures are typically performed by livestock owners or contractors and do not require consultation with a veterinarian, and the rescheduling of lidocaine is appropriate.

The Department of Agriculture and Fisheries has prepared an Impact Analysis Statement (IAS) in accordance with The Queensland Government Better Regulation Policy (the Policy). The IAS confirms that the amendments remove regulatory requirements and do not increase costs on business or the community. Accordingly, no further regulatory impact analysis is required under the Policy.