

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 5 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1974.

An Act to make further provisions with respect to the appointment of members of the Board of Veterinary Surgeons of New South Wales; to provide for the licensing and control of veterinary hospitals; for these and other purposes to amend the Veterinary Surgeons Act, 1923; and for purposes connected therewith.

BE

Veterinary Surgeons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Veterinary Surgeons Short title. (Amendment) Act, 1974".

2. The provisions—

Commence-
ment.

- 10 (a) of section 1 and of this section, and of sections 3, 4, 5 and 6, shall commence upon the date of assent to this Act;
- 15 (b) of sections 7 and 8 shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette;
- 20 (c) of section 9 shall commence upon such day, being a day not earlier than the day referred to in paragraph (d), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette; and
- (d) of section 10 shall commence upon the appointed day referred to in section 4 (1).

3. The Veterinary Surgeons Act, 1923, is in this Act Construction referred to as the Principal Act.

4.

Veterinary Surgeons (Amendment).

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Veterinary Surgeons of New South Wales shall be reconstituted and shall consist of five members who shall be appointed in accordance with section 5 of the Principal Act as amended by this section.

Reconstitution of the Board of Veterinary Surgeons of New South Wales.

(2) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under section 4 of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(3) For the purposes only of the appointment of persons to be the president and the other members of the Board of Veterinary Surgeons of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of subsection (5) shall commence on the date of assent to this Act.

(4) The persons so appointed shall assume their offices as president and the other members of the Board of Veterinary Surgeons of New South Wales upon the appointed day and on that day the provisions of subsection (5) shall come into force for all purposes.

(5)

Veterinary Surgeons (Amendment).

(5) The Principal Act is amended by omitting sections 5, 6 and 7 and by inserting instead the following sections:—

Amend-
ment of
Act No. 25,
1923.
Subst. secs.
5-7 incl.

5. (1) The board shall consist of five members appointed by the Governor, of whom—

Appoint-
ment of
members
and deputy
members of
board.

5 (a) subject to section 6, three shall be persons nomi-
nated by the Minister from a panel of not less
than seven veterinary surgeons nominated by the
New South Wales Division of the Australian
Veterinary Association within such period as the
10 Minister from time to time directs in writing; and

(b) two shall be veterinary surgeons nominated by
the Minister.

15 (2) One of the members shall, in and by the
instrument by which he is appointed, or in and by
another instrument executed by the Governor, be
appointed as president of the board.

(3) A person shall not be appointed as a member
if he is of or above the age of seventy years.

20 (4) Subject to this Act, the term of office of a
member is three years.

(5) Upon the expiration of the term of office of a
member he shall, if otherwise qualified, be eligible for
re-appointment from time to time.

25 (6) If a member is likely from any cause to be
absent from meetings of the board for more than three
months the Governor may appoint a veterinary surgeon
as a deputy to act for that member during his absence.

30 (7) A deputy member shall have the same powers,
rights and duties as the member for whom he is appointed
to act.

(8)

Veterinary Surgeons (Amendment).

(8) Each member and deputy member shall be entitled to receive such fees and travelling expenses as the Governor may from time to time determine in respect of him.

5 5A. (1) A member shall be deemed to have vacated his office if— **Casual
vacancy.**

(a) he dies;

10 (b) he is absent from three consecutive ordinary meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post unless on leave granted by the board or unless excused by the board for his absence from those meetings before the expiration of four weeks after the last of those meetings;

15 (c) he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;

20 (d) he becomes a temporary patient, a continued treatment patient, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

25 (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;

30 (f) he resigns his office by writing under his hand addressed to the Governor;

(g)

Veterinary Surgeons (Amendment).

- (g) he attains the age of seventy years;
- (h) he ceases to be a veterinary surgeon; or
- (i) he is removed from office by the Governor.

5 (2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

10 5B. (1) Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that the board is constituted in accordance with subsection (1) of section 5. Filling of casual vacancy.

15 (2) Where a vacancy occurs in the office of a member appointed pursuant to a nomination under paragraph (a) of subsection (1) of section 5, his successor shall be appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister directs in writing.

20 (3) A person appointed under subsection (1) shall be appointed for the remainder of the term of office of his predecessor.

25 6. If sufficient veterinary surgeons are not nominated to form a panel referred to in paragraph (a) of subsection (1) of section 5 or subsection (2) of section 5B and the period within which that panel may be nominated has expired, the Governor may appoint such number of veterinary surgeons as are required to be appointed and are nominated by the Minister as members of the board or to fill a vacancy on the board, as the case may be, instead of the members or member required to be appointed from a panel. Default in nomination of panels.

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Veterinary Surgeons (Amendment).

7. Subsection (I) of section 39 of the Interpretation Act, 1897, applies to the board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969. Acts and proceedings of board.

- 5 **5.** The Principal Act is further amended— Further amendment of Act No. 25, 1923.
- (a) (i) by omitting from the matter relating to Part V in section 2 the figures "29" and by inserting instead the figures "30"; Sec. 2. (Parts.)
- (ii) by omitting from the matter relating to Part II in section 2 the figure "8" and by inserting instead the matter "8A";
- 10 (b) (i) by inserting in section 3 next after the definition of "Board" the following new definition :— Sec. 3. (Definitions.)
- 15 "Director-General" means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.
- 20 (ii) by inserting in the definition of "Veterinary science" in section 3 after the word "surgery" the following words :—
- and, without limiting the generality of the foregoing, includes—
- 25 (a) the examination of or attendance upon any animal for the purpose of diagnosing the physiological or pathological condition of the animal;
- 30 (b) the giving of any anaesthetic to, the performance of any operation on, or the making of any radiological diagnosis of, any animal; and
- (c)

Veterinary Surgeons (Amendment).

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

5 (c) by omitting from section 8 (1) the words "An Sec. 8.
inspector may, for the purposes of ascertaining (Registrar,
whether any of the provisions of this Act or of the inspectors
regulations made thereunder has been or is being and other
contravened by a veterinary surgeon or whether a officers.)
10 veterinary surgeon is so conducting himself as to
be guilty of misconduct in a professional respect,
enter and inspect any premises in which such
veterinary surgeon is carrying on the practice of
15 veterinary science and may make such enquiries
therein as he may think fit.";

(d) by inserting next after section 8 the following new New sec.
section :— 8A.

20 8A. (1) An inspector may, for the purpose of Power
ascertaining whether any provision of this Act or of entry.
the regulations has been or is being contravened,
or whether a veterinary surgeon is so conducting
himself as to be guilty of misconduct in a pro-
fessional respect, at any reasonable time enter any
25 premises or place in which a veterinary surgeon is,
or any premises or place in which he has reasonable
cause to believe that any person is, doing or
performing any act, matter or thing that forms part
of the practice of veterinary science and may—

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

in

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in or from those premises or that place as he considers necessary in connection with the administration of this Act.

- 5 (2) Any person who wilfully delays or obstructs an inspector in the exercise of his powers under subsection (1) or who, being an occupier of any premises or place referred to in subsection (1), refuses to permit an inspector to carry out those powers or reasonably to assist an inspector in the exercise of those powers, is guilty of an offence.
- 10 (e) (i) by omitting from section 18 (1) (c) the words "mentally ill person, a protected person or an incapable person" and by inserting instead the words "temporary patient, a continued treatment patient, a protected person, or an incapable person,";
- 15 (ii) by omitting from section 18 (1) (c) the words "as subsequently amended;" and by inserting instead the words "or a person under detention under Part VII of that Act; or";
- 20 (f) by omitting from section 20 the words "holding some one of the qualifications mentioned in subsection one of section thirteen of this Act";
- 25 (g) (i) by omitting from section 21 the words "registered under this Act" wherever occurring;
- (ii) by omitting from section 21 (3) (b) the words "science; or" and by inserting instead the following words :—
- 30 science, otherwise than—
- (i) as an employee of the owner of the animal in respect of which the act, matter or thing was done or performed; and
- 35 (ii) incidentally to the primary duties of his employment;
- (iii)

Sec. 18.
(Removal
of name of
deceased
veterinary
surgeons,
etc.)

Sec. 20.
(Issuing
certificates
under other
Acts.)

Sec. 21.
(Prohibited
practices.)

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(iii) by omitting from section 21 (3) (c) the word "business:" and by inserting instead the following words and new paragraph :—

business; or

5 (d) hold any prescribed office or position or any office or position of a prescribed class or description :

10 (iv) by omitting from the proviso in section 21 (3) the words "this subsection" and by inserting instead the matter "paragraph (c)";

(v) by omitting section 21 (4);

15 (h) (i) by omitting from section 23 (2) the words "After the coming into operation of this Act no" and by inserting instead the word "No";

Sec. 23.
(Suing for fees.)

20 (ii) by omitting from section 23 (2) the words "in respect of instructions received after the coming into operation of this Act unless he is registered as a veterinary surgeon under this Act." and by inserting instead the following words :—

unless—

(a) he is a veterinary surgeon; or

25 (b) the fee or charge arises from the doing or performing of an act, matter or thing referred to in section 24.

(i) by omitting section 24 and by inserting instead the following section :—

Subst. sec. 24.

30 24. Notwithstanding any other provision of this Act, a person other than a veterinary surgeon may, for fee or reward—

Permitted practices.

(a) de-worm any animal;

(b) perform the Mules operation on sheep;

(c) de-horn any animal;

(d)

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- (d) castrate or spay any animal except—
- (i) a horse, dog or cat; or
 - (ii) cattle, sheep or pigs that are more than twelve months of age;
- 5 (e) tail lambs;
- (f) carry out any immunising procedure except an immunising procedure—
- 10 (i) prescribed under paragraph (c) of the definition of "Veterinary science" in section 3; or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act;
- 15 (g) determine the sex of chickens;
- (h) under the immediate and direct supervision of a veterinary surgeon, administer an anaesthetic to an animal;
- 20 (i) where a veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment; or
- (j) do or perform—
- 25 (i) except as provided in subparagraph (ii), any other act, matter or thing prescribed for the purposes of this paragraph; or
 - (ii) any other act, matter or thing prescribed for the purposes of this paragraph in such circumstances as may be prescribed.
- 30 (j) (i) by omitting section 24A (7) (b) and by Sec. 24A. inserting instead the following paragraph :— (Approved persons may perform certain acts under supervision.)
- 35 (b) has become a temporary patient, a continued treatment patient, a protected person, or an incapable person,
- within

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within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

5 (ii) by omitting section 24A (9) (a) and by inserting instead the following paragraph :—

(a) been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence;

10 (iii) by omitting from section 24A (9) (d) the word "has";

(k) by omitting from section 26 (2) the words "shall be liable to a penalty not exceeding forty dollars" and by inserting instead the words "is guilty of an offence"; Sec. 26. (Power to summon witnesses.)

15 (l) by inserting next after section 29 the following new section :— New sec. 30.

20 30. A person who is guilty of an offence against this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding two hundred dollars. General penalty.

6. (1) The Principal Act is further amended by omitting section 29 and by inserting instead the following section :— Further amendment of Act No 25, 1923. Subst. sec. 29.

25 29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2)

Veterinary Surgeons (Amendment).

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- 5 (a) regulating the proceedings and fixing the quorum of the board;
- (b) regulating the duties of officers;
- 10 (c) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations;
- (d) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- 15 (e) prescribing fees payable under this Act;
- (f) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- 20 (g) prescribing acts, matters or things the doing or performing of which forms part of the practice of veterinary science.

(3) A regulation may impose a penalty not exceeding forty dollars for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Notwithstanding the repeal effected by subsection (1), the regulations in force immediately before the day upon which this section takes effect shall continue in force as if made under the Principal Act as amended by this section.

Veterinary Surgeons (Amendment).

7. (1) The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

(a) by omitting from section 12 the words “has attained the age of twenty-one years and”;

Sec. 12. (Good fame and character.)

5 (b) (i) by omitting section 13 (1) (a) and (b) and by inserting instead the following paragraph :—
(Qualifications for registration.)

(a) holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

10 (i) extending over at least five academic years; and

(ii) in which a general study of veterinary science was made,

15 at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

20 (ii) by omitting from section 13 (1) (c) (i) the word “school” and by inserting instead the words “institution prescribed for the purposes of this paragraph on the recommendation of the board”;

25 (iii) by omitting from section 13 (1) (c) (i) the word “schools” and by inserting instead the words “institutions so prescribed”;

(iv) by omitting from section 13 (1) (c) (ii) the words “school a degree, diploma or license of competency” and by inserting instead the words “institution an academic award”;

(v)

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(v) by omitting section 13 (1) (c) (iii) and by inserting instead the following subparagraph :—

5 (iii) has passed the prescribed examination; and;

(vi) by omitting from section 13 (1A) the word “examiners” and by inserting instead the word “board”;

10 (vii) by omitting section 13 (2) (a), (b), (c), (d), (e), (f) and (f1) and by inserting instead the following paragraph :—

15 (a) is a person who holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

(i) extending over at least four years;

20 (ii) in which a general study of veterinary science was made; and

(iii) which he completed on or before 1st January, 1943,

25 at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

(viii) by omitting section 13 (3) and (4) and by inserting instead the following subsections :—

30 (3) A person who was, at any time before the commencement of section 7 of the Veterinary Surgeons (Amendment) Act,

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1974, registered under this Act and who is no longer registered shall be entitled to be registered if he—

- 5 (a) makes application for registration in the manner prescribed;
- (b) satisfies the board that he is of good fame and character; and
- (c) pays the fee referred to in paragraph (c) of section 15.
- 10 (4) A regulation for the purposes of paragraph (a) of subsection (1) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is
- 15 a prescribed institution.
- (c) (i) by inserting in section 14 after the word Sec. 14. (Right of appeal.) “examination,” the words “or if the name of any person is removed from the register by direction of the board pursuant to paragraph (b) or (c) of subsection (1) of section 18,”;
- 20 (ii) by omitting from section 14 the words “district court of the district in which” and by inserting instead the words “District Court sitting at the nearest proclaimed place to the place where”;
- 25 (d) by omitting from section 21 (1) the words “degree, diploma, license, certificate,” and by inserting Sec. 21. (Prohibited practices.) instead the words “academic award”;
- (e) by omitting from section 24A (1) (b) the words Sec. 24A. (Approved persons may perform certain acts under supervision.) “a degree, diploma or license of competency” and by inserting instead the words “an academic award”.
- 30

(2) Nothing in subsection (1) shall be construed as requiring the removal from the register of the name of any person who, immediately before the commencement of this section, was registered under the Principal Act.

Veterinary Surgeons (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

(a) by inserting in the definition of "Veterinary surgeon" in section 3 after the word "registered" the words "or provisionally registered";

Sec. 3. (Definitions.)

5 (b) by inserting next after section 15 the following new section :—

New sec. 15A.

10 15A. (1) In this section, "prescribed person" means the president of the board or, in his absence from Sydney, any other member of the board authorised generally in that behalf by the board.

Provisional registration.

(2) Where a person has applied to be registered, a prescribed person, upon being satisfied that the applicant—

15 (a) is entitled to be registered under this Act; or

(b) is a person who—

(i) is entitled to an academic award referred to in paragraph (a) of subsection (1) of section 13;

20 (ii) will have that award conferred upon him in due course according to the practice of the university, college or institution in question in conferring awards; and

(iii) is of good fame and character,

25 may, on behalf of the board, issue to the applicant a certificate of provisional registration in the prescribed form.

30 (3) A person who has obtained a certificate of provisional registration shall be deemed to be registered for a period of three months from the date of issue of the certificate.

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5 (4) The board may, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

10 (6) If a person to whom a certificate of provisional registration has been issued becomes registered under this Act during the currency of the certificate—

15 (a) his registration shall, unless otherwise determined by the board, date from the issue of the certificate of provisional registration; and

20 (b) his provisional registration shall, notwithstanding subsection (3), expire on the day upon which he becomes registered.

(c) by inserting in section 27 after the word "registered" the words "or provisionally registered"; Sec. 27.
(Penalty for forging registration.)

(d) by inserting in section 27A (a) after the word "registered" the words "or provisionally registered". Sec. 27A.
(Document under hand of registrar to be prima facie evidence.)

25 9. The Principal Act is further amended— Further amendment of Act No. 25, 1923.

(a) by inserting in section 2 next after the matter relating to Part IV the following new matter : — Sec. 2.
(Parts.)

PART IVA.—VETERINARY HOSPITALS—ss. 24B-24H.

(b)

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(b) by inserting in section 3 next after the definition of "Registrar" the following new definition :— Sec. 3. (Definitions.)

5 "Veterinary hospital" means a place used or intended to be used for the purpose of the doing or performing, for fee or reward, of any act, matter or thing the doing or performance of which forms part of the practice of veterinary science, but does not include—

10 (a) a place at which any act, matter or thing permitted by section 24 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at that place; or

15 (b) a place or class of places prescribed for the purposes of this definition.

20 (c) by inserting next after Part IV the following new Part :— New Part IVA.

PART IVA.

VETERINARY HOSPITALS.

25 24B. After the expiration of three months from the day upon which section 9 of the Veterinary Surgeons (Amendment) Act, 1974, commences, Veterinary hospitals to be licensed. no person shall carry on or conduct a veterinary hospital unless—

(a) a license has been granted in respect thereof by the Director-General; and

30 (b) it is managed by a superintendent thereof, the nomination or appointment of whom has been notified to the Director-General in accordance with section 24H.

35 24c. (1) An application for a license shall be made to the Director-General in the prescribed manner and shall be accompanied by the license fee prescribed in respect of the class of license applied for. Application for license.

(2)

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(2) The Director-General shall not approve of the issue to an applicant of a license for a veterinary hospital unless—

- 5 (a) the applicant is a veterinary surgeon or a person approved by the board; and
- (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a license is made.
- 10

(3) A license shall, subject to this Act, continue in force until it is cancelled but, except to the extent that this Act otherwise provides, shall be deemed not to be in force while it is suspended.

- 15 (4) Where the Director-General refuses to approve of the issue to an applicant of a license of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, he may, if he is satisfied that the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue to the applicant a license for a veterinary hospital of that other class.
- 20
- 25

(5) Where the Director-General refuses to approve of the issue to an applicant of a license under this section, except where pursuant to subsection (4) he issues to the applicant a license of some other class, he shall serve on that person notice in writing of his refusal.

30

(6) Where the Director-General issues to an applicant a license as referred to in subsection (4) he shall refund to the applicant any amount by which the license fee for the license applied for exceeds the license fee for the license issued.

35

(7) The regulations may prescribe different classes of licenses for different classes of veterinary hospitals.

24D.

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5 24D. (1) A licensee shall, while the license remains in force, on or before each anniversary of the day upon which the license was issued, pay to the Director-General the prescribed annual license fee in respect of the class of license issued to him.

(2) The regulations may prescribe different annual license fees for different classes of licenses.

10 (3) For the purposes of this section, a license shall be deemed not to have ceased to be in force by reason only of its suspension.

15 24E. (1) Subject to this section, the Director-General may suspend a license for a period not exceeding twelve months or may cancel a license if—

- (a) the prescribed annual license fee is not paid in accordance with subsection (1) of section 24D ;
- 20 (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations ;
- 25 (c) the licensee, where he is a veterinary surgeon, or the superintendent, is suspended from practice or has his name removed from the register pursuant to section 19H ;
- (d) the place in respect of which the license was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class ;
- 30 (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class ;
- 35 (f) the veterinary hospital is not conducted as prescribed ;

(g)

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- (g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or
- 5 (h) the licensee so requests.

(2) The Director-General may, under paragraph (h) of subsection (1), cancel a license upon the occurrence of an event specified in the request.

- 10 (3) The Director-General shall not suspend or cancel a license under paragraph (d), (e) or (f) of subsection (1) unless—

- (a) he has first served on the licensee a notice specifying—
- 15 (i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed;
- 20 (ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed ;
- 25 or
- (iii) the manner in which the veterinary hospital is not being conducted as prescribed,
- 30

35 as the case may be, and stating that unless the works or repairs are carried out, the additional staff is employed or the veterinary hospital is conducted as prescribed within a time specified in the notice, he may suspend or cancel the license; and

(b)

Veterinary Surgeons (Amendment).

(b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.

5 (4) Where the Director-General suspends or cancels a license he shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.

10 (5) A suspension or cancellation of a license under subsection (1) (paragraph (h) excepted) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be taken, or where
15 such an appeal is taken, until the appeal is determined or withdrawn.

(6) Where a license is cancelled under paragraph (h) of subsection (1), the Director-General may refund to the licensee an amount that, on the day of cancellation, bears to the amount of
20 the annual license fee last paid the same proportion as the number of whole unexpired months until the next annual license fee is payable bears to twelve.

24F. (1) Where the Director-General— **Appeal.**

- 25 (a) refuses to approve of the issue to an applicant of a license;
- (b) issues to an applicant a license of a class other than the class applied for;
- (c) suspends a license; or
- 30 (d) cancels a license, except pursuant to paragraph (h) of subsection (1) of section 24E,

the

Veterinary Surgeons (Amendment).

the applicant or licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the decision of the Director-General.

5 (2) The decision of the District Court on any such appeal shall be final and shall be given effect to by the Director-General.

24G. A notice under this Part may be served by post upon— Service of notices.

- 10 (a) an applicant, at the address stated in the application; and
(b) a licensee or superintendent, at the address in respect of which the license is issued.

15 24H. (1) A licensee of a veterinary hospital may, by instrument in writing in the prescribed form, nominate himself or appoint another person to be the superintendent of that veterinary hospital as on and from such date as may be specified in the instrument. Superintendents.

20 (2) A person shall not be capable of being nominated or appointed to be and shall not act as the superintendent of a veterinary hospital—

- 25 (a) unless he is a veterinary surgeon; or
(b) if he is the superintendent of another veterinary hospital except with the permission in writing of the board and subject to such conditions, if any, as the board specifies in its permission.

30 (3) Within seven days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Director-General—

- 35 (a) the instrument by which that person was nominated or appointed to be the superintendent; or

(b)

Veterinary Surgeons (Amendment).

- (b) a notice, in writing, specifying the day upon which that person ceased to be the superintendent,
as the case may be.
- 5 (d) by inserting next after section 27B the following new section :— New sec. 27c.
- 10 27c. In any proceedings before any court and before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General certifying that, on a day or during a period specified in the certificate— Certificate of Director-General to be prima facie evidence.
- 15 (a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act;
- (b) a person specified in the certificate was or was not a person to whom a license had been issued in respect of a veterinary hospital specified in the certificate; or
- 20 (c) a person specified in the certificate was or was not a person in respect of whom the Director-General had received an instrument or notice pursuant to subsection (3) of section 24H,
- 25 shall be prima facie evidence of the facts stated therein.
- 30 (e) by inserting in section 28 (1) after the word "payable" the words "for or in connection with the registration of a veterinary surgeon and in connection with the giving of an approval under section 24A"; Sec. 28. (Appropriation of registration fees and penalties.)
- (f) (i) by omitting from section 29 (2) (g) the word "science." and by inserting instead the following word and new paragraphs :— Sec. 29. (Regulations.)
- 35 science ;
- (h)

Veterinary Surgeons (Amendment).

- (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including—
- 5 (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals, staff and other persons;
- (ii) furniture and equipment;
- 10 (iii) operating theatres, dressing rooms, kennels and yards; and
- (iv) the prevention of the ingress of, and the destruction of, flies and vermin;
- 15 (i) prescribing the manner in which veterinary hospitals are to be conducted, including—
- (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment;
- 20 (ii) the manner of disposal of refuse and other matter;
- (iii) the manner of disposal of dead animals;
- 25 (iv) the provision to be made for the storage, preparation and serving of food;
- (v) the manner in which care and attention shall be given to animals;
- 30 (vi) the manner of isolation or removal of animals suffering from infectious diseases;
- 35 (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and
- (viii)

Veterinary Surgeons (Amendment).

- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;
- 5 (j) prescribing the duties of the superintendent of a veterinary hospital ;
- (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital ;
- 10 (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of that veterinary hospital ;
- 15 (m) prescribing any continual period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to appoint another superintendent ;
- 20 (n) regulating the manner and extent to which a veterinary hospital may be advertised.

(ii) by inserting at the end of section 29 the following new subsection :—

- (5) Different—
- 25 (a) provisions may be made pursuant to paragraphs (h), (i), (j) and (k) of subsection (2) ;
- 30 (b) periods and circumstances may be prescribed pursuant to paragraphs (l) and (m) of subsection (2),

in respect of different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

10. (1) The Principal Act is further amended—

Further
amend-
ment of
Act No. 25,
1923.

(a) by omitting from section 2 the matter relating to Part IV and by inserting instead the following matter :—

Sec. 2.
(Parts.)

5 PART IV.—VETERINARY SURGEONS—ss. 12–
 24A.

 DIVISION 1.—*Registration*—ss. 12–19.

 DIVISION 2.—*Disciplinary Provisions*—ss.
 19A–19L.

10 DIVISION 3.—*General*—ss. 20–24.

 DIVISION 4.—*Supervised Practitioners*—s.
 24A.

(b) by inserting in Part IV next before section 12 the following matter :—

Part IV.
(New
heading.)

15 DIVISION 1.—*Registration*.

(c) by omitting section 18A;

Sec. 18A.
(Removal of
name on
account of
misconduct,
etc.)

(d) (i) by omitting from section 19 the matter “or 18A” wherever occurring;

Sec. 19.
(Restoration
of name.)

20 (ii) by omitting from section 19 (1) the words
 “a court of competent jurisdiction” and by
 inserting instead the words “the District
 Court”;

(e) by inserting next after section 19 the following new matter :—

New secs.
19A–19L,
both incl.

25 DIVISION 2.—*Disciplinary Provisions*.

 19A. (1) A complaint that any veterinary surgeon—

Complaints
against
veterinary
surgeons.

30 (a) has been convicted in New South Wales or
 elsewhere by any court of any felony,
 misdemeanour, crime or offence ;

(b)

Veterinary Surgeons (Amendment).

- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug;
- (c) has been guilty of misconduct in a professional respect;
- 5 (d) has had his registration to practise veterinary science cancelled under the law in force relating to the registration of persons entitled to practise veterinary science in a place outside New South Wales other than at his own request or has been suspended from practice as a person so entitled under any such law;
- 10 (e) is not of good character ; or
- 15 (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a veterinary surgeon,

may be made to the investigating committee.

(2) A complaint shall be made in writing and the investigating committee, by notice in writing served on the complainant—

- 20 (a) may require further particulars of any complaint to be given ; and
- (b) may require the complaint or any further particulars to be verified by statutory declaration,
- 25

within such time as may be specified in the notice.

(3) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the investigating committee, the investigating committee may declare that the complaint be deemed not to have been received by it in accordance with subsection (2).

(4)

Veterinary Surgeons (Amendment).

5 (4) The court before which any veterinary surgeon is convicted of a felony, misdemeanour, crime or offence shall, except in such cases or classes of cases as may be specified or described in the regulations, forward particulars of the conviction to the investigating committee.

10 (5) The investigating committee may consider the particulars of the conviction of a veterinary surgeon forwarded to it under subsection (4) and, if it so directs, those particulars shall be deemed to be a complaint made to it against that veterinary surgeon under paragraph (a) of subsection (1) and received by it in accordance with this section.

15 (6) Every person other than—
(a) a member of the police force;
(b) a member of the Public Service; or
(c) a member of the committee of the Australian Veterinary Association,

20 acting in his capacity as such a member, who makes a complaint to the investigating committee against a veterinary surgeon shall deposit with the investigating committee the sum of twenty dollars at the time of lodging the complaint.

25 19B. Without limiting the meaning of the expression "misconduct in a professional respect" a veterinary surgeon shall be deemed to be guilty of such misconduct where he—

30 (a) permits or requires an unregistered person employed by him to do any act forming part of the practice of veterinary science except where that person acts in accordance with this or any other Act; or

(b)

Veterinary Surgeons (Amendment).

5 (b) allows the use of his name in connection with a purported practice of veterinary science at premises at which he or a partner does not bona fide carry on the practice of veterinary science.

19C. (1) There shall be an investigating committee appointed by the Minister which shall consist of— Constitution of investigating committee.

10 (a) a barrister or solicitor, who shall be chairman;

(b) an officer of the Department of Agriculture who is a veterinary surgeon but not a member of the board; and

15 (c) a veterinary surgeon who is not a member of the board appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing.

20

(2) If sufficient veterinary surgeons are not nominated to form the panel referred to in paragraph (c) of subsection (1) and the period within which that panel may be nominated has expired, the Minister may appoint a veterinary surgeon other than a member of the board to the investigating committee instead of the veterinary surgeon required to be appointed from that panel.

25

(3) The chairman and members of the investigating committee shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

30

Veterinary Surgeons (Amendment).

19D. (1) The investigating committee shall ^{Investigation} cause all complaints against veterinary surgeons ^{by} received by it in accordance with section 19A to be ^{investigating} investigated and for the purposes of that investiga- ^{committee.} tion the chairman may administer an oath and may, by notice in writing signed by him, require any person to attend at the place and at the time specified in the notice for the purpose of giving evidence before the investigating committee or producing any document relating to the investigation.

(2) Where in the course of the investigation of a complaint against a veterinary surgeon—

(a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; and

(b) the investigating committee is of the opinion that the other complaint is one that could be made to it and received by it in accordance with section 19A,

the investigating committee may itself make that other complaint which shall thereupon be deemed to be a complaint made to it and received by it in accordance with section 19A.

(3) The investigating committee—

(a) may dismiss any complaint made to it;

(b)

Veterinary Surgeons (Amendment).

5 (b) if it is satisfied of the truth of the complaint but does not consider that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, after giving the veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it, may caution or reprimand that veterinary surgeon; or

10 (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, shall refer the complaint accordingly.

15 (4) The proceedings of the investigating committee shall be held in camera.

(5) Where an amount is deposited pursuant to subsection (6) of section 19A and the investigating committee—

20 (a) in the course of investigating a complaint has required further particulars of the complaint to be given or the complaint or further particulars to be verified by statutory declaration and any such requirement is not
25 complied with; or

(b) after investigating the complaint is of the opinion that the complaint is vexatious or frivolous in its nature,

30 the investigating committee may so declare and the amount deposited shall be forfeited.

Veterinary Surgeons (Amendment).

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

5 (7) The investigating committee may, when referring a charge to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of section 19F, be deemed to be the person who made the complaint.

10 (8) At the conclusion of the investigation of a complaint against a veterinary surgeon the investigating committee shall notify the board of the action taken by it pursuant to subsection (3).

15 19E. (1) The disciplinary tribunal shall consist of— **Constitution of disciplinary tribunal.**

(a) a chairman appointed by the Governor who—

(i) shall be a Judge of the District Court of New South Wales; and

20 (ii) except as provided in subsection (5) shall hold office for a term of seven years; and

(b) the members of the board.

25 (2) A quorum at any sitting of the disciplinary tribunal shall consist of the chairman and three members of the board.

(3)

Veterinary Surgeons (Amendment).

5 (3) The chairman and members of the board sitting on the disciplinary tribunal shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

10 (4) Where in the opinion of the Governor the chairman is unable for any cause to act in respect of any matter he may appoint a Judge of the District Court of New South Wales to be the deputy of the chairman and that Judge, while acting as deputy, shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the chairman in respect of that matter.

15 (5) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a Judge of the District Court.

20 19F. (1) Subject to subsection (1) of section 19G, the registrar shall convene all meetings of the disciplinary tribunal and shall keep a record of all proceedings and decisions of that tribunal. **Inquiry by disciplinary tribunal.**

25 (2) The proceedings before the disciplinary tribunal shall be in the nature of a rehearing.

30 (3) The disciplinary tribunal shall, in making any inquiry, sit in open court and the veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by his solicitor or counsel.

(4)

Veterinary Surgeons (Amendment).

5 (4) The person who made the complaint (not being a complaint deemed by subsection (5) of section 19A or subsection (2) of section 19D to have been made to the investigating committee or deemed by subsection (7) to have been referred to the disciplinary tribunal) shall, unless exempted from attendance by the disciplinary tribunal, be present and may be represented by his solicitor or counsel at the inquiry.

10 (5) The disciplinary tribunal may receive and admit on production, as evidence in the inquiry concerned—

15 (a) the judgment and findings of any court (whether civil or criminal), the verdict or findings of a jury, or a certificate of the conviction of any person, in any case where the judgment, findings, verdict or certificate are, in the opinion of the disciplinary tribunal, relevant to the nature of the complaint; and

20

25 (b) a copy of the depositions or a transcript of the shorthand or other notes, duly certified as correct, of the evidence of witnesses taken in any court in any case where, in the opinion of the disciplinary tribunal, that evidence is relevant to the nature of the complaint.

30 (6) For the purpose of an inquiry, the disciplinary tribunal and the chairman shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and

(b) Division

Veterinary Surgeons (Amendment).

Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the disciplinary tribunal in the same way as it applies to a witness summoned before a royal commission.

5 (7) Where in the course of the inquiry into a complaint against a veterinary surgeon—

10 (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it;

15 (b) the disciplinary tribunal is satisfied that the investigating committee has not, under paragraph (a) or (b) of subsection (3) of section 19D, dealt with that other complaint or a complaint that was substantially the same as that other complaint; and

20 (c) the disciplinary tribunal is of the opinion that that other complaint, or the complaint that is substantially the same as that other complaint, is one that could have been made to and received by the investigating committee in accordance with section 19A,

25 the disciplinary tribunal may itself make that other complaint, or a complaint that is substantially the same as that other complaint, which shall be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 19D.

30 (8) Notwithstanding anything in subsection (1) of section 19G, where in the course of any inquiry into a complaint against a veterinary

surgeon

Veterinary Surgeons (Amendment).

5 surgeon the disciplinary tribunal makes another complaint against the veterinary surgeon under subsection (7), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

10 (9) Where the persons constituting the disciplinary tribunal are divided in opinion as to the decision to be given upon any question (not being a question to which subsection (5) of section 19G relates) the question shall be decided according to the opinion of the majority, if there is a majority, but if those persons are equally divided in opinion, the decision shall be in favour of the veterinary surgeon concerned.

15 19G. (1) The chairman shall fix a date and place for the hearing of an inquiry by the disciplinary tribunal and the registrar shall give at least seven days' notice to the veterinary surgeon concerned of the date and place so fixed. Powers of chairman of disciplinary tribunal.

20 (2) The chairman, upon request made by the person who made a complaint, the veterinary surgeon concerned or any other interested person, may—

25 (a) direct that the name of any witness shall not be disclosed at the inquiry;

(b) direct that all or any of the following matters, that is to say:—

(i) the name and address of any witness;

30 (ii) the name and address of the person who made the complaint ;

(iii)

Veterinary Surgeons (Amendment).

- (iii) the name and address of the veterinary surgeon concerned;
- 5 (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,
- 10 shall not be published in any newspaper, except a publication bona fide intended primarily for the use of the legal or veterinary profession, or by radio or television; and
- 15 (c) notwithstanding subsection (3) of section 19F, direct that the inquiry be held in camera.

(3) The chairman—

- (a) may revoke a direction given under subsection (2) at any time; and
- 20 (b) may exercise his powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but he shall not exercise his powers under subsection (2) before the inquiry unless reasonable notice
- 25 is given to the person who made the request, the person who made the complaint, the veterinary surgeon concerned and such other persons as the chairman thinks fit, of the time and place appointed by him for the consideration of the request.
- 30 (4) Any person who contravenes a direction given under subsection (3) is guilty of an offence.

(5)

Veterinary Surgeons (Amendment).

(5) The decision of the chairman upon any question of law or procedure which may arise in any inquiry shall be the decision of the disciplinary tribunal.

5 19H. (1) Where the matter of a complaint ^{Penalties.} against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, that tribunal may by order—

10 (a) reprimand or caution the veterinary surgeon;

 (b) suspend the veterinary surgeon from practice for a period not exceeding twelve months; or

15 (c) direct that the name of the veterinary surgeon be removed from the register.

 (2) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, the tribunal shall not make an order suspending him from practice or directing that his name be removed from the register where the matter of the complaint is such that, whether from its trivial nature or from the circumstances in which it occurred or from any other reason, it does not in the public interest disqualify the person from practising his profession.

20

25

 (3) Where the disciplinary tribunal makes an order pursuant to paragraph (a) or (b) of subsection (1), that tribunal may by the same order direct the veterinary surgeon to comply during a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

30

(4)

Veterinary Surgeons (Amendment).

5 (4) If the disciplinary tribunal has reason to believe that a person in respect of whom a direction under subsection (3) has been made has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if it is proved to the satisfaction of the disciplinary tribunal that that person has failed to comply with the direction, may make a further order under subsection (1).

10 (5) Where the disciplinary tribunal directs that the name of a veterinary surgeon be removed from the register it may fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

15 (6) While any order of suspension from practice under this section remains in force the person concerned shall, except for the purposes of section 11, be deemed not to be a veterinary surgeon, but forthwith upon the expiry of the order
20 all his rights and privileges as a veterinary surgeon shall be revived as from that expiry.

25 (7) An order made by the disciplinary tribunal pursuant to this section shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order has been given to the veterinary surgeon by the registrar in accordance with section 19K.

30 (8) If within the period specified in subsection (7) the veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

(a) shall not take effect at the expiration of that period but shall, where the Court confirms the order without variation, and unless it otherwise orders, take effect upon the day
35 upon which the order is confirmed; or

(b)

Veterinary Surgeons (Amendment).

5 (b) shall not take effect at the expiration of that period nor shall it take effect at any other time where the Court allows the appeal, or dismisses the appeal but varies the order of the disciplinary tribunal.

10 19I. (1) There shall be a right of appeal to the ^{Appeal} Supreme Court from an order made under section 19H and on any such appeal the Court may make ^{against} such order as it thinks proper, having regard to the ^{order of} merits of the case. ^{disciplinary} tribunal.

(2) An appeal under subsection (1) shall be made in accordance with the rules of Court.

15 (3) The provisions of subsections (2) and (3) of section 19G shall, subject to the rules of Court, apply in the same way as those provisions apply to the hearing of a complaint by the disciplinary tribunal.

20 (4) Without affecting the generality of the foregoing provisions of this section, the Court may make any order which the disciplinary tribunal might have made under section 19H, or may vary any order made by the disciplinary tribunal.

25 19J. (1) In this section "the former provisions" means the provisions of section 18A of this Act as ^{Restoration} in force immediately before the commencement of ^{of name to} section 10 of the *Veterinary Surgeons (Amendment) Act, 1974. register.*

30 (2) Subject to subsection (5) of section 19H, any person whose name has been removed from the register pursuant to section 19H or by the board pursuant to the former provisions, may apply

to

Veterinary Surgeons (Amendment).

to have his name restored to the register, and all the provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application.

5 (3) The disciplinary tribunal may, if it
thinks fit, terminate any period of suspension
imposed by it pursuant to section 19H or by the
board pursuant to the former provisions before the
10 expiration of the period specified in the order of
suspension, and, except where the Court upon an
appeal makes an order referred to in subsection (5)
of section 19H, may direct that any name removed
from the register at the direction of the disciplinary
tribunal pursuant to section 19H or by the board
15 pursuant to the former provisions be restored to the
register.

(4) Notwithstanding subsection (3), the
name of any person which has been removed from
the register pursuant to section 19H or the former
20 provisions shall not be restored to the register until
the prescribed restoration fee is paid.

19K. (1) A notice under this Division by the registrar, investigating committee, disciplinary tribunal or a court may be served by delivering it personally to the person to whom it is addressed or by leaving it for him with some person apparently over the age of fourteen years at his address last known to the registrar, investigating committee, disciplinary tribunal or court, as the case may be. ^{Service of notices.}

25

30 (2) Any person upon whom a notice is served in accordance with subsection (1) and who, where that notice requires that person to do some act, without reasonable excuse fails or refuses to comply with the notice, is guilty of an offence.

19L.

Veterinary Surgeons (Amendment).

19L. Where the disciplinary tribunal or the Supreme Court makes an order under section 19H the registrar shall make a notation of the terms of the order in the register adjacent to the name of the person in respect of whom the order was made.

Notations
in register.

- (f) by inserting in Part IV next before section 20 the following new matter :—

Part IV.
(New
heading.)

DIVISION 3.—*General.*

- (g) by omitting section 21 (2) and by inserting instead the following subsections :—

Sec. 21.
(Prohibited
practices.)

(2) No veterinary surgeon shall carry on the practice of veterinary science under a name other than his own name except where—

- (a) he is a member of a partnership carrying on business under the name or names of one or more of the partners ;
- (b) he is duly appointed as the locum tenens of a veterinary surgeon ;
- (c) after the commencement of section 9 of the Veterinary Surgeons (Amendment) Act, 1974, he is duly appointed as the superintendent of a veterinary hospital ;
- (d) he is carrying on practice as a superintendent pursuant to an authorisation under section 22 ; or
- (e) the board otherwise permits in writing.

(2A)

Veterinary Surgeons (Amendment).

(2A) For the purposes of subsection (2), no veterinary surgeon shall be a duly appointed locum tenens unless—

- 5 (a) he is appointed in writing by the veterinary surgeon in respect of whom he is acting as locum tenens; and
- (b) he is employed only during the temporary absence of his employer and for a period not exceeding three months or such longer period as the board may in any particular case permit in writing.

(h) by inserting in Part IV next before section 24A the following new matter :—

Part IV.
(New heading.)

DIVISION 4.—Supervised Practitioners.

- 15 (i) (i) by omitting section 24A (9) (c);
- (ii) by omitting section 24A (10) and by inserting instead the following subsection :—

Sec. 24A.
(Approved persons may perform certain acts under supervision.)

20 (10) Division 2 applies to a person in respect of whom an approval is in force under this section as if that person were registered as a veterinary surgeon and a reference in that Division—

- 25 (a) to the suspension for any period from practice of a veterinary surgeon shall be construed as a reference to the withdrawal for that period of an approval in force under this section; and
- 30 (b) to the removal of the name of a veterinary surgeon from the register shall be construed as a reference to the cancellation of the approval in force under this section.

(j) by omitting section 26A.

Sec. 26A.
(Application of sections 25 and 26.)
(2)

Veterinary Surgeons (Amendment).

(2) Any complaint or charge made to the board under section 18A of the Principal Act before the commencement of subsection (1) and not finally dealt with by the board in accordance with that section at that commencement shall
5 be deemed to be a complaint made to the investigating committee in accordance with section 19A of that Act as amended by that subsection.

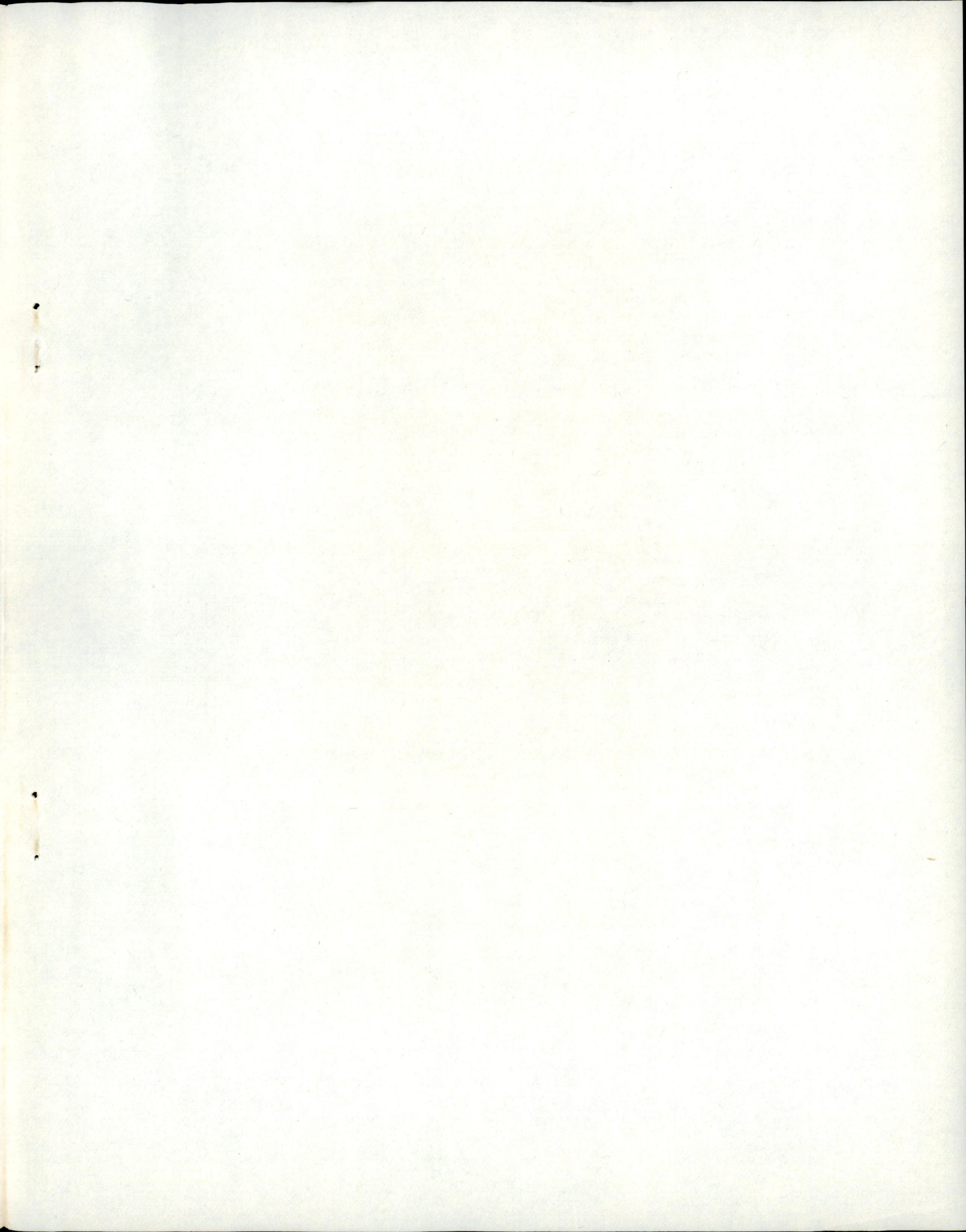
(3) An appeal commenced under section 18A (8) of the Principal Act as in force immediately before the com-
10 mencement of subsection (1) may be continued and be dealt with in all respects as if subsection (1) had not been enacted and a decision given on any such appeal shall be final and shall be given effect to by the board.

(4) A person referred to in section 18A (8) of the
15 Principal Act as in force immediately before the commencement of subsection (1) who has not, within three months after the date on which notice was given to him in accordance with that subsection, appealed in accordance with that subsection, may within three months after the date on which that
20 notice was given to him, appeal to the Supreme Court in accordance with section 19I of the Principal Act in force after the commencement of that subsection as if the order of the board were an order of the disciplinary tribunal.

(5) Where the board suspended the registration of
25 a veterinary surgeon in accordance with section 18A of the Principal Act as in force immediately before the commencement of subsection (1), that suspension shall, subject to subsection (3) and section 19J (2) of the Principal Act as amended by subsection (1), remain in force according to its
30 terms.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974
[40c]



New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 6, 1974.

An Act to make further provisions with respect to the appointment of members of the Board of Veterinary Surgeons of New South Wales; to provide for the licensing and control of veterinary hospitals; for these and other purposes to amend the Veterinary Surgeons Act, 1923; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

Veterinary Surgeons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Veterinary Surgeons (Amendment) Act, 1974".

**Commence-
ment.**

2. The provisions—

- (a) of section 1 and of this section, and of sections 3, 4, 5 and 6, shall commence upon the date of assent to this Act;
- (b) of sections 7 and 8 shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette;
- (c) of section 9 shall commence upon such day, being a day not earlier than the day referred to in paragraph (d), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette; and
- (d) of section 10 shall commence upon the appointed day referred to in section 4 (1).

**Construc-
tion.**

3. The Veterinary Surgeons Act, 1923, is in this Act referred to as the Principal Act.

Veterinary Surgeons (Amendment).

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Veterinary Surgeons of New South Wales shall be reconstituted and shall consist of five members who shall be appointed in accordance with section 5 of the Principal Act as amended by this section.

Reconstitution of the Board of Veterinary Surgeons of New South Wales.

(2) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under section 4 of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(3) For the purposes only of the appointment of persons to be the president and the other members of the Board of Veterinary Surgeons of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of subsection (5) shall commence on the date of assent to this Act.

(4) The persons so appointed shall assume their offices as president and the other members of the Board of Veterinary Surgeons of New South Wales upon the appointed day and on that day the provisions of subsection (5) shall come into force for all purposes.

(5)

Veterinary Surgeons (Amendment).

Amendment of Act No. 25, 1923.

Subst. secs. 5-7 incl.

Appointment of members and deputy members of board.

(5) The Principal Act is amended by omitting sections 5, 6 and 7 and by inserting instead the following sections:—

5. (1) The board shall consist of five members appointed by the Governor, of whom—

- (a) subject to section 6, three shall be persons nominated by the Minister from a panel of not less than seven veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing; and
- (b) two shall be veterinary surgeons nominated by the Minister.

(2) One of the members shall, in and by the instrument by which he is appointed, or in and by another instrument executed by the Governor, be appointed as president of the board.

(3) A person shall not be appointed as a member if he is of or above the age of seventy years.

(4) Subject to this Act, the term of office of a member is three years.

(5) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

(6) If a member is likely from any cause to be absent from meetings of the board for more than three months the Governor may appoint a veterinary surgeon as a deputy to act for that member during his absence.

(7) A deputy member shall have the same powers, rights and duties as the member for whom he is appointed to act.

Veterinary Surgeons (Amendment).

(8) Each member and deputy member shall be entitled to receive such fees and travelling expenses as the Governor may from time to time determine in respect of him.

5A. (1) A member shall be deemed to have vacated his office if— Casual
vacancy.

- (a) he dies;
- (b) he is absent from three consecutive ordinary meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post unless on leave granted by the board or unless excused by the board for his absence from those meetings before the expiration of four weeks after the last of those meetings;
- (c) he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) he resigns his office by writing under his hand addressed to the Governor;

(g)

Veterinary Surgeons (Amendment).

- (g) he attains the age of seventy years;
- (h) he ceases to be a veterinary surgeon; or
- (i) he is removed from office by the Governor.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

Filling
of casual
vacancy.

5B. (1) Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that the board is constituted in accordance with subsection (1) of section 5.

(2) Where a vacancy occurs in the office of a member appointed pursuant to a nomination under paragraph (a) of subsection (1) of section 5, his successor shall be appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister directs in writing.

(3) A person appointed under subsection (1) shall be appointed for the remainder of the term of office of his predecessor.

Default in
nomination
of panels.

6. If sufficient veterinary surgeons are not nominated to form a panel referred to in paragraph (a) of subsection (1) of section 5 or subsection (2) of section 5B and the period within which that panel may be nominated has expired, the Governor may appoint such number of veterinary surgeons as are required to be appointed and are nominated by the Minister as members of the board or to fill a vacancy on the board, as the case may be, instead of the members or member required to be appointed from a panel.

Veterinary Surgeons (Amendment).

7. Subsection (I) of section 39 of the Interpretation Act, 1897, applies to the board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969. Acts and proceedings of board.

5. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) (i) by omitting from the matter relating to Part V in section 2 the figures "29" and by inserting instead the figures "30"; Sec. 2. (Parts.)
- (ii) by omitting from the matter relating to Part II in section 2 the figure "8" and by inserting instead the matter "8A";
- (b) (i) by inserting in section 3 next after the definition of "Board" the following new definition :— Sec. 3. (Definitions.)

"Director-General" means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.

- (ii) by inserting in the definition of "Veterinary science" in section 3 after the word "surgery" the following words :—

and, without limiting the generality of the foregoing, includes—

- (a) the examination of or attendance upon any animal for the purpose of diagnosing the physiological or pathological condition of the animal;
- (b) the giving of any anaesthetic to, the performance of any operation on, or the making of any radiological diagnosis of, any animal; and

(c)

Veterinary Surgeons (Amendment).

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

Sec. 8.
(Registrar,
inspectors
and other
officers.)

(c) by omitting from section 8 (1) the words "An inspector may, for the purposes of ascertaining whether any of the provisions of this Act or of the regulations made thereunder has been or is being contravened by a veterinary surgeon or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, enter and inspect any premises in which such veterinary surgeon is carrying on the practice of veterinary science and may make such enquiries therein as he may think fit.";

New sec.
8A.

(d) by inserting next after section 8 the following new section :—

Power
of entry.

8A. (1) An inspector may, for the purpose of ascertaining whether any provision of this Act or the regulations has been or is being contravened, or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, at any reasonable time enter any premises or place in which a veterinary surgeon is, or any premises or place in which he has reasonable cause to believe that any person is, doing or performing any act, matter or thing that forms part of the practice of veterinary science and may—

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

Veterinary Surgeons (Amendment).

in or from those premises or that place as he considers necessary in connection with the administration of this Act.

(2) Any person who wilfully delays or obstructs an inspector in the exercise of his powers under subsection (1) or who, being an occupier of any premises or place referred to in subsection (1), refuses to permit an inspector to carry out those powers or reasonably to assist an inspector in the exercise of those powers, is guilty of an offence.

- (e) (i) by omitting from section 18 (1) (c) the words "mentally ill person, a protected person or an incapable person" and by inserting instead the words "temporary patient, a continued treatment patient, a protected person, or an incapable person,"; Sec. 18.
(Removal of name of deceased veterinary surgeons, etc.)
- (ii) by omitting from section 18 (1) (c) the words "as subsequently amended;" and by inserting instead the words "or a person under detention under Part VII of that Act; or";
- (f) by omitting from section 20 the words "holding some one of the qualifications mentioned in subsection one of section thirteen of this Act"; Sec. 20.
(Issuing certificates under other Acts.)
- (g) (i) by omitting from section 21 the words "registered under this Act" wherever occurring; Sec. 21.
(Prohibited practices.)
- (ii) by omitting from section 21 (3) (b) the words "science; or" and by inserting instead the following words :—
- science, otherwise than—
- (i) as an employee of the owner of the animal in respect of which the act, matter or thing was done or performed; and
- (ii) incidentally to the primary duties of his employment;

(iii)

Veterinary Surgeons (Amendment).

- (iii) by omitting from section 21 (3) (c) the word "business:" and by inserting instead the following words and new paragraph:—

business; or

- (d) hold any prescribed office or position or any office or position of a prescribed class or description:

- (iv) by omitting from the proviso in section 21 (3) the words "this subsection" and by inserting instead the matter "paragraph (c)";

- (v) by omitting section 21 (4);

- (h) (i) by omitting from section 23 (2) the words "After the coming into operation of this Act no" and by inserting instead the word "No";

- (ii) by omitting from section 23 (2) the words "in respect of instructions received after the coming into operation of this Act unless he is registered as a veterinary surgeon under this Act." and by inserting instead the following words:—

unless—

- (a) he is a veterinary surgeon; or
 (b) the fee or charge arises from the doing or performing of an act, matter or thing referred to in section 24.

Sec. 23.
 (Suing for
 fees.)

Subst.
 sec. 24.

- (i) by omitting section 24 and by inserting instead the following section:—

24. Notwithstanding any other provision of this Act, a person other than a veterinary surgeon may, for fee or reward—

Permitted
 practices.

- (a) de-worm any animal;
 (b) perform the Mules operation on sheep;
 (c) de-horn any animal;

(d)

Veterinary Surgeons (Amendment).

- (d) castrate or spay any animal except—
- (i) a horse, dog or cat; or
 - (ii) cattle, sheep or pigs that are more than twelve months of age;
- (e) tail lambs;
- (f) carry out any immunising procedure except an immunising procedure—
- (i) prescribed under paragraph (c) of the definition of “Veterinary science” in section 3; or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act;
- (g) determine the sex of chickens;
- (h) under the immediate and direct supervision of a veterinary surgeon, administer an anaesthetic to an animal;
- (i) where a veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment; or
- (j) do or perform—
- (i) except as provided in subparagraph (ii), any other act, matter or thing prescribed for the purposes of this paragraph; or
 - (ii) any other act, matter or thing prescribed for the purposes of this paragraph in such circumstances as may be prescribed.
- (j) (i) by omitting section 24A (7) (b) and by inserting instead the following paragraph :—
- (b) has become a temporary patient, a continued treatment patient, a protected person, or an incapable person,
- Sec. 24A.
(Approved persons may perform certain acts under supervision.)
- within

Veterinary Surgeons (Amendment).

within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(ii) by omitting section 24A (9) (a) and by inserting instead the following paragraph:—

(a) been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence;

(iii) by omitting from section 24A (9) (d) the word "has";

Sec. 26.
(Power to
summon
witnesses.)

(k) by omitting from section 26 (2) the words "shall be liable to a penalty not exceeding forty dollars" and by inserting instead the words "is guilty of an offence";

New sec.
30.

(l) by inserting next after section 29 the following new section:—

General
penalty.

30. A person who is guilty of an offence against this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding two hundred dollars.

Further
amendment
of Act No.
25, 1923.

6. (1) The Principal Act is further amended by omitting section 29 and by inserting instead the following section:—

Subst.
sec. 29.

Regulations.

29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Veterinary Surgeons (Amendment).

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) regulating the proceedings and fixing the quorum of the board;
- (b) regulating the duties of officers;
- (c) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations;
- (d) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (e) prescribing fees payable under this Act;
- (f) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- (g) prescribing acts, matters or things the doing or performing of which forms part of the practice of veterinary science.

(3) A regulation may impose a penalty not exceeding forty dollars for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Notwithstanding the repeal effected by subsection (1), the regulations in force immediately before the day upon which this section takes effect shall continue in force as if made under the Principal Act as amended by this section.

Veterinary Surgeons (Amendment).

Further amendment of Act No. 25, 1923.

7. (1) The Principal Act is further amended—

Sec. 12.
(Good fame and character.)

- (a) by omitting from section 12 the words “has attained the age of twenty-one years and”;

Sec. 13.
(Qualifications for registration.)

- (b) (i) by omitting section 13 (1) (a) and (b) and by inserting instead the following paragraph :—

(a) holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

(i) extending over at least five academic years; and

(ii) in which a general study of veterinary science was made,

at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

(ii) by omitting from section 13 (1) (c) (i) the word “school” and by inserting instead the words “institution prescribed for the purposes of this paragraph on the recommendation of the board”;

(iii) by omitting from section 13 (1) (c) (i) the word “schools” and by inserting instead the words “institutions so prescribed”;

(iv) by omitting from section 13 (1) (c) (ii) the words “school a degree, diploma or license of competency” and by inserting instead the words “institution an academic award”;

(v)

Veterinary Surgeons (Amendment).

- (v) by omitting section 13 (1) (c) (iii) and by inserting instead the following subparagraph :—
- (iii) has passed the prescribed examination ;
and ;
- (vi) by omitting from section 13 (1A) the word “examiners” and by inserting instead the word “board” ;
- (vii) by omitting section 13 (2) (a), (b), (c), (d), (e), (f) and (f1) and by inserting instead the following paragraph :—
- (a) is a person who holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—
- (i) extending over at least four years ;
- (ii) in which a general study of veterinary science was made ;
and
- (iii) which he completed on or before 1st January, 1943,
- at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board ; or ;
- (viii) by omitting section 13 (3) and (4) and by inserting instead the following subsections :—
- (3) A person who was, at any time before the commencement of section 7 of the *Veterinary Surgeons (Amendment) Act,*

1974,

Veterinary Surgeons (Amendment).

1974, registered under this Act and who is no longer registered shall be entitled to be registered if he—

- (a) makes application for registration in the manner prescribed;
- (b) satisfies the board that he is of good fame and character; and
- (c) pays the fee referred to in paragraph (c) of section 15.

(4) A regulation for the purposes of paragraph (a) of subsection (1) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is a prescribed institution.

Sec. 14.
(Right of
appeal.)

- (c) (i) by inserting in section 14 after the word "examination," the words "or if the name of any person is removed from the register by direction of the board pursuant to paragraph (b) or (c) of subsection (1) of section 18,";
- (ii) by omitting from section 14 the words "district court of the district in which" and by inserting instead the words "District Court sitting at the nearest proclaimed place to the place where";

Sec. 21.
(Prohibited
practices.)

- (d) by omitting from section 21 (1) the words "degree, diploma, license, certificate," and by inserting instead the words "academic award";

Sec. 24A.
(Approved
persons
may perform
certain acts
under
super-
vision.)

- (e) by omitting from section 24A (1) (b) the words "a degree, diploma or license of competency" and by inserting instead the words "an academic award".

(2) Nothing in subsection (1) shall be construed as requiring the removal from the register of the name of any person who, immediately before the commencement of this section, was registered under the Principal Act.

Veterinary Surgeons (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) by inserting in the definition of “Veterinary surgeon” in section 3 after the word “registered” the words “or provisionally registered”; Sec. 3. (Definitions.)
- (b) by inserting next after section 15 the following new section :— New sec. 15A.

15A. (1) In this section, “prescribed person” means the president of the board or, in his absence from Sydney, any other member of the board authorised generally in that behalf by the board. Provisional registration.

(2) Where a person has applied to be registered, a prescribed person, upon being satisfied that the applicant—

(a) is entitled to be registered under this Act; or

(b) is a person who—

(i) is entitled to an academic award referred to in paragraph (a) of subsection (1) of section 13;

(ii) will have that award conferred upon him in due course according to the practice of the university, college or institution in question in conferring awards; and

(iii) is of good fame and character,

may, on behalf of the board, issue to the applicant a certificate of provisional registration in the prescribed form.

(3) A person who has obtained a certificate of provisional registration shall be deemed to be registered for a period of three months from the date of issue of the certificate.

(4)

Veterinary Surgeons (Amendment).

(4) The board may, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been issued becomes registered under this Act during the currency of the certificate—

- (a) his registration shall, unless otherwise determined by the board, date from the issue of the certificate of provisional registration; and
- (b) his provisional registration shall, notwithstanding subsection (3), expire on the day upon which he becomes registered.

Sec. 27.
(Penalty for forging registration.)

- (c) by inserting in section 27 after the word "registered" the words "or provisionally registered";

Sec. 27A.
(Document under hand of registrar to be prima facie evidence.)

- (d) by inserting in section 27A (a) after the word "registered" the words "or provisionally registered".

Further amendment of Act No. 25, 1923.

9. The Principal Act is further amended—

Sec. 2.
(Parts.)

- (a) by inserting in section 2 next after the matter relating to Part IV the following new matter :—

PART IVA.—VETERINARY HOSPITALS—ss. 24B–24H.

(b)

Veterinary Surgeons (Amendment).

(b) by inserting in section 3 next after the definition of "Registrar" the following new definition :—

Sec. 3.
(Definitions.)

"Veterinary hospital" means a place used or intended to be used for the purpose of the doing or performing, for fee or reward, of any act, matter or thing the doing or performance of which forms part of the practice of veterinary science, but does not include—

- (a) a place at which any act, matter or thing permitted by section 24 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at that place; or
 - (b) a place or class of places prescribed for the purposes of this definition.
- (c) by inserting next after Part IV the following new Part :—

New Part
IVA.

PART IVA.

VETERINARY HOSPITALS.

24B. After the expiration of three months from the day upon which section 9 of the Veterinary Surgeons (Amendment) Act, 1974, commences, no person shall carry on or conduct a veterinary hospital unless—

Veterinary
hospitals
to be
licensed.

- (a) a license has been granted in respect thereof by the Director-General; and
- (b) it is managed by a superintendent thereof, the nomination or appointment of whom has been notified to the Director-General in accordance with section 24H.

24c. (1) An application for a license shall be made to the Director-General in the prescribed manner and shall be accompanied by the license fee prescribed in respect of the class of license applied for.

Application
for license.

(2)

Veterinary Surgeons (Amendment).

(2) The Director-General shall not approve of the issue to an applicant of a license for a veterinary hospital unless—

- (a) the applicant is a veterinary surgeon or a person approved by the board; and
- (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a license is made.

(3) A license shall, subject to this Act, continue in force until it is cancelled but, except to the extent that this Act otherwise provides, shall be deemed not to be in force while it is suspended.

(4) Where the Director-General refuses to approve of the issue to an applicant of a license of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, he may, if he is satisfied that the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue to the applicant a license for a veterinary hospital of that other class.

(5) Where the Director-General refuses to approve of the issue to an applicant of a license under this section, except where pursuant to subsection (4) he issues to the applicant a license of some other class, he shall serve on that person notice in writing of his refusal.

(6) Where the Director-General issues to an applicant a license as referred to in subsection (4) he shall refund to the applicant any amount by which the license fee for the license applied for exceeds the license fee for the license issued.

(7) The regulations may prescribe different classes of licenses for different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

24D. (1) A licensee shall, while the license Annual license fee. remains in force, on or before each anniversary of the day upon which the license was issued, pay to the Director-General the prescribed annual license fee in respect of the class of license issued to him.

(2) The regulations may prescribe different annual license fees for different classes of licenses.

(3) For the purposes of this section, a license shall be deemed not to have ceased to be in force by reason only of its suspension.

24E. (1) Subject to this section, the Director-General may suspend a license for a period not exceeding twelve months or may cancel a license Suspension or cancellation of license. if—

- (a) the prescribed annual license fee is not paid in accordance with subsection (1) of section 24D ;
- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations ;
- (c) the licensee, where he is a veterinary surgeon, or the superintendent, is suspended from practice or has his name removed from the register pursuant to section 19H ;
- (d) the place in respect of which the license was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class ;
- (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class ;
- (f) the veterinary hospital is not conducted as prescribed ;

(g)

Veterinary Surgeons (Amendment).

- (g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or
- (h) the licensee so requests.

(2) The Director-General may, under paragraph (h) of subsection (1), cancel a license upon the occurrence of an event specified in the request.

(3) The Director-General shall not suspend or cancel a license under paragraph (d), (e) or (f) of subsection (1) unless—

- (a) he has first served on the licensee a notice specifying—
 - (i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed;
 - (ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed ;
or
 - (iii) the manner in which the veterinary hospital is not being conducted as prescribed,

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

(b)

Veterinary Surgeons (Amendment).

(b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.

(4) Where the Director-General suspends or cancels a license he shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.

(5) A suspension or cancellation of a license under subsection (1) (paragraph (h) excepted) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be taken, or where such an appeal is taken, until the appeal is determined or withdrawn.

(6) Where a license is cancelled under paragraph (h) of subsection (1), the Director-General may refund to the licensee an amount that, on the day of cancellation, bears to the amount of the annual license fee last paid the same proportion as the number of whole unexpired months until the next annual license fee is payable bears to twelve.

24F. (1) Where the Director-General— **Appeal.**

- (a) refuses to approve of the issue to an applicant of a license;
- (b) issues to an applicant a license of a class other than the class applied for;
- (c) suspends a license; or
- (d) cancels a license, except pursuant to paragraph (h) of subsection (1) of section 24E,

the

Veterinary Surgeons (Amendment).

the applicant or licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the decision of the Director-General.

(2) The decision of the District Court on any such appeal shall be final and shall be given effect to by the Director-General.

Service of notices.

24G. A notice under this Part may be served by post upon—

- (a) an applicant, at the address stated in the application; and
- (b) a licensee or superintendent, at the address in respect of which the license is issued.

Superintendents.

24H. (1) A licensee of a veterinary hospital may, by instrument in writing in the prescribed form, nominate himself or appoint another person to be the superintendent of that veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person shall not be capable of being nominated or appointed to be and shall not act as the superintendent of a veterinary hospital—

- (a) unless he is a veterinary surgeon; or
- (b) if he is the superintendent of another veterinary hospital except with the permission in writing of the board and subject to such conditions, if any, as the board specifies in its permission.

(3) Within seven days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Director-General—

- (a) the instrument by which that person was nominated or appointed to be the superintendent; or

(b)

Veterinary Surgeons (Amendment).

(b) a notice, in writing, specifying the day upon which that person ceased to be the superintendent,

as the case may be.

(d) by inserting next after section 27B the following new section :— New sec. 27c.

27c. In any proceedings before any court and before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General certifying that, on a day or during a period specified in the certificate— Certificate of Director-General to be prima facie evidence.

(a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act;

(b) a person specified in the certificate was or was not a person to whom a license had been issued in respect of a veterinary hospital specified in the certificate; or

(c) a person specified in the certificate was or was not a person in respect of whom the Director-General had received an instrument or notice pursuant to subsection (3) of section 24H,

shall be prima facie evidence of the facts stated therein.

(e) by inserting in section 28 (1) after the word "payable" the words "for or in connection with the registration of a veterinary surgeon and in connection with the giving of an approval under section 24A"; Sec. 28. (Appropriation of registration fees and penalties.)

(f) (i) by omitting from section 29 (2) (g) the word "science." and by inserting instead the following word and new paragraphs :— Sec. 29. (Regulations.)

science;

(h)

Veterinary Surgeons (Amendment).

- (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including—
- (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals, staff and other persons;
 - (ii) furniture and equipment;
 - (iii) operating theatres, dressing rooms, kennels and yards; and
 - (iv) the prevention of the ingress of, and the destruction of, flies and vermin;
- (i) prescribing the manner in which veterinary hospitals are to be conducted, including—
- (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment;
 - (ii) the manner of disposal of refuse and other matter;
 - (iii) the manner of disposal of dead animals;
 - (iv) the provision to be made for the storage, preparation and serving of food;
 - (v) the manner in which care and attention shall be given to animals;
 - (vi) the manner of isolation or removal of animals suffering from infectious diseases;
 - (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and

(ii)

(viii)

Veterinary Surgeons (Amendment).

- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;
 - (j) prescribing the duties of the superintendent of a veterinary hospital;
 - (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital;
 - (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of that veterinary hospital;
 - (m) prescribing any continual period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to appoint another superintendent;
 - (n) regulating the manner and extent to which a veterinary hospital may be advertised.
- (ii) by inserting at the end of section 29 the following new subsection :—
- (5) Different—
 - (a) provisions may be made pursuant to paragraphs (h), (i), (j) and (k) of subsection (2);
 - (b) periods and circumstances may be prescribed pursuant to paragraphs (l) and (m) of subsection (2),
- in respect of different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

Further amend-
ment of
Act No. 25,
1923.

10. (1) The Principal Act is further amended—

Sec. 2.
(Parts.)

(a) by omitting from section 2 the matter relating to Part IV and by inserting instead the following matter :—

PART IV.—VETERINARY SURGEONS—ss. 12–24A.

DIVISION 1.—Registration—ss. 12–19.

DIVISION 2.—Disciplinary Provisions—ss. 19A–19L.

DIVISION 3.—General—ss. 20–24.

DIVISION 4.—Supervised Practitioners—s. 24A.

Part IV.
(New heading.)

(b) by inserting in Part IV next before section 12 the following matter :—

DIVISION 1.—Registration.

Sec. 18A.
(Removal of name on account of misconduct, etc.)

(c) by omitting section 18A;

Sec. 19.
(Restoration of name.)

(d) (i) by omitting from section 19 the matter “or 18A” wherever occurring;

(ii) by omitting from section 19 (1) the words “a court of competent jurisdiction” and by inserting instead the words “the District Court”;

New secs.
19A–19L,
both incl.

(e) by inserting next after section 19 the following new matter :—

DIVISION 2.—Disciplinary Provisions.

19A. (1) A complaint that any veterinary surgeon—

Complaints against veterinary surgeons.

(a) has been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence ;

(b)

Veterinary Surgeons (Amendment).

- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug;
- (c) has been guilty of misconduct in a professional respect;
- (d) has had his registration to practise veterinary science cancelled under the law in force relating to the registration of persons entitled to practise veterinary science in a place outside New South Wales other than at his own request or has been suspended from practice as a person so entitled under any such law;
- (e) is not of good character; or
- (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a veterinary surgeon,

may be made to the investigating committee.

(2) A complaint shall be made in writing and the investigating committee, by notice in writing served on the complainant—

- (a) may require further particulars of any complaint to be given; and
- (b) may require the complaint or any further particulars to be verified by statutory declaration,

within such time as may be specified in the notice.

(3) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the investigating committee, the investigating committee may declare that the complaint be deemed not to have been received by it in accordance with subsection (2).

(4)

Veterinary Surgeons (Amendment).

(4) The court before which any veterinary surgeon is convicted of a felony, misdemeanour, crime or offence shall, except in such cases or classes of cases as may be specified or described in the regulations, forward particulars of the conviction to the investigating committee.

(5) The investigating committee may consider the particulars of the conviction of a veterinary surgeon forwarded to it under subsection (4) and, if it so directs, those particulars shall be deemed to be a complaint made to it against that veterinary surgeon under paragraph (a) of subsection (1) and received by it in accordance with this section.

(6) Every person other than—

- (a) a member of the police force;
- (b) a member of the Public Service; or
- (c) a member of the committee of the Australian Veterinary Association,

acting in his capacity as such a member, who makes a complaint to the investigating committee against a veterinary surgeon shall deposit with the investigating committee the sum of twenty dollars at the time of lodging the complaint.

Misconduct
in a
professional
respect.

19B. Without limiting the meaning of the expression "misconduct in a professional respect" a veterinary surgeon shall be deemed to be guilty of such misconduct where he—

- (a) permits or requires an unregistered person employed by him to do any act forming part of the practice of veterinary science except where that person acts in accordance with this or any other Act; or

(b)

Veterinary Surgeons (Amendment).

- (b) allows the use of his name in connection with a purported practice of veterinary science at premises at which he or a partner does not bona fide carry on the practice of veterinary science.

19c. (1) There shall be an investigating committee appointed by the Minister which shall consist of— Constitution of investigating committee.

- (a) a barrister or solicitor, who shall be chairman;
- (b) an officer of the Department of Agriculture who is a veterinary surgeon but not a member of the board; and
- (c) a veterinary surgeon who is not a member of the board appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing.

(2) If sufficient veterinary surgeons are not nominated to form the panel referred to in paragraph (c) of subsection (1) and the period within which that panel may be nominated has expired, the Minister may appoint a veterinary surgeon other than a member of the board to the investigating committee instead of the veterinary surgeon required to be appointed from that panel.

(3) The chairman and members of the investigating committee shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

19D.

Veterinary Surgeons (Amendment).

Investigation
by
investigating
committee.

19D. (1) The investigating committee shall cause all complaints against veterinary surgeons received by it in accordance with section 19A to be investigated and for the purposes of that investigation the chairman may administer an oath and may, by notice in writing signed by him, require any person to attend at the place and at the time specified in the notice for the purpose of giving evidence before the investigating committee or producing any document relating to the investigation.

(2) Where in the course of the investigation of a complaint against a veterinary surgeon—

(a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; and

(b) the investigating committee is of the opinion that the other complaint is one that could be made to it and received by it in accordance with section 19A,

the investigating committee may itself make that other complaint which shall thereupon be deemed to be a complaint made to it and received by it in accordance with section 19A.

(3) The investigating committee—

(a) may dismiss any complaint made to it;

(b)

Veterinary Surgeons (Amendment).

- (b) if it is satisfied of the truth of the complaint but does not consider that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, after giving the veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it, may caution or reprimand that veterinary surgeon; or
- (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, shall refer the complaint accordingly.

(4) The proceedings of the investigating committee shall be held in camera.

(5) Where an amount is deposited pursuant to subsection (6) of section 19A and the investigating committee—

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

the investigating committee may so declare and the amount deposited shall be forfeited.

Veterinary Surgeons (Amendment).

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

(7) The investigating committee may, when referring a charge to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of section 19F, be deemed to be the person who made the complaint.

(8) At the conclusion of the investigation of a complaint against a veterinary surgeon the investigating committee shall notify the board of the action taken by it pursuant to subsection (3).

Constitution
of
disciplinary
tribunal.

19E. (1) The disciplinary tribunal shall consist of—

(a) a chairman appointed by the Governor who—

(i) shall be a Judge of the District Court of New South Wales; and

(ii) except as provided in subsection (5) shall hold office for a term of seven years; and

(b) the members of the board.

(2) A quorum at any sitting of the disciplinary tribunal shall consist of the chairman and three members of the board.

(3)

Veterinary Surgeons (Amendment).

(3) The chairman and members of the board sitting on the disciplinary tribunal shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

(4) Where in the opinion of the Governor the chairman is unable for any cause to act in respect of any matter he may appoint a Judge of the District Court of New South Wales to be the deputy of the chairman and that Judge, while acting as deputy, shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the chairman in respect of that matter.

(5) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a Judge of the District Court.

19F. (1) Subject to subsection (1) of section 19G, the registrar shall convene all meetings of the disciplinary tribunal and shall keep a record of all proceedings and decisions of that tribunal. Inquiry by disciplinary tribunal.

(2) The proceedings before the disciplinary tribunal shall be in the nature of a rehearing.

(3) The disciplinary tribunal shall, in making any inquiry, sit in open court and the veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by his solicitor or counsel.

(4)

Veterinary Surgeons (Amendment).

(4) The person who made the complaint (not being a complaint deemed by subsection (5) of section 19A or subsection (2) of section 19D to have been made to the investigating committee or deemed by subsection (7) to have been referred to the disciplinary tribunal) shall, unless exempted from attendance by the disciplinary tribunal, be present and may be represented by his solicitor or counsel at the inquiry.

(5) The disciplinary tribunal may receive and admit on production, as evidence in the inquiry concerned—

- (a) the judgment and findings of any court (whether civil or criminal), the verdict or findings of a jury, or a certificate of the conviction of any person, in any case where the judgment, findings, verdict or certificate are, in the opinion of the disciplinary tribunal, relevant to the nature of the complaint; and
- (b) a copy of the depositions or a transcript of the shorthand or other notes, duly certified as correct, of the evidence of witnesses taken in any court in any case where, in the opinion of the disciplinary tribunal, that evidence is relevant to the nature of the complaint.

(6) For the purpose of an inquiry, the disciplinary tribunal and the chairman shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and

Division

Veterinary Surgeons (Amendment).

Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the disciplinary tribunal in the same way as it applies to a witness summoned before a royal commission.

(7) Where in the course of the inquiry into a complaint against a veterinary surgeon—

- (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it;
- (b) the disciplinary tribunal is satisfied that the investigating committee has not, under paragraph (a) or (b) of subsection (3) of section 19D, dealt with that other complaint or a complaint that was substantially the same as that other complaint; and
- (c) the disciplinary tribunal is of the opinion that that other complaint, or the complaint that is substantially the same as that other complaint, is one that could have been made to and received by the investigating committee in accordance with section 19A,

the disciplinary tribunal may itself make that other complaint, or a complaint that is substantially the same as that other complaint, which shall be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 19D.

(8) Notwithstanding anything in subsection (1) of section 19G, where in the course of any inquiry into a complaint against a veterinary

surgeon

Veterinary Surgeons (Amendment).

surgeon the disciplinary tribunal makes another complaint against the veterinary surgeon under subsection (7), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

(9) Where the persons constituting the disciplinary tribunal are divided in opinion as to the decision to be given upon any question (not being a question to which subsection (5) of section 19G relates) the question shall be decided according to the opinion of the majority, if there is a majority, but if those persons are equally divided in opinion, the decision shall be in favour of the veterinary surgeon concerned.

**Powers of
chairman of
disciplinary
tribunal.**

19G. (1) The chairman shall fix a date and place for the hearing of an inquiry by the disciplinary tribunal and the registrar shall give at least seven days' notice to the veterinary surgeon concerned of the date and place so fixed.

(2) The chairman, upon request made by the person who made a complaint, the veterinary surgeon concerned or any other interested person, may—

- (a) direct that the name of any witness shall not be disclosed at the inquiry;
- (b) direct that all or any of the following matters, that is to say :—
 - (i) the name and address of any witness;
 - (ii) the name and address of the person who made the complaint ;

(iii)

Veterinary Surgeons (Amendment).

- (iii) the name and address of the veterinary surgeon concerned;
- (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,

shall not be published in any newspaper, except a publication bona fide intended primarily for the use of the legal or veterinary profession, or by radio or television; and

- (c) notwithstanding subsection (3) of section 19F, direct that the inquiry be held in camera.

(3) The chairman—

- (a) may revoke a direction given under subsection (2) at any time; and
- (b) may exercise his powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but he shall not exercise his powers under subsection (2) before the inquiry unless reasonable notice is given to the person who made the request, the person who made the complaint, the veterinary surgeon concerned and such other persons as the chairman thinks fit, of the time and place appointed by him for the consideration of the request.

(4) Any person who contravenes a direction given under subsection (3) is guilty of an offence.

(5)

Veterinary Surgeons (Amendment).

(5) The decision of the chairman upon any question of law or procedure which may arise in any inquiry shall be the decision of the disciplinary tribunal.

Penalties.

19H. (1) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, that tribunal may by order—

- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for a period not exceeding twelve months; or
- (c) direct that the name of the veterinary surgeon be removed from the register.

(2) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, the tribunal shall not make an order suspending him from practice or directing that his name be removed from the register where the matter of the complaint is such that, whether from its trivial nature or from the circumstances in which it occurred or from any other reason, it does not in the public interest disqualify the person from practising his profession.

(3) Where the disciplinary tribunal makes an order pursuant to paragraph (a) or (b) of subsection (1), that tribunal may by the same order direct the veterinary surgeon to comply during a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

(4)

Veterinary Surgeons (Amendment).

(4) If the disciplinary tribunal has reason to believe that a person in respect of whom a direction under subsection (3) has been made has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if it is proved to the satisfaction of the disciplinary tribunal that that person has failed to comply with the direction, may make a further order under subsection (1).

(5) Where the disciplinary tribunal directs that the name of a veterinary surgeon be removed from the register it may fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

(6) While any order of suspension from practice under this section remains in force the person concerned shall, except for the purposes of section 11, be deemed not to be a veterinary surgeon, but forthwith upon the expiry of the order all his rights and privileges as a veterinary surgeon shall be revived as from that expiry.

(7) An order made by the disciplinary tribunal pursuant to this section shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order has been given to the veterinary surgeon by the registrar in accordance with section 19k.

(8) If within the period specified in subsection (7) the veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

(a) shall not take effect at the expiration of that period but shall, where the Court confirms the order without variation, and unless it otherwise orders, take effect upon the day upon which the order is confirmed; or

(b)

Veterinary Surgeons (Amendment).

- (b) shall not take effect at the expiration of that period nor shall it take effect at any other time where the Court allows the appeal, or dismisses the appeal but varies the order of the disciplinary tribunal.

Appeal
against
order of
disciplinary
tribunal.

19I. (1) There shall be a right of appeal to the Supreme Court from an order made under section 19H and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case.

(2) An appeal under subsection (1) shall be made in accordance with the rules of Court.

(3) The provisions of subsections (2) and (3) of section 19G shall, subject to the rules of Court, apply in the same way as those provisions apply to the hearing of a complaint by the disciplinary tribunal.

(4) Without affecting the generality of the foregoing provisions of this section, the Court may make any order which the disciplinary tribunal might have made under section 19H, or may vary any order made by the disciplinary tribunal.

Restoration
of name to
register.

19J. (1) In this section "the former provisions" means the provisions of section 18A of this Act as in force immediately before the commencement of section 10 of the *Veterinary Surgeons (Amendment) Act, 1974*.

(2) Subject to subsection (5) of section 19H, any person whose name has been removed from the register pursuant to section 19H or by the board pursuant to the former provisions, may apply

to

Veterinary Surgeons (Amendment).

to have his name restored to the register, and all the provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application.

(3) The disciplinary tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 19H or by the board pursuant to the former provisions before the expiration of the period specified in the order of suspension, and, except where the Court upon an appeal makes an order referred to in subsection (5) of section 19H, may direct that any name removed from the register at the direction of the disciplinary tribunal pursuant to section 19H or by the board pursuant to the former provisions be restored to the register.

(4) Notwithstanding subsection (3), the name of any person which has been removed from the register pursuant to section 19H or the former provisions shall not be restored to the register until the prescribed restoration fee is paid.

19K. (1) A notice under this Division by the registrar, investigating committee, disciplinary tribunal or a court may be served by delivering it personally to the person to whom it is addressed or by leaving it for him with some person apparently over the age of fourteen years at his address last known to the registrar, investigating committee, disciplinary tribunal or court, as the case may be. Service of notices.

(2) Any person upon whom a notice is served in accordance with subsection (1) and who, where that notice requires that person to do some act, without reasonable excuse fails or refuses to comply with the notice, is guilty of an offence.

19L.

Veterinary Surgeons (Amendment).

Notations
in register.

19L. Where the disciplinary tribunal or the Supreme Court makes an order under section 19H the registrar shall make a notation of the terms of the order in the register adjacent to the name of the person in respect of whom the order was made.

Part IV.
(New
heading.)

- (f) by inserting in Part IV next before section 20 the following new matter :—

DIVISION 3.—*General.*

Sec. 21.
(Prohibited
practices.)

- (g) by omitting section 21 (2) and by inserting instead the following subsections :—

(2) No veterinary surgeon shall carry on the practice of veterinary science under a name other than his own name except where—

- (a) he is a member of a partnership carrying on business under the name or names of one or more of the partners ;
- (b) he is duly appointed as the locum tenens of a veterinary surgeon ;
- (c) after the commencement of section 9 of the Veterinary Surgeons (Amendment) Act, 1974, he is duly appointed as the superintendent of a veterinary hospital ;
- (d) he is carrying on practice as a superintendent pursuant to an authorisation under section 22 ; or
- (e) the board otherwise permits in writing.

(2A)

Veterinary Surgeons (Amendment).

(2A) For the purposes of subsection (2), no veterinary surgeon shall be a duly appointed locum tenens unless—

- (a) he is appointed in writing by the veterinary surgeon in respect of whom he is acting as locum tenens; and
- (b) he is employed only during the temporary absence of his employer and for a period not exceeding three months or such longer period as the board may in any particular case permit in writing.

(h) by inserting in Part IV next before section 24A the following new matter :— Part IV.
(New heading.)

DIVISION 4.—*Supervised Practitioners.*

- (i) (i) by omitting section 24A (9) (c); Sec. 24A.
- (ii) by omitting section 24A (10) and by inserting instead the following subsection :— (Approved persons may perform certain acts under supervision.)

(10) Division 2 applies to a person in respect of whom an approval is in force under this section as if that person were registered as a veterinary surgeon and a reference in that Division—

- (a) to the suspension for any period from practice of a veterinary surgeon shall be construed as a reference to the withdrawal for that period of an approval in force under this section; and
- (b) to the removal of the name of a veterinary surgeon from the register shall be construed as a reference to the cancellation of the approval in force under this section.

(j) by omitting section 26A.

Sec. 26A.
(Application of sections 25 and 26.)
(2)

Veterinary Surgeons (Amendment).

(2) Any complaint or charge made to the board under section 18A of the Principal Act before the commencement of subsection (1) and not finally dealt with by the board in accordance with that section at that commencement shall be deemed to be a complaint made to the investigating committee in accordance with section 19A of that Act as amended by that subsection.

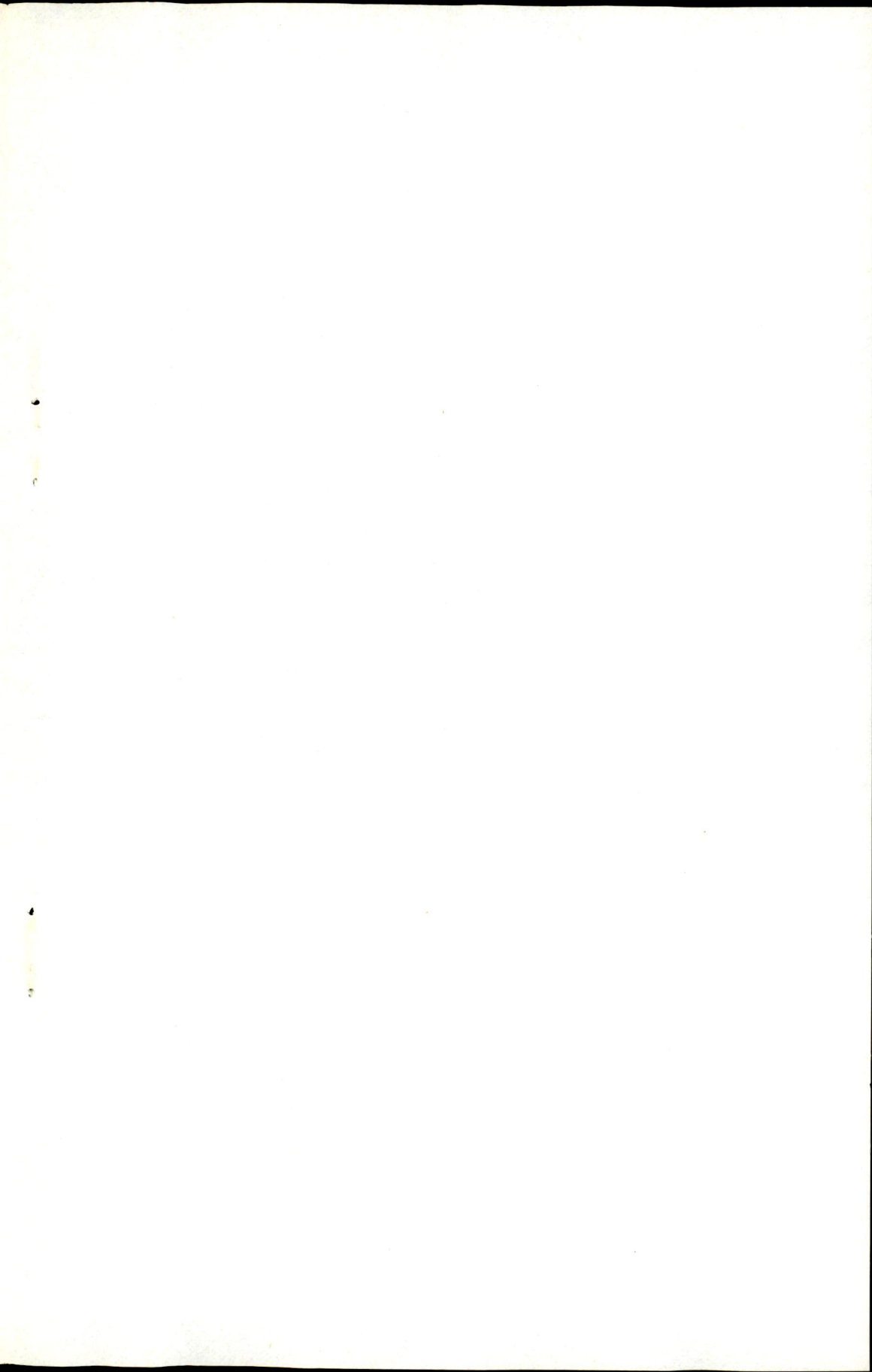
(3) An appeal commenced under section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) may be continued and be dealt with in all respects as if subsection (1) had not been enacted and a decision given on any such appeal shall be final and shall be given effect to by the board.

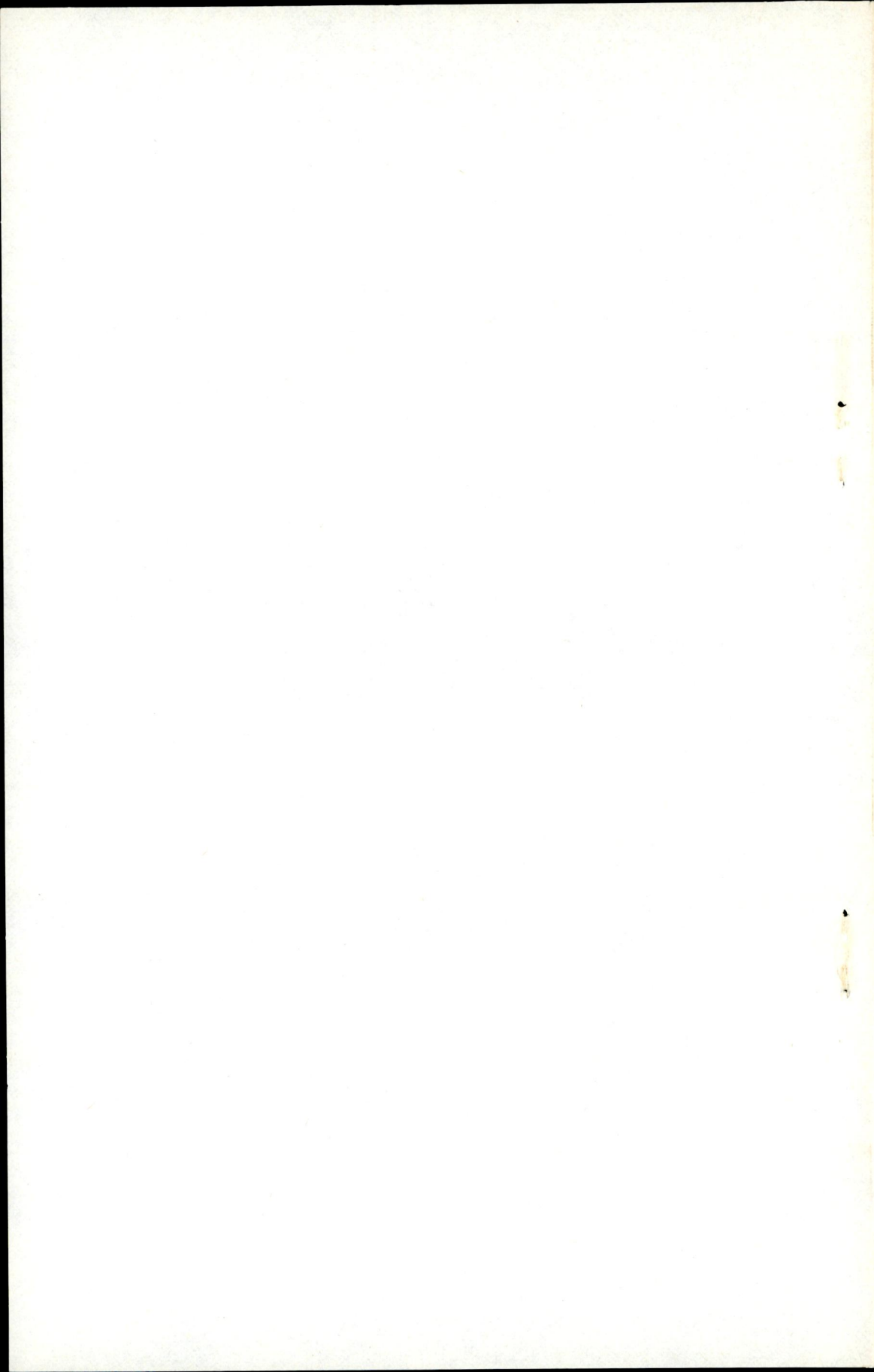
(4) A person referred to in section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) who has not, within three months after the date on which notice was given to him in accordance with that subsection, appealed in accordance with that subsection, may within three months after the date on which that notice was given to him, appeal to the Supreme Court in accordance with section 19I of the Principal Act in force after the commencement of that subsection as if the order of the board were an order of the disciplinary tribunal.

(5) Where the board suspended the registration of a veterinary surgeon in accordance with section 18A of the Principal Act as in force immediately before the commencement of subsection (1), that suspension shall, subject to subsection (3) and section 19J (2) of the Principal Act as amended by subsection (1), remain in force according to its terms.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974





I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 6, 1974.

An Act to make further provisions with respect to the appointment of members of the Board of Veterinary Surgeons of New South Wales; to provide for the licensing and control of veterinary hospitals; for these and other purposes to amend the Veterinary Surgeons Act, 1923; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Veterinary Surgeons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Veterinary Surgeons (Amendment) Act, 1974".

**Commence-
ment.**

2. The provisions—

- (a) of section 1 and of this section, and of sections 3, 4, 5 and 6, shall commence upon the date of assent to this Act;
- (b) of sections 7 and 8 shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette;
- (c) of section 9 shall commence upon such day, being a day not earlier than the day referred to in paragraph (d), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette; and
- (d) of section 10 shall commence upon the appointed day referred to in section 4 (1).

**Construc-
tion.**

3. The Veterinary Surgeons Act, 1923, is in this Act referred to as the Principal Act.

Veterinary Surgeons (Amendment).

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Veterinary Surgeons of New South Wales shall be reconstituted and shall consist of five members who shall be appointed in accordance with section 5 of the Principal Act as amended by this section.

Reconstitution of the Board of Veterinary Surgeons of New South Wales.

(2) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under section 4 of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(3) For the purposes only of the appointment of persons to be the president and the other members of the Board of Veterinary Surgeons of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of subsection (5) shall commence on the date of assent to this Act.

(4) The persons so appointed shall assume their offices as president and the other members of the Board of Veterinary Surgeons of New South Wales upon the appointed day and on that day the provisions of subsection (5) shall come into force for all purposes

(5)

Veterinary Surgeons (Amendment).

Amend-
ment of
Act No. 25,
1923.
Subst. secs.
5-7 incl.

(5) The Principal Act is amended by omitting sections 5, 6 and 7 and by inserting instead the following sections:—

Appoint-
ment of
members
and deputy
members of
board.

5. (1) The board shall consist of five members appointed by the Governor, of whom—

- (a) subject to section 6, three shall be persons nominated by the Minister from a panel of not less than seven veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing; and
- (b) two shall be veterinary surgeons nominated by the Minister.

(2) One of the members shall, in and by the instrument by which he is appointed, or in and by another instrument executed by the Governor, be appointed as president of the board.

(3) A person shall not be appointed as a member if he is of or above the age of seventy years.

(4) Subject to this Act, the term of office of a member is three years.

(5) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

(6) If a member is likely from any cause to be absent from meetings of the board for more than three months the Governor may appoint a veterinary surgeon as a deputy to act for that member during his absence.

(7) A deputy member shall have the same powers, rights and duties as the member for whom he is appointed to act.

(8)

Veterinary Surgeons (Amendment).

(8) Each member and deputy member shall be entitled to receive such fees and travelling expenses as the Governor may from time to time determine in respect of him.

5A. (1) A member shall be deemed to have vacated his office if— Casual
vacancy.

- (a) he dies;
- (b) he is absent from three consecutive ordinary meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post unless on leave granted by the board or unless excused by the board for his absence from those meetings before the expiration of four weeks after the last of those meetings;
- (c) he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) he resigns his office by writing under his hand addressed to the Governor;

(g)

Veterinary Surgeons (Amendment).

- (g) he attains the age of seventy years;
- (h) he ceases to be a veterinary surgeon; or
- (i) he is removed from office by the Governor.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

Filling
of casual
vacancy.

5B. (1) Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that the board is constituted in accordance with subsection (1) of section 5.

(2) Where a vacancy occurs in the office of a member appointed pursuant to a nomination under paragraph (a) of subsection (1) of section 5, his successor shall be appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister directs in writing.

(3) A person appointed under subsection (1) shall be appointed for the remainder of the term of office of his predecessor.

Default in
nomination
of panels.

6. If sufficient veterinary surgeons are not nominated to form a panel referred to in paragraph (a) of subsection (1) of section 5 or subsection (2) of section 5B and the period within which that panel may be nominated has expired, the Governor may appoint such number of veterinary surgeons as are required to be appointed and are nominated by the Minister as members of the board or to fill a vacancy on the board, as the case may be, instead of the members or member required to be appointed from a panel.

Veterinary Surgeons (Amendment).

7. Subsection (I) of section 39 of the Interpretation Act, 1897, applies to the board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Acts and
proceedings
of board.

5. The Principal Act is further amended—

Further
amendment
of Act No.
25, 1923.

(a) (i) by omitting from the matter relating to Part V in section 2 the figures "29" and by inserting instead the figures "30";

Sec. 2.
(Parts.)

(ii) by omitting from the matter relating to Part II in section 2 the figure "8" and by inserting instead the matter "8A";

(b) (i) by inserting in section 3 next after the definition of "Board" the following new definition :—

Sec. 3.
(Defini-
tions.)

"Director-General" means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.

(ii) by inserting in the definition of "Veterinary science" in section 3 after the word "surgery" the following words :—

and, without limiting the generality of the foregoing, includes—

(a) the examination of or attendance upon any animal for the purpose of diagnosing the physiological or pathological condition of the animal;

(b) the giving of any anaesthetic to, the performance of any operation on, or the making of any radiological diagnosis of, any animal;
and

(c)

Veterinary Surgeons (Amendment).

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

Sec. 8.
(Registrar,
inspectors
and other
officers.)

(c) by omitting from section 8 (1) the words "An inspector may, for the purposes of ascertaining whether any of the provisions of this Act or of the regulations made thereunder has been or is being contravened by a veterinary surgeon or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, enter and inspect any premises in which such veterinary surgeon is carrying on the practice of veterinary science and may make such enquiries therein as he may think fit.";

New sec.
8A.

(d) by inserting next after section 8 the following new section :—

Power
of entry.

8A. (1) An inspector may, for the purpose of ascertaining whether any provision of this Act or the regulations has been or is being contravened, or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, at any reasonable time enter any premises or place in which a veterinary surgeon is, or any premises or place in which he has reasonable cause to believe that any person is, doing or performing any act, matter or thing that forms part of the practice of veterinary science and may—

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

in

Veterinary Surgeons (Amendment).

in or from those premises or that place as he considers necessary in connection with the administration of this Act.

(2) Any person who wilfully delays or obstructs an inspector in the exercise of his powers under subsection (1) or who, being an occupier of any premises or place referred to in subsection (1), refuses to permit an inspector to carry out those powers or reasonably to assist an inspector in the exercise of those powers, is guilty of an offence.

- (e) (i) by omitting from section 18 (1) (c) the words "mentally ill person, a protected person or an incapable person" and by inserting instead the words "temporary patient, a continued treatment patient, a protected person, or an incapable person,"; Sec. 18. (Removal of name of deceased veterinary surgeons, etc.)
- (ii) by omitting from section 18 (1) (c) the words "as subsequently amended;" and by inserting instead the words "or a person under detention under Part VII of that Act; or";
- (f) by omitting from section 20 the words "holding some one of the qualifications mentioned in subsection one of section thirteen of this Act"; Sec. 20. (Issuing certificates under other Acts.)
- (g) (i) by omitting from section 21 the words "registered under this Act" wherever occurring; Sec. 21. (Prohibited practices.)
- (ii) by omitting from section 21 (3) (b) the words "science; or" and by inserting instead the following words :—
 science, otherwise than—
- (i) as an employee of the owner of the animal in respect of which the act, matter or thing was done or performed; and
- (ii) incidentally to the primary duties of his employment;
- (iii)

Veterinary Surgeons (Amendment).

- (iii) by omitting from section 21 (3) (c) the word "business:" and by inserting instead the following words and new paragraph :—
- business; or
- (d) hold any prescribed office or position or any office or position of a prescribed class or description :
- (iv) by omitting from the proviso in section 21 (3) the words "this subsection" and by inserting instead the matter "paragraph (c)";
- (v) by omitting section 21 (4);
- Sec. 23.
(Suing for fees.)
- (h) (i) by omitting from section 23 (2) the words "After the coming into operation of this Act no" and by inserting instead the word "No";
- (ii) by omitting from section 23 (2) the words "in respect of instructions received after the coming into operation of this Act unless he is registered as a veterinary surgeon under this Act." and by inserting instead the following words :—
- unless—
- (a) he is a veterinary surgeon; or
- (b) the fee or charge arises from the doing or performing of an act, matter or thing referred to in section 24.
- Subst.
sec. 24.
- (i) by omitting section 24 and by inserting instead the following section :—
- Permitted practices.
24. Notwithstanding any other provision of this Act, a person other than a veterinary surgeon may, for fee or reward—
- (a) de-worm any animal;
- (b) perform the Mules operation on sheep;
- (c) de-horn any animal;
- (d)

Veterinary Surgeons (Amendment).

- (d) castrate or spay any animal except—
 - (i) a horse, dog or cat; or
 - (ii) cattle, sheep or pigs that are more than twelve months of age;
 - (e) tail lambs;
 - (f) carry out any immunising procedure except an immunising procedure—
 - (i) prescribed under paragraph (c) of the definition of “Veterinary science” in section 3; or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act;
 - (g) determine the sex of chickens;
 - (h) under the immediate and direct supervision of a veterinary surgeon, administer an anaesthetic to an animal;
 - (i) where a veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment; or
 - (j) do or perform—
 - (i) except as provided in subparagraph (ii), any other act, matter or thing prescribed for the purposes of this paragraph; or
 - (ii) any other act, matter or thing prescribed for the purposes of this paragraph in such circumstances as may be prescribed.
- (j) (i) by omitting section 24A (7) (b) and by inserting instead the following paragraph :—
- (b) has become a temporary patient, a continued treatment patient, a protected person, or an incapable person,

Sec. 24A.
(Approved persons may perform certain acts under supervision.)

within

Veterinary Surgeons (Amendment).

within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(ii) by omitting section 24A (9) (a) and by inserting instead the following paragraph :—

(a) been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence;

(iii) by omitting from section 24A (9) (d) the word "has";

Sec. 26.
(Power to
summon
witnesses.)

(k) by omitting from section 26 (2) the words "shall be liable to a penalty not exceeding forty dollars" and by inserting instead the words "is guilty of an offence";

New sec.
30.

(l) by inserting next after section 29 the following new section :—

General
penalty.

30. A person who is guilty of an offence against this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding two hundred dollars.

Further
amendment
of Act No.
25, 1923.
Subst.
sec. 29.

6. (1) The Principal Act is further amended by omitting section 29 and by inserting instead the following section :—

Regulations.

29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2)

Veterinary Surgeons (Amendment).

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) regulating the proceedings and fixing the quorum of the board;
- (b) regulating the duties of officers;
- (c) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations;
- (d) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (e) prescribing fees payable under this Act;
- (f) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- (g) prescribing acts, matters or things the doing or performing of which forms part of the practice of veterinary science.

(3) A regulation may impose a penalty not exceeding forty dollars for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Notwithstanding the repeal effected by subsection (1), the regulations in force immediately before the day upon which this section takes effect shall continue in force as if made under the Principal Act as amended by this section.

Veterinary Surgeons (Amendment).

Further
amendment
of Act No.
25, 1923.

7. (1) The Principal Act is further amended—

Sec. 12.
(Good
fame and
character.)

- (a) by omitting from section 12 the words “has attained the age of twenty-one years and”;

Sec. 13.
(Qualifica-
tions for
registration.)

- (b) (i) by omitting section 13 (1) (a) and (b) and by inserting instead the following paragraph:—

(a) holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

(i) extending over at least five academic years; and

(ii) in which a general study of veterinary science was made,

at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

(ii) by omitting from section 13 (1) (c) (i) the word “school” and by inserting instead the words “institution prescribed for the purposes of this paragraph on the recommendation of the board”;

(iii) by omitting from section 13 (1) (c) (i) the word “schools” and by inserting instead the words “institutions so prescribed”;

(iv) by omitting from section 13 (1) (c) (ii) the words “school a degree, diploma or license of competency” and by inserting instead the words “institution an academic award”;

(v)

Veterinary Surgeons (Amendment).

- (v) by omitting section 13 (1) (c) (iii) and by inserting instead the following subparagraph :—
- (iii) has passed the prescribed examination;
and;
- (vi) by omitting from section 13 (1A) the word “examiners” and by inserting instead the word “board”;
- (vii) by omitting section 13 (2) (a), (b), (c), (d), (e), (f) and (f1) and by inserting instead the following paragraph :—
- (a) is a person who holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—
- (i) extending over at least four years;
- (ii) in which a general study of veterinary science was made;
and
- (iii) which he completed on or before 1st January, 1943,
- at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;
- (viii) by omitting section 13 (3) and (4) and by inserting instead the following subsections :—
- (3) A person who was, at any time before the commencement of section 7 of the Veterinary Surgeons (Amendment) Act,

1974,

Veterinary Surgeons (Amendment).

1974, registered under this Act and who is no longer registered shall be entitled to be registered if he—

- (a) makes application for registration in the manner prescribed;
- (b) satisfies the board that he is of good fame and character; and
- (c) pays the fee referred to in paragraph (c) of section 15.

(4) A regulation for the purposes of paragraph (a) of subsection (1) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is a prescribed institution.

Sec. 14.
(Right of appeal.)

- (c) (i) by inserting in section 14 after the word "examination," the words "or if the name of any person is removed from the register by direction of the board pursuant to paragraph (b) or (c) of subsection (1) of section 18,";
- (ii) by omitting from section 14 the words "district court of the district in which" and by inserting instead the words "District Court sitting at the nearest proclaimed place to the place where";

Sec. 21.
(Prohibited practices.)

- (d) by omitting from section 21 (1) the words "degree, diploma, license, certificate," and by inserting instead the words "academic award";

Sec. 24A.
(Approved persons may perform certain acts under supervision.)

- (e) by omitting from section 24A (1) (b) the words "a degree, diploma or license of competency" and by inserting instead the words "an academic award".

(2) Nothing in subsection (1) shall be construed as requiring the removal from the register of the name of any person who, immediately before the commencement of this section, was registered under the Principal Act.

Veterinary Surgeons (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) by inserting in the definition of "Veterinary surgeon" in section 3 after the word "registered" the words "or provisionally registered"; Sec. 3. (Definitions.)
- (b) by inserting next after section 15 the following new section :— New sec. 15A.

15A. (1) In this section, "prescribed person" means the president of the board or, in his absence from Sydney, any other member of the board authorised generally in that behalf by the board. Provisional registration.

(2) Where a person has applied to be registered, a prescribed person, upon being satisfied that the applicant—

- (a) is entitled to be registered under this Act; or
- (b) is a person who—
- (i) is entitled to an academic award referred to in paragraph (a) of subsection (1) of section 13;
 - (ii) will have that award conferred upon him in due course according to the practice of the university, college or institution in question in conferring awards; and
 - (iii) is of good fame and character,

may, on behalf of the board, issue to the applicant a certificate of provisional registration in the prescribed form.

(3) A person who has obtained a certificate of provisional registration shall be deemed to be registered for a period of three months from the date of issue of the certificate.

(4)

Veterinary Surgeons (Amendment).

(4) The board may, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been issued becomes registered under this Act during the currency of the certificate—

(a) his registration shall, unless otherwise determined by the board, date from the issue of the certificate of provisional registration; and

(b) his provisional registration shall, notwithstanding subsection (3), expire on the day upon which he becomes registered.

Sec. 27.
(Penalty for forging registration.)

(c) by inserting in section 27 after the word "registered" the words "or provisionally registered";

Sec. 27A.
(Document under hand of registrar to be prima facie evidence.)

(d) by inserting in section 27A (a) after the word "registered" the words "or provisionally registered".

Further amendment of Act No. 25, 1923.

9. The Principal Act is further amended—

Sec. 2.
(Parts.)

(a) by inserting in section 2 next after the matter relating to Part IV the following new matter :—

PART IVA.—VETERINARY HOSPITALS—ss. 24B-24H.

(b)

Veterinary Surgeons (Amendment).

- (b) by inserting in section 3 next after the definition of "Registrar" the following new definition :—

Sec. 3.
(Definitions.)

"Veterinary hospital" means a place used or intended to be used for the purpose of the doing or performing, for fee or reward, of any act, matter or thing the doing or performance of which forms part of the practice of veterinary science, but does not include—

- (a) a place at which any act, matter or thing permitted by section 24 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at that place; or
- (b) a place or class of places prescribed for the purposes of this definition.
- (c) by inserting next after Part IV the following new Part :—

New Part
IVA.

PART IVA.

VETERINARY HOSPITALS.

24B. After the expiration of three months from the day upon which section 9 of the Veterinary Surgeons (Amendment) Act, 1974, commences, no person shall carry on or conduct a veterinary hospital unless—

Veterinary
hospitals
to be
licensed.

- (a) a license has been granted in respect thereof by the Director-General; and
- (b) it is managed by a superintendent thereof, the nomination or appointment of whom has been notified to the Director-General in accordance with section 24H.

24c. (1) An application for a license shall be made to the Director-General in the prescribed manner and shall be accompanied by the license fee prescribed in respect of the class of license applied for.

Application
for license.

(2)

Veterinary Surgeons (Amendment).

(2) The Director-General shall not approve of the issue to an applicant of a license for a veterinary hospital unless—

- (a) the applicant is a veterinary surgeon or a person approved by the board; and
- (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a license is made.

(3) A license shall, subject to this Act, continue in force until it is cancelled but, except to the extent that this Act otherwise provides, shall be deemed not to be in force while it is suspended.

(4) Where the Director-General refuses to approve of the issue to an applicant of a license of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, he may, if he is satisfied that the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue to the applicant a license for a veterinary hospital of that other class.

(5) Where the Director-General refuses to approve of the issue to an applicant of a license under this section, except where pursuant to subsection (4) he issues to the applicant a license of some other class, he shall serve on that person notice in writing of his refusal.

(6) Where the Director-General issues to an applicant a license as referred to in subsection (4) he shall refund to the applicant any amount by which the license fee for the license applied for exceeds the license fee for the license issued.

(7) The regulations may prescribe different classes of licenses for different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

24D. (1) A licensee shall, while the license remains in force, on or before each anniversary of the day upon which the license was issued, pay to the Director-General the prescribed annual license fee in respect of the class of license issued to him. ^{Annual license fee.}

(2) The regulations may prescribe different annual license fees for different classes of licenses.

(3) For the purposes of this section, a license shall be deemed not to have ceased to be in force by reason only of its suspension.

24E. (1) Subject to this section, the Director-General may suspend a license for a period not exceeding twelve months or may cancel a license if— ^{Suspension or cancellation of license.}

- (a) the prescribed annual license fee is not paid in accordance with subsection (1) of section 24D ;
- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations ;
- (c) the licensee, where he is a veterinary surgeon, or the superintendent, is suspended from practice or has his name removed from the register pursuant to section 19H ;
- (d) the place in respect of which the license was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class ;
- (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class ;
- (f) the veterinary hospital is not conducted as prescribed ;

(g)

Veterinary Surgeons (Amendment).

(g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or

(h) the licensee so requests.

(2) The Director-General may, under paragraph (h) of subsection (1), cancel a license upon the occurrence of an event specified in the request.

(3) The Director-General shall not suspend or cancel a license under paragraph (d), (e) or (f) of subsection (1) unless—

(a) he has first served on the licensee a notice specifying—

(i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed;

(ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed ;
or

(iii) the manner in which the veterinary hospital is not being conducted as prescribed,

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

(b)

Veterinary Surgeons (Amendment).

(b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.

(4) Where the Director-General suspends or cancels a license he shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.

(5) A suspension or cancellation of a license under subsection (1) (paragraph (h) excepted) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be taken, or where such an appeal is taken, until the appeal is determined or withdrawn.

(6) Where a license is cancelled under paragraph (h) of subsection (1), the Director-General may refund to the licensee an amount that, on the day of cancellation, bears to the amount of the annual license fee last paid the same proportion as the number of whole unexpired months until the next annual license fee is payable bears to twelve.

24F. (1) Where the Director-General— **Appeal.**

- (a) refuses to approve of the issue to an applicant of a license;
- (b) issues to an applicant a license of a class other than the class applied for;
- (c) suspends a license; or
- (d) cancels a license, except pursuant to paragraph (h) of subsection (1) of section 24E,

the

Veterinary Surgeons (Amendment).

the applicant or licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the decision of the Director-General.

(2) The decision of the District Court on any such appeal shall be final and shall be given effect to by the Director-General.

Service of
notices.

24G. A notice under this Part may be served by post upon—

- (a) an applicant, at the address stated in the application; and
- (b) a licensee or superintendent, at the address in respect of which the license is issued.

Superin-
tendents.

24H. (1) A licensee of a veterinary hospital may, by instrument in writing in the prescribed form, nominate himself or appoint another person to be the superintendent of that veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person shall not be capable of being nominated or appointed to be and shall not act as the superintendent of a veterinary hospital—

- (a) unless he is a veterinary surgeon; or
- (b) if he is the superintendent of another veterinary hospital except with the permission in writing of the board and subject to such conditions, if any, as the board specifies in its permission.

(3) Within seven days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Director-General—

- (a) the instrument by which that person was nominated or appointed to be the superintendent; or
- (b)

Veterinary Surgeons (Amendment).

(b) a notice, in writing, specifying the day upon which that person ceased to be the superintendent,

as the case may be.

(d) by inserting next after section 27B the following New sec. 27c.
new section :—

27c. In any proceedings before any court and before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General certifying that, on a day or during a period specified in the certificate— Certificate of Director-General to be prima facie evidence.

- (a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act;
- (b) a person specified in the certificate was or was not a person to whom a license had been issued in respect of a veterinary hospital specified in the certificate; or
- (c) a person specified in the certificate was or was not a person in respect of whom the Director-General had received an instrument or notice pursuant to subsection (3) of section 24H,

shall be prima facie evidence of the facts stated therein.

(e) by inserting in section 28 (1) after the word Sec. 28.
“payable” the words “for or in connection with the (Appropriation of registration fees and penalties.)
registration of a veterinary surgeon and in connection with the giving of an approval under section 24A”;

(f) (i) by omitting from section 29 (2) (g) the word Sec. 29.
“science.” and by inserting instead the (Regulations.)
following word and new paragraphs :—

science;

(h)

Veterinary Surgeons (Amendment).

- (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including—
 - (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals, staff and other persons;
 - (ii) furniture and equipment;
 - (iii) operating theatres, dressing rooms, kennels and yards; and
 - (iv) the prevention of the ingress of, and the destruction of, flies and vermin;
- (i) prescribing the manner in which veterinary hospitals are to be conducted, including—
 - (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment;
 - (ii) the manner of disposal of refuse and other matter;
 - (iii) the manner of disposal of dead animals;
 - (iv) the provision to be made for the storage, preparation and serving of food;
 - (v) the manner in which care and attention shall be given to animals;
 - (vi) the manner of isolation or removal of animals suffering from infectious diseases;
 - (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and
 - (viii)

Veterinary Surgeons (Amendment).

- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;
 - (j) prescribing the duties of the superintendent of a veterinary hospital ;
 - (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital ;
 - (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of that veterinary hospital ;
 - (m) prescribing any continual period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to appoint another superintendent ;
 - (n) regulating the manner and extent to which a veterinary hospital may be advertised.
- (ii) by inserting at the end of section 29 the following new subsection :—

(5) Different—

- (a) provisions may be made pursuant to paragraphs (h), (i), (j) and (k) of subsection (2) ;
- (b) periods and circumstances may be prescribed pursuant to paragraphs (l) and (m) of subsection (2),

in respect of different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

Further amend-
ment of
Act No. 25,
1923.

Sec. 2.
(Parts.)

10. (1) The Principal Act is further amended—

- (a) by omitting from section 2 the matter relating to Part IV and by inserting instead the following matter :—

PART IV.—VETERINARY SURGEONS—*ss.* 12–24A.

DIVISION 1.—*Registration—ss.* 12–19.

DIVISION 2.—*Disciplinary Provisions—ss.* 19A–19L.

DIVISION 3.—*General—ss.* 20–24.

DIVISION 4.—*Supervised Practitioners—s.* 24A.

Part IV.
(New heading.)

- (b) by inserting in Part IV next before section 12 the following matter :—

DIVISION 1.—*Registration.*

Sec. 18A.
(Removal of name on account of misconduct, etc.)

- (c) by omitting section 18A;

Sec. 19.
(Restoration of name.)

- (d) (i) by omitting from section 19 the matter “or 18A” wherever occurring;
(ii) by omitting from section 19 (1) the words “a court of competent jurisdiction” and by inserting instead the words “the District Court”;

New secs.
19A–19L,
both incl.

- (e) by inserting next after section 19 the following new matter :—

DIVISION 2.—*Disciplinary Provisions.*

19A. (1) A complaint that any veterinary surgeon—

Complaints against veterinary surgeons.

- (a) has been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence ;

(b)

Veterinary Surgeons (Amendment).

- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug;
- (c) has been guilty of misconduct in a professional respect;
- (d) has had his registration to practise veterinary science cancelled under the law in force relating to the registration of persons entitled to practise veterinary science in a place outside New South Wales other than at his own request or has been suspended from practice as a person so entitled under any such law;
- (e) is not of good character; or
- (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a veterinary surgeon,

may be made to the investigating committee.

(2) A complaint shall be made in writing and the investigating committee, by notice in writing served on the complainant—

- (a) may require further particulars of any complaint to be given; and
- (b) may require the complaint or any further particulars to be verified by statutory declaration,

within such time as may be specified in the notice.

(3) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the investigating committee, the investigating committee may declare that the complaint be deemed not to have been received by it in accordance with subsection (2).

(4)

Veterinary Surgeons (Amendment).

(4) The court before which any veterinary surgeon is convicted of a felony, misdemeanour, crime or offence shall, except in such cases or classes of cases as may be specified or described in the regulations, forward particulars of the conviction to the investigating committee.

(5) The investigating committee may consider the particulars of the conviction of a veterinary surgeon forwarded to it under subsection (4) and, if it so directs, those particulars shall be deemed to be a complaint made to it against that veterinary surgeon under paragraph (a) of subsection (1) and received by it in accordance with this section.

(6) Every person other than—

- (a) a member of the police force;
- (b) a member of the Public Service; or
- (c) a member of the committee of the Australian Veterinary Association,

acting in his capacity as such a member, who makes a complaint to the investigating committee against a veterinary surgeon shall deposit with the investigating committee the sum of twenty dollars at the time of lodging the complaint.

Misconduct
in a
professional
respect.

19B. Without limiting the meaning of the expression "misconduct in a professional respect" a veterinary surgeon shall be deemed to be guilty of such misconduct where he—

- (a) permits or requires an unregistered person employed by him to do any act forming part of the practice of veterinary science except where that person acts in accordance with this or any other Act; or

(b)

Veterinary Surgeons (Amendment).

- (b) allows the use of his name in connection with a purported practice of veterinary science at premises at which he or a partner does not bona fide carry on the practice of veterinary science.

19c. (1) There shall be an investigating committee appointed by the Minister which shall consist of— Constitution of investigating committee.

- (a) a barrister or solicitor, who shall be chairman;
- (b) an officer of the Department of Agriculture who is a veterinary surgeon but not a member of the board; and
- (c) a veterinary surgeon who is not a member of the board appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing.

(2) If sufficient veterinary surgeons are not nominated to form the panel referred to in paragraph (c) of subsection (1) and the period within which that panel may be nominated has expired, the Minister may appoint a veterinary surgeon other than a member of the board to the investigating committee instead of the veterinary surgeon required to be appointed from that panel.

(3) The chairman and members of the investigating committee shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

19d.

Veterinary Surgeons (Amendment).

Investigation
by
investigating
committee.

19D. (1) The investigating committee shall cause all complaints against veterinary surgeons received by it in accordance with section 19A to be investigated and for the purposes of that investigation the chairman may administer an oath and may, by notice in writing signed by him, require any person to attend at the place and at the time specified in the notice for the purpose of giving evidence before the investigating committee or producing any document relating to the investigation.

(2) Where in the course of the investigation of a complaint against a veterinary surgeon—

- (a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; and
- (b) the investigating committee is of the opinion that the other complaint is one that could be made to it and received by it in accordance with section 19A,

the investigating committee may itself make that other complaint which shall thereupon be deemed to be a complaint made to it and received by it in accordance with section 19A.

(3) The investigating committee—

(a) may dismiss any complaint made to it;

(b)

Veterinary Surgeons (Amendment).

- (b) if it is satisfied of the truth of the complaint but does not consider that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, after giving the veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it, may caution or reprimand that veterinary surgeon; or
- (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, shall refer the complaint accordingly.

(4) The proceedings of the investigating committee shall be held in camera.

(5) Where an amount is deposited pursuant to subsection (6) of section 19A and the investigating committee—

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

the investigating committee may so declare and the amount deposited shall be forfeited.

(6)

Veterinary Surgeons (Amendment).

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

(7) The investigating committee may, when referring a charge to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of section 19F, be deemed to be the person who made the complaint.

(8) At the conclusion of the investigation of a complaint against a veterinary surgeon the investigating committee shall notify the board of the action taken by it pursuant to subsection (3).

**Constitution
of
disciplinary
tribunal.**

19E. (1) The disciplinary tribunal shall consist of—

(a) a chairman appointed by the Governor who—

(i) shall be a Judge of the District Court of New South Wales; and

(ii) except as provided in subsection (5) shall hold office for a term of seven years; and

(b) the members of the board.

(2) A quorum at any sitting of the disciplinary tribunal shall consist of the chairman and three members of the board.

(3)

Veterinary Surgeons (Amendment).

(3) The chairman and members of the board sitting on the disciplinary tribunal shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

(4) Where in the opinion of the Governor the chairman is unable for any cause to act in respect of any matter he may appoint a Judge of the District Court of New South Wales to be the deputy of the chairman and that Judge, while acting as deputy, shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the chairman in respect of that matter.

(5) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a Judge of the District Court.

19F. (1) Subject to subsection (1) of section 19G, the registrar shall convene all meetings of the disciplinary tribunal and shall keep a record of all proceedings and decisions of that tribunal. ^{Inquiry by disciplinary tribunal.}

(2) The proceedings before the disciplinary tribunal shall be in the nature of a rehearing.

(3) The disciplinary tribunal shall, in making any inquiry, sit in open court and the veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by his solicitor or counsel.

(4)

Veterinary Surgeons (Amendment).

(4) The person who made the complaint (not being a complaint deemed by subsection (5) of section 19A or subsection (2) of section 19D to have been made to the investigating committee or deemed by subsection (7) to have been referred to the disciplinary tribunal) shall, unless exempted from attendance by the disciplinary tribunal, be present and may be represented by his solicitor or counsel at the inquiry.

(5) The disciplinary tribunal may receive and admit on production, as evidence in the inquiry concerned—

- (a) the judgment and findings of any court (whether civil or criminal), the verdict or findings of a jury, or a certificate of the conviction of any person, in any case where the judgment, findings, verdict or certificate are, in the opinion of the disciplinary tribunal, relevant to the nature of the complaint; and
- (b) a copy of the depositions or a transcript of the shorthand or other notes, duly certified as correct, of the evidence of witnesses taken in any court in any case where, in the opinion of the disciplinary tribunal, that evidence is relevant to the nature of the complaint.

(6) For the purpose of an inquiry, the disciplinary tribunal and the chairman shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and

Division

Veterinary Surgeons (Amendment).

Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the disciplinary tribunal in the same way as it applies to a witness summoned before a royal commission.

(7) Where in the course of the inquiry into a complaint against a veterinary surgeon—

- (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it;
- (b) the disciplinary tribunal is satisfied that the investigating committee has not, under paragraph (a) or (b) of subsection (3) of section 19D, dealt with that other complaint or a complaint that was substantially the same as that other complaint; and
- (c) the disciplinary tribunal is of the opinion that that other complaint, or the complaint that is substantially the same as that other complaint, is one that could have been made to and received by the investigating committee in accordance with section 19A,

the disciplinary tribunal may itself make that other complaint, or a complaint that is substantially the same as that other complaint, which shall be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 19D.

(8) Notwithstanding anything in subsection (1) of section 19G, where in the course of any inquiry into a complaint against a veterinary

surgeon

Veterinary Surgeons (Amendment).

surgeon the disciplinary tribunal makes another complaint against the veterinary surgeon under subsection (7), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

(9) Where the persons constituting the disciplinary tribunal are divided in opinion as to the decision to be given upon any question (not being a question to which subsection (5) of section 19G relates) the question shall be decided according to the opinion of the majority, if there is a majority, but if those persons are equally divided in opinion, the decision shall be in favour of the veterinary surgeon concerned.

Powers of
chairman of
disciplinary
tribunal.

19G. (1) The chairman shall fix a date and place for the hearing of an inquiry by the disciplinary tribunal and the registrar shall give at least seven days' notice to the veterinary surgeon concerned of the date and place so fixed.

(2) The chairman, upon request made by the person who made a complaint, the veterinary surgeon concerned or any other interested person, may—

- (a) direct that the name of any witness shall not be disclosed at the inquiry;
- (b) direct that all or any of the following matters, that is to say :—
 - (i) the name and address of any witness;
 - (ii) the name and address of the person who made the complaint ;

(iii)

Veterinary Surgeons (Amendment).

- (iii) the name and address of the veterinary surgeon concerned;
- (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,

shall not be published in any newspaper, except a publication bona fide intended primarily for the use of the legal or veterinary profession, or by radio or television; and

- (c) notwithstanding subsection (3) of section 19F, direct that the inquiry be held in camera.

(3) The chairman—

- (a) may revoke a direction given under subsection (2) at any time; and
- (b) may exercise his powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but he shall not exercise his powers under subsection (2) before the inquiry unless reasonable notice is given to the person who made the request, the person who made the complaint, the veterinary surgeon concerned and such other persons as the chairman thinks fit, of the time and place appointed by him for the consideration of the request.

(4) Any person who contravenes a direction given under subsection (3) is guilty of an offence.

(A)

(5)

Veterinary Surgeons (Amendment).

(5) The decision of the chairman upon any question of law or procedure which may arise in any inquiry shall be the decision of the disciplinary tribunal.

Penalties.

19H. (1) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, that tribunal may by order—

- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for a period not exceeding twelve months; or
- (c) direct that the name of the veterinary surgeon be removed from the register.

(2) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, the tribunal shall not make an order suspending him from practice or directing that his name be removed from the register where the matter of the complaint is such that, whether from its trivial nature or from the circumstances in which it occurred or from any other reason, it does not in the public interest disqualify the person from practising his profession.

(3) Where the disciplinary tribunal makes an order pursuant to paragraph (a) or (b) of subsection (1), that tribunal may by the same order direct the veterinary surgeon to comply during a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

(4)

Veterinary Surgeons (Amendment).

(4) If the disciplinary tribunal has reason to believe that a person in respect of whom a direction under subsection (3) has been made has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if it is proved to the satisfaction of the disciplinary tribunal that that person has failed to comply with the direction, may make a further order under subsection (1).

(5) Where the disciplinary tribunal directs that the name of a veterinary surgeon be removed from the register it may fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

(6) While any order of suspension from practice under this section remains in force the person concerned shall, except for the purposes of section 11, be deemed not to be a veterinary surgeon, but forthwith upon the expiry of the order all his rights and privileges as a veterinary surgeon shall be revived as from that expiry.

(7) An order made by the disciplinary tribunal pursuant to this section shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order has been given to the veterinary surgeon by the registrar in accordance with section 19k.

(8) If within the period specified in subsection (7) the veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

(a) shall not take effect at the expiration of that period but shall, where the Court confirms the order without variation, and unless it otherwise orders, take effect upon the day upon which the order is confirmed; or

(b)

Veterinary Surgeons (Amendment).

(b) shall not take effect at the expiration of that period nor shall it take effect at any other time where the Court allows the appeal, or dismisses the appeal but varies the order of the disciplinary tribunal.

Appeal
against
order of
disciplinary
tribunal.

19I. (1) There shall be a right of appeal to the Supreme Court from an order made under section 19H and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case.

(2) An appeal under subsection (1) shall be made in accordance with the rules of Court.

(3) The provisions of subsections (2) and (3) of section 19G shall, subject to the rules of Court, apply in the same way as those provisions apply to the hearing of a complaint by the disciplinary tribunal.

(4) Without affecting the generality of the foregoing provisions of this section, the Court may make any order which the disciplinary tribunal might have made under section 19H, or may vary any order made by the disciplinary tribunal.

Restoration
of name to
register.

19J. (1) In this section "the former provisions" means the provisions of section 18A of this Act as in force immediately before the commencement of section 10 of the Veterinary Surgeons (Amendment) Act, 1974.

(2) Subject to subsection (5) of section 19H, any person whose name has been removed from the register pursuant to section 19H or by the board pursuant to the former provisions, may apply

to

Veterinary Surgeons (Amendment).

to have his name restored to the register, and all the provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application.

(3) The disciplinary tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 19H or by the board pursuant to the former provisions before the expiration of the period specified in the order of suspension, and, except where the Court upon an appeal makes an order referred to in subsection (5) of section 19H, may direct that any name removed from the register at the direction of the disciplinary tribunal pursuant to section 19H or by the board pursuant to the former provisions be restored to the register.

(4) Notwithstanding subsection (3), the name of any person which has been removed from the register pursuant to section 19H or the former provisions shall not be restored to the register until the prescribed restoration fee is paid.

19K. (1) A notice under this Division by the registrar, investigating committee, disciplinary tribunal or a court may be served by delivering it personally to the person to whom it is addressed or by leaving it for him with some person apparently over the age of fourteen years at his address last known to the registrar, investigating committee, disciplinary tribunal or court, as the case may be. ^{Service of notices.}

(2) Any person upon whom a notice is served in accordance with subsection (1) and who, where that notice requires that person to do some act, without reasonable excuse fails or refuses to comply with the notice, is guilty of an offence.

19L.

Veterinary Surgeons (Amendment).

Notations
in register.

19L. Where the disciplinary tribunal or the Supreme Court makes an order under section 19H the registrar shall make a notation of the terms of the order in the register adjacent to the name of the person in respect of whom the order was made.

Part IV.
(New
heading.)

(f) by inserting in Part IV next before section 20 the following new matter :—

DIVISION 3.—*General.*

Sec. 21.
(Prohibited
practices.)

(g) by omitting section 21 (2) and by inserting instead the following subsections :—

(2) No veterinary surgeon shall carry on the practice of veterinary science under a name other than his own name except where—

- (a) he is a member of a partnership carrying on business under the name or names of one or more of the partners ;
- (b) he is duly appointed as the locum tenens of a veterinary surgeon ;
- (c) after the commencement of section 9 of the Veterinary Surgeons (Amendment) Act, 1974, he is duly appointed as the superintendent of a veterinary hospital ;
- (d) he is carrying on practice as a superintendent pursuant to an authorisation under section 22 ; or
- (e) the board otherwise permits in writing.

(2A)

Veterinary Surgeons (Amendment).

(2A) For the purposes of subsection (2), no veterinary surgeon shall be a duly appointed locum tenens unless—

- (a) he is appointed in writing by the veterinary surgeon in respect of whom he is acting as locum tenens; and
- (b) he is employed only during the temporary absence of his employer and for a period not exceeding three months or such longer period as the board may in any particular case permit in writing.

- (h) by inserting in Part IV next before section 24A the following new matter :—
- Part IV.
(New heading.)

DIVISION 4.—Supervised Practitioners.

- (i) (i) by omitting section 24A (9) (c);
- (ii) by omitting section 24A (10) and by inserting instead the following subsection :—
- Sec. 24A.
(Approved persons may perform certain acts under supervision.)

(10) Division 2 applies to a person in respect of whom an approval is in force under this section as if that person were registered as a veterinary surgeon and a reference in that Division—

- (a) to the suspension for any period from practice of a veterinary surgeon shall be construed as a reference to the withdrawal for that period of an approval in force under this section; and
- (b) to the removal of the name of a veterinary surgeon from the register shall be construed as a reference to the cancellation of the approval in force under this section.

- (j) by omitting section 26A.

Sec. 26A.
(Application of sections 25 and 26.)
(2)

Veterinary Surgeons (Amendment).

(2) Any complaint or charge made to the board under section 18A of the Principal Act before the commencement of subsection (1) and not finally dealt with by the board in accordance with that section at that commencement shall be deemed to be a complaint made to the investigating committee in accordance with section 19A of that Act as amended by that subsection.

(3) An appeal commenced under section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) may be continued and be dealt with in all respects as if subsection (1) had not been enacted and a decision given on any such appeal shall be final and shall be given effect to by the board.

(4) A person referred to in section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) who has not, within three months after the date on which notice was given to him in accordance with that subsection, appealed in accordance with that subsection, may within three months after the date on which that notice was given to him, appeal to the Supreme Court in accordance with section 19I of the Principal Act in force after the commencement of that subsection as if the order of the board were an order of the disciplinary tribunal.

(5) Where the board suspended the registration of a veterinary surgeon in accordance with section 18A of the Principal Act as in force immediately before the commencement of subsection (1), that suspension shall, subject to subsection (3) and section 19J (2) of the Principal Act as amended by subsection (1), remain in force according to its terms.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 26th March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 6, 1974.

An Act to make further provisions with respect to the appointment of members of the Board of Veterinary Surgeons of New South Wales; to provide for the licensing and control of veterinary hospitals; for these and other purposes to amend the Veterinary Surgeons Act, 1923; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

Veterinary Surgeons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Veterinary Surgeons (Amendment) Act, 1974".

**Commence-
ment.**

2. The provisions—

- (a) of section 1 and of this section, and of sections 3, 4, 5 and 6, shall commence upon the date of assent to this Act;
- (b) of sections 7 and 8 shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette;
- (c) of section 9 shall commence upon such day, being a day not earlier than the day referred to in paragraph (d), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette; and
- (d) of section 10 shall commence upon the appointed day referred to in section 4 (1).

**Construc-
tion.**

3. The Veterinary Surgeons Act, 1923, is in this Act referred to as the Principal Act.

Veterinary Surgeons (Amendment).

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Veterinary Surgeons of New South Wales shall be reconstituted and shall consist of five members who shall be appointed in accordance with section 5 of the Principal Act as amended by this section.

Reconstitution of the Board of Veterinary Surgeons of New South Wales.

(2) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under section 4 of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(3) For the purposes only of the appointment of persons to be the president and the other members of the Board of Veterinary Surgeons of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of subsection (5) shall commence on the date of assent to this Act.

(4) The persons so appointed shall assume their offices as president and the other members of the Board of Veterinary Surgeons of New South Wales upon the appointed day and on that day the provisions of subsection (5) shall come into force for all purposes.

(5)

Veterinary Surgeons (Amendment).

Amendment of
Act No. 25,
1923.
Subst. secs.
5-7 incl.

Appointment of
members
and deputy
members of
board.

(5) The Principal Act is amended by omitting sections 5, 6 and 7 and by inserting instead the following sections:—

5. (1) The board shall consist of five members appointed by the Governor, of whom—

- (a) subject to section 6, three shall be persons nominated by the Minister from a panel of not less than seven veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing; and
- (b) two shall be veterinary surgeons nominated by the Minister.

(2) One of the members shall, in and by the instrument by which he is appointed, or in and by another instrument executed by the Governor, be appointed as president of the board.

(3) A person shall not be appointed as a member if he is of or above the age of seventy years.

(4) Subject to this Act, the term of office of a member is three years.

(5) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

(6) If a member is likely from any cause to be absent from meetings of the board for more than three months the Governor may appoint a veterinary surgeon as a deputy to act for that member during his absence.

(7) A deputy member shall have the same powers, rights and duties as the member for whom he is appointed to act.

Veterinary Surgeons (Amendment).

(8) Each member and deputy member shall be entitled to receive such fees and travelling expenses as the Governor may from time to time determine in respect of him.

5A. (1) A member shall be deemed to have vacated his office if— Casual
vacancy.

- (a) he dies;
- (b) he is absent from three consecutive ordinary meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post unless on leave granted by the board or unless excused by the board for his absence from those meetings before the expiration of four weeks after the last of those meetings;
- (c) he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) he resigns his office by writing under his hand addressed to the Governor;

(g)

Veterinary Surgeons (Amendment).

- (g) he attains the age of seventy years;
- (h) he ceases to be a veterinary surgeon; or
- (i) he is removed from office by the Governor.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

Filling
of casual
vacancy.

5B. (1) Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that the board is constituted in accordance with subsection (1) of section 5.

(2) Where a vacancy occurs in the office of a member appointed pursuant to a nomination under paragraph (a) of subsection (1) of section 5, his successor shall be appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister directs in writing.

(3) A person appointed under subsection (1) shall be appointed for the remainder of the term of office of his predecessor.

Default in
nomination
of panels.

6. If sufficient veterinary surgeons are not nominated to form a panel referred to in paragraph (a) of subsection (1) of section 5 or subsection (2) of section 5B and the period within which that panel may be nominated has expired, the Governor may appoint such number of veterinary surgeons as are required to be appointed and are nominated by the Minister as members of the board or to fill a vacancy on the board, as the case may be, instead of the members or member required to be appointed from a panel.

Veterinary Surgeons (Amendment).

7. Subsection (I) of section 39 of the Interpretation Act, 1897, applies to the board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969. Acts and proceedings of board.

5. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) (i) by omitting from the matter relating to Part V in section 2 the figures "29" and by inserting instead the figures "30"; Sec. 2. (Parts.)
- (ii) by omitting from the matter relating to Part II in section 2 the figure "8" and by inserting instead the matter "8A";
- (b) (i) by inserting in section 3 next after the definition of "Board" the following new definition :— Sec. 3. (Definitions.)

"Director-General" means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.

- (ii) by inserting in the definition of "Veterinary science" in section 3 after the word "surgery" the following words :—

and, without limiting the generality of the foregoing, includes—

- (a) the examination of or attendance upon any animal for the purpose of diagnosing the physiological or pathological condition of the animal;
- (b) the giving of any anaesthetic to, the performance of any operation on, or the making of any radiological diagnosis of, any animal; and

(c)

Veterinary Surgeons (Amendment).

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

Sec. 8.
(Registrar,
inspectors
and other
officers.)

(c) by omitting from section 8 (1) the words "An inspector may, for the purposes of ascertaining whether any of the provisions of this Act or of the regulations made thereunder has been or is being contravened by a veterinary surgeon or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, enter and inspect any premises in which such veterinary surgeon is carrying on the practice of veterinary science and may make such enquiries therein as he may think fit.";

New sec.
8A.

(d) by inserting next after section 8 the following new section :—

Power
of entry.

8A. (1) An inspector may, for the purpose of ascertaining whether any provision of this Act or the regulations has been or is being contravened, or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, at any reasonable time enter any premises or place in which a veterinary surgeon is, or any premises or place in which he has reasonable cause to believe that any person is, doing or performing any act, matter or thing that forms part of the practice of veterinary science and may—

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

Veterinary Surgeons (Amendment).

in or from those premises or that place as he considers necessary in connection with the administration of this Act.

(2) Any person who wilfully delays or obstructs an inspector in the exercise of his powers under subsection (1) or who, being an occupier of any premises or place referred to in subsection (1), refuses to permit an inspector to carry out those powers or reasonably to assist an inspector in the exercise of those powers, is guilty of an offence.

- (e) (i) by omitting from section 18 (1) (c) the words "mentally ill person, a protected person or an incapable person" and by inserting instead the words "temporary patient, a continued treatment patient, a protected person, or an incapable person,"; Sec. 18.
(Removal of name of deceased veterinary surgeons, etc.)
- (ii) by omitting from section 18 (1) (c) the words "as subsequently amended;" and by inserting instead the words "or a person under detention under Part VII of that Act; or";
- (f) by omitting from section 20 the words "holding some one of the qualifications mentioned in subsection one of section thirteen of this Act"; Sec. 20.
(Issuing certificates under other Acts.)
- (g) (i) by omitting from section 21 the words "registered under this Act" wherever occurring; Sec. 21.
(Prohibited practices.)
- (ii) by omitting from section 21 (3) (b) the words "science; or" and by inserting instead the following words :—
- science, otherwise than—
- (i) as an employee of the owner of the animal in respect of which the act, matter or thing was done or performed; and
- (ii) incidentally to the primary duties of his employment;

(iii)

Veterinary Surgeons (Amendment).

- (iii) by omitting from section 21 (3) (c) the word "business:" and by inserting instead the following words and new paragraph:—

business; or

- (d) hold any prescribed office or position or any office or position of a prescribed class or description:

- (iv) by omitting from the proviso in section 21 (3) the words "this subsection" and by inserting instead the matter "paragraph (c)";

- (v) by omitting section 21 (4);

- (h) (i) by omitting from section 23 (2) the words "After the coming into operation of this Act no" and by inserting instead the word "No";

- (ii) by omitting from section 23 (2) the words "in respect of instructions received after the coming into operation of this Act unless he is registered as a veterinary surgeon under this Act." and by inserting instead the following words:—

unless—

- (a) he is a veterinary surgeon; or
 (b) the fee or charge arises from the doing or performing of an act, matter or thing referred to in section 24.

Sec. 23.
 (Suing for
 fees.)

Subst.
 sec. 24.

- (i) by omitting section 24 and by inserting instead the following section:—

24. Notwithstanding any other provision of this Act, a person other than a veterinary surgeon may, for fee or reward—

Permitted
 practices.

- (a) de-worm any animal;
 (b) perform the Mules operation on sheep;
 (c) de-horn any animal;

(d)

Veterinary Surgeons (Amendment).

- (d) castrate or spay any animal except—
- (i) a horse, dog or cat; or
 - (ii) cattle, sheep or pigs that are more than twelve months of age;
- (e) tail lambs;
- (f) carry out any immunising procedure except an immunising procedure—
- (i) prescribed under paragraph (c) of the definition of “Veterinary science” in section 3; or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act;
- (g) determine the sex of chickens;
- (h) under the immediate and direct supervision of a veterinary surgeon, administer an anaesthetic to an animal;
- (i) where a veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment; or
- (j) do or perform—
- (i) except as provided in subparagraph (ii), any other act, matter or thing prescribed for the purposes of this paragraph; or
 - (ii) any other act, matter or thing prescribed for the purposes of this paragraph in such circumstances as may be prescribed.
- (j) (i) by omitting section 24A (7) (b) and by inserting instead the following paragraph :—
- (b) has become a temporary patient, a continued treatment patient, a protected person, or an incapable person,
- Sec. 24A.
(Approved persons may perform certain acts under supervision.)
- within

Veterinary Surgeons (Amendment).

within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(ii) by omitting section 24A (9) (a) and by inserting instead the following paragraph:—

(a) been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence;

(iii) by omitting from section 24A (9) (d) the word "has";

Sec. 26.
(Power to
summon
witnesses.)

(k) by omitting from section 26 (2) the words "shall be liable to a penalty not exceeding forty dollars" and by inserting instead the words "is guilty of an offence";

New sec.
30.

(l) by inserting next after section 29 the following new section:—

General
penalty.

30. A person who is guilty of an offence against this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding two hundred dollars.

Further
amendment
of Act No.
25, 1923.

6. (1) The Principal Act is further amended by omitting section 29 and by inserting instead the following section:—

Subst.
sec. 29.

Regulations.

29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Veterinary Surgeons (Amendment).

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) regulating the proceedings and fixing the quorum of the board;
- (b) regulating the duties of officers;
- (c) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations;
- (d) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (e) prescribing fees payable under this Act;
- (f) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- (g) prescribing acts, matters or things the doing or performing of which forms part of the practice of veterinary science.

(3) A regulation may impose a penalty not exceeding forty dollars for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Notwithstanding the repeal effected by subsection (1), the regulations in force immediately before the day upon which this section takes effect shall continue in force as if made under the Principal Act as amended by this section.

Veterinary Surgeons (Amendment).

Further amendment of Act No. 25, 1923.

7. (1) The Principal Act is further amended—

Sec. 12.
(Good fame and character.)

- (a) by omitting from section 12 the words “has attained the age of twenty-one years and”;

Sec. 13.
(Qualifications for registration.)

- (b) (i) by omitting section 13 (1) (a) and (b) and by inserting instead the following paragraph :—

(a) holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

(i) extending over at least five academic years; and

(ii) in which a general study of veterinary science was made,

at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

(ii) by omitting from section 13 (1) (c) (i) the word “school” and by inserting instead the words “institution prescribed for the purposes of this paragraph on the recommendation of the board”;

(iii) by omitting from section 13 (1) (c) (i) the word “schools” and by inserting instead the words “institutions so prescribed”;

(iv) by omitting from section 13 (1) (c) (ii) the words “school a degree, diploma or license of competency” and by inserting instead the words “institution an academic award”;

(v)

Veterinary Surgeons (Amendment).

- (v) by omitting section 13 (1) (c) (iii) and by inserting instead the following subparagraph :—
- (iii) has passed the prescribed examination ;
and ;
- (vi) by omitting from section 13 (1A) the word “examiners” and by inserting instead the word “board” ;
- (vii) by omitting section 13 (2) (a), (b), (c), (d), (e), (f) and (f1) and by inserting instead the following paragraph :—
- (a) is a person who holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—
- (i) extending over at least four years ;
- (ii) in which a general study of veterinary science was made ;
and
- (iii) which he completed on or before 1st January, 1943,
- at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board ; or ;
- (viii) by omitting section 13 (3) and (4) and by inserting instead the following subsections :—
- (3) A person who was, at any time before the commencement of section 7 of the *Veterinary Surgeons (Amendment) Act,*

1974,

Veterinary Surgeons (Amendment).

1974, registered under this Act and who is no longer registered shall be entitled to be registered if he—

- (a) makes application for registration in the manner prescribed;
- (b) satisfies the board that he is of good fame and character; and
- (c) pays the fee referred to in paragraph (c) of section 15.

(4) A regulation for the purposes of paragraph (a) of subsection (1) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is a prescribed institution.

Sec. 14.
(Right of
appeal.)

- (c) (i) by inserting in section 14 after the word "examination," the words "or if the name of any person is removed from the register by direction of the board pursuant to paragraph (b) or (c) of subsection (1) of section 18,";
- (ii) by omitting from section 14 the words "district court of the district in which" and by inserting instead the words "District Court sitting at the nearest proclaimed place to the place where";

Sec. 21.
(Prohibited
practices.)

- (d) by omitting from section 21 (1) the words "degree, diploma, license, certificate," and by inserting instead the words "academic award";

Sec. 24A.
(Approved
persons
may perform
certain acts
under
super-
vision.)

- (e) by omitting from section 24A (1) (b) the words "a degree, diploma or license of competency" and by inserting instead the words "an academic award".

(2) Nothing in subsection (1) shall be construed as requiring the removal from the register of the name of any person who, immediately before the commencement of this section, was registered under the Principal Act.

Veterinary Surgeons (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) by inserting in the definition of “Veterinary surgeon” in section 3 after the word “registered” the words “or provisionally registered”; Sec. 3. (Definitions.)
- (b) by inserting next after section 15 the following new section :— New sec. 15A.

15A. (1) In this section, “prescribed person” means the president of the board or, in his absence from Sydney, any other member of the board authorised generally in that behalf by the board. Provisional registration.

(2) Where a person has applied to be registered, a prescribed person, upon being satisfied that the applicant—

(a) is entitled to be registered under this Act; or

(b) is a person who—

(i) is entitled to an academic award referred to in paragraph (a) of subsection (1) of section 13;

(ii) will have that award conferred upon him in due course according to the practice of the university, college or institution in question in conferring awards; and

(iii) is of good fame and character,

may, on behalf of the board, issue to the applicant a certificate of provisional registration in the prescribed form.

(3) A person who has obtained a certificate of provisional registration shall be deemed to be registered for a period of three months from the date of issue of the certificate.

(4)

Veterinary Surgeons (Amendment).

(4) The board may, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been issued becomes registered under this Act during the currency of the certificate—

- (a) his registration shall, unless otherwise determined by the board, date from the issue of the certificate of provisional registration; and
- (b) his provisional registration shall, notwithstanding subsection (3), expire on the day upon which he becomes registered.

Sec. 27.
(Penalty for forging registration.)

- (c) by inserting in section 27 after the word "registered" the words "or provisionally registered";

Sec. 27A.
(Document under hand of registrar to be prima facie evidence.)

- (d) by inserting in section 27A (a) after the word "registered" the words "or provisionally registered".

Further amendment of Act No. 25, 1923.

9. The Principal Act is further amended—

Sec. 2.
(Parts.)

- (a) by inserting in section 2 next after the matter relating to Part IV the following new matter :—

PART IVA.—VETERINARY HOSPITALS—ss. 24B–24H.

(b)

Veterinary Surgeons (Amendment).

(b) by inserting in section 3 next after the definition of "Registrar" the following new definition :—

Sec. 3.
(Definitions.)

"Veterinary hospital" means a place used or intended to be used for the purpose of the doing or performing, for fee or reward, of any act, matter or thing the doing or performance of which forms part of the practice of veterinary science, but does not include—

- (a) a place at which any act, matter or thing permitted by section 24 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at that place; or
 - (b) a place or class of places prescribed for the purposes of this definition.
- (c) by inserting next after Part IV the following new Part :—

New Part
IVA.

PART IVA.

VETERINARY HOSPITALS.

24B. After the expiration of three months from the day upon which section 9 of the Veterinary Surgeons (Amendment) Act, 1974, commences, no person shall carry on or conduct a veterinary hospital unless—

Veterinary
hospitals
to be
licensed.

- (a) a license has been granted in respect thereof by the Director-General; and
- (b) it is managed by a superintendent thereof, the nomination or appointment of whom has been notified to the Director-General in accordance with section 24H.

24c. (1) An application for a license shall be made to the Director-General in the prescribed manner and shall be accompanied by the license fee prescribed in respect of the class of license applied for.

Application
for license.

(2)

Veterinary Surgeons (Amendment).

(2) The Director-General shall not approve of the issue to an applicant of a license for a veterinary hospital unless—

- (a) the applicant is a veterinary surgeon or a person approved by the board; and
- (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a license is made.

(3) A license shall, subject to this Act, continue in force until it is cancelled but, except to the extent that this Act otherwise provides, shall be deemed not to be in force while it is suspended.

(4) Where the Director-General refuses to approve of the issue to an applicant of a license of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, he may, if he is satisfied that the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue to the applicant a license for a veterinary hospital of that other class.

(5) Where the Director-General refuses to approve of the issue to an applicant of a license under this section, except where pursuant to subsection (4) he issues to the applicant a license of some other class, he shall serve on that person notice in writing of his refusal.

(6) Where the Director-General issues to an applicant a license as referred to in subsection (4) he shall refund to the applicant any amount by which the license fee for the license applied for exceeds the license fee for the license issued.

(7) The regulations may prescribe different classes of licenses for different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

24D. (1) A licensee shall, while the license Annual license fee. remains in force, on or before each anniversary of the day upon which the license was issued, pay to the Director-General the prescribed annual license fee in respect of the class of license issued to him.

(2) The regulations may prescribe different annual license fees for different classes of licenses.

(3) For the purposes of this section, a license shall be deemed not to have ceased to be in force by reason only of its suspension.

24E. (1) Subject to this section, the Director-General may suspend a license for a period not exceeding twelve months or may cancel a license Suspension or cancellation of license. if—

- (a) the prescribed annual license fee is not paid in accordance with subsection (1) of section 24D ;
- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations ;
- (c) the licensee, where he is a veterinary surgeon, or the superintendent, is suspended from practice or has his name removed from the register pursuant to section 19H ;
- (d) the place in respect of which the license was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class ;
- (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class ;
- (f) the veterinary hospital is not conducted as prescribed ;

(g)

Veterinary Surgeons (Amendment).

- (g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or
- (h) the licensee so requests.

(2) The Director-General may, under paragraph (h) of subsection (1), cancel a license upon the occurrence of an event specified in the request.

(3) The Director-General shall not suspend or cancel a license under paragraph (d), (e) or (f) of subsection (1) unless—

- (a) he has first served on the licensee a notice specifying—
 - (i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed;
 - (ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed ;
or
 - (iii) the manner in which the veterinary hospital is not being conducted as prescribed,

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

(b)

Veterinary Surgeons (Amendment).

(b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.

(4) Where the Director-General suspends or cancels a license he shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.

(5) A suspension or cancellation of a license under subsection (1) (paragraph (h) excepted) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be taken, or where such an appeal is taken, until the appeal is determined or withdrawn.

(6) Where a license is cancelled under paragraph (h) of subsection (1), the Director-General may refund to the licensee an amount that, on the day of cancellation, bears to the amount of the annual license fee last paid the same proportion as the number of whole unexpired months until the next annual license fee is payable bears to twelve.

24F. (1) Where the Director-General— **Appeal.**

- (a) refuses to approve of the issue to an applicant of a license;
- (b) issues to an applicant a license of a class other than the class applied for;
- (c) suspends a license; or
- (d) cancels a license, except pursuant to paragraph (h) of subsection (1) of section 24E,

the

Veterinary Surgeons (Amendment).

the applicant or licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the decision of the Director-General.

(2) The decision of the District Court on any such appeal shall be final and shall be given effect to by the Director-General.

Service of notices.

24G. A notice under this Part may be served by post upon—

- (a) an applicant, at the address stated in the application; and
- (b) a licensee or superintendent, at the address in respect of which the license is issued.

Superintendents.

24H. (1) A licensee of a veterinary hospital may, by instrument in writing in the prescribed form, nominate himself or appoint another person to be the superintendent of that veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person shall not be capable of being nominated or appointed to be and shall not act as the superintendent of a veterinary hospital—

- (a) unless he is a veterinary surgeon; or
- (b) if he is the superintendent of another veterinary hospital except with the permission in writing of the board and subject to such conditions, if any, as the board specifies in its permission.

(3) Within seven days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Director-General—

- (a) the instrument by which that person was nominated or appointed to be the superintendent; or

(b)

Veterinary Surgeons (Amendment).

(b) a notice, in writing, specifying the day upon which that person ceased to be the superintendent,

as the case may be.

(d) by inserting next after section 27B the following new section :— New sec. 27c.

27c. In any proceedings before any court and before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General certifying that, on a day or during a period specified in the certificate— Certificate of Director-General to be prima facie evidence.

(a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act;

(b) a person specified in the certificate was or was not a person to whom a license had been issued in respect of a veterinary hospital specified in the certificate; or

(c) a person specified in the certificate was or was not a person in respect of whom the Director-General had received an instrument or notice pursuant to subsection (3) of section 24H,

shall be prima facie evidence of the facts stated therein.

(e) by inserting in section 28 (1) after the word "payable" the words "for or in connection with the registration of a veterinary surgeon and in connection with the giving of an approval under section 24A"; Sec. 28. (Appropriation of registration fees and penalties.)

(f) (i) by omitting from section 29 (2) (g) the word "science." and by inserting instead the following word and new paragraphs :— Sec. 29. (Regulations.)

science;

(h)

Veterinary Surgeons (Amendment).

- (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including—
- (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals, staff and other persons;
 - (ii) furniture and equipment;
 - (iii) operating theatres, dressing rooms, kennels and yards; and
 - (iv) the prevention of the ingress of, and the destruction of, flies and vermin;
- (i) prescribing the manner in which veterinary hospitals are to be conducted, including—
- (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment;
 - (ii) the manner of disposal of refuse and other matter;
 - (iii) the manner of disposal of dead animals;
 - (iv) the provision to be made for the storage, preparation and serving of food;
 - (v) the manner in which care and attention shall be given to animals;
 - (vi) the manner of isolation or removal of animals suffering from infectious diseases;
 - (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and

(ii)

(viii)

Veterinary Surgeons (Amendment).

- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;
 - (j) prescribing the duties of the superintendent of a veterinary hospital;
 - (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital;
 - (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of that veterinary hospital;
 - (m) prescribing any continual period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to appoint another superintendent;
 - (n) regulating the manner and extent to which a veterinary hospital may be advertised.
- (ii) by inserting at the end of section 29 the following new subsection :—
- (5) Different—
 - (a) provisions may be made pursuant to paragraphs (h), (i), (j) and (k) of subsection (2);
 - (b) periods and circumstances may be prescribed pursuant to paragraphs (l) and (m) of subsection (2),
- in respect of different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

Further amend-
ment of
Act No. 25,
1923.

10. (1) The Principal Act is further amended—

Sec. 2.
(Parts.)

(a) by omitting from section 2 the matter relating to Part IV and by inserting instead the following matter :—

PART IV.—VETERINARY SURGEONS—ss. 12–24A.

DIVISION 1.—*Registration*—ss. 12–19.

DIVISION 2.—*Disciplinary Provisions*—ss. 19A–19L.

DIVISION 3.—*General*—ss. 20–24.

DIVISION 4.—*Supervised Practitioners*—s. 24A.

Part IV.
(New heading.)

(b) by inserting in Part IV next before section 12 the following matter :—

DIVISION 1.—*Registration.*

Sec. 18A.
(Removal of name on account of misconduct, etc.)

(c) by omitting section 18A;

Sec. 19.
(Restoration of name.)

(d) (i) by omitting from section 19 the matter “or 18A” wherever occurring;

(ii) by omitting from section 19 (1) the words “a court of competent jurisdiction” and by inserting instead the words “the District Court”;

New secs.
19A–19L,
both incl.

(e) by inserting next after section 19 the following new matter :—

DIVISION 2.—*Disciplinary Provisions.*

19A. (1) A complaint that any veterinary surgeon—

Complaints against veterinary surgeons.

(a) has been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence ;

(b)

Veterinary Surgeons (Amendment).

- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug;
- (c) has been guilty of misconduct in a professional respect;
- (d) has had his registration to practise veterinary science cancelled under the law in force relating to the registration of persons entitled to practise veterinary science in a place outside New South Wales other than at his own request or has been suspended from practice as a person so entitled under any such law;
- (e) is not of good character; or
- (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a veterinary surgeon,

may be made to the investigating committee.

(2) A complaint shall be made in writing and the investigating committee, by notice in writing served on the complainant—

- (a) may require further particulars of any complaint to be given; and
- (b) may require the complaint or any further particulars to be verified by statutory declaration,

within such time as may be specified in the notice.

(3) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the investigating committee, the investigating committee may declare that the complaint be deemed not to have been received by it in accordance with subsection (2).

(4)

Veterinary Surgeons (Amendment).

(4) The court before which any veterinary surgeon is convicted of a felony, misdemeanour, crime or offence shall, except in such cases or classes of cases as may be specified or described in the regulations, forward particulars of the conviction to the investigating committee.

(5) The investigating committee may consider the particulars of the conviction of a veterinary surgeon forwarded to it under subsection (4) and, if it so directs, those particulars shall be deemed to be a complaint made to it against that veterinary surgeon under paragraph (a) of subsection (1) and received by it in accordance with this section.

(6) Every person other than—

- (a) a member of the police force;
- (b) a member of the Public Service; or
- (c) a member of the committee of the Australian Veterinary Association,

acting in his capacity as such a member, who makes a complaint to the investigating committee against a veterinary surgeon shall deposit with the investigating committee the sum of twenty dollars at the time of lodging the complaint.

Misconduct
in a
professional
respect.

19B. Without limiting the meaning of the expression "misconduct in a professional respect" a veterinary surgeon shall be deemed to be guilty of such misconduct where he—

- (a) permits or requires an unregistered person employed by him to do any act forming part of the practice of veterinary science except where that person acts in accordance with this or any other Act; or

(b)

Veterinary Surgeons (Amendment).

- (b) allows the use of his name in connection with a purported practice of veterinary science at premises at which he or a partner does not bona fide carry on the practice of veterinary science.

19c. (1) There shall be an investigating committee appointed by the Minister which shall consist of—

Constitution
of
investigating
committee.

- (a) a barrister or solicitor, who shall be chairman;
- (b) an officer of the Department of Agriculture who is a veterinary surgeon but not a member of the board; and
- (c) a veterinary surgeon who is not a member of the board appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing.

(2) If sufficient veterinary surgeons are not nominated to form the panel referred to in paragraph (c) of subsection (1) and the period within which that panel may be nominated has expired, the Minister may appoint a veterinary surgeon other than a member of the board to the investigating committee instead of the veterinary surgeon required to be appointed from that panel.

(3) The chairman and members of the investigating committee shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

19D.

Veterinary Surgeons (Amendment).

Investigation
by
investigating
committee.

19D. (1) The investigating committee shall cause all complaints against veterinary surgeons received by it in accordance with section 19A to be investigated and for the purposes of that investigation the chairman may administer an oath and may, by notice in writing signed by him, require any person to attend at the place and at the time specified in the notice for the purpose of giving evidence before the investigating committee or producing any document relating to the investigation.

(2) Where in the course of the investigation of a complaint against a veterinary surgeon—

(a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; and

(b) the investigating committee is of the opinion that the other complaint is one that could be made to it and received by it in accordance with section 19A,

the investigating committee may itself make that other complaint which shall thereupon be deemed to be a complaint made to it and received by it in accordance with section 19A.

(3) The investigating committee—

(a) may dismiss any complaint made to it;

(b)

Veterinary Surgeons (Amendment).

- (b) if it is satisfied of the truth of the complaint but does not consider that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, after giving the veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it, may caution or reprimand that veterinary surgeon; or
- (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, shall refer the complaint accordingly.

(4) The proceedings of the investigating committee shall be held in camera.

(5) Where an amount is deposited pursuant to subsection (6) of section 19A and the investigating committee—

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

the investigating committee may so declare and the amount deposited shall be forfeited.

Veterinary Surgeons (Amendment).

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

(7) The investigating committee may, when referring a charge to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of section 19F, be deemed to be the person who made the complaint.

(8) At the conclusion of the investigation of a complaint against a veterinary surgeon the investigating committee shall notify the board of the action taken by it pursuant to subsection (3).

Constitution
of
disciplinary
tribunal.

19E. (1) The disciplinary tribunal shall consist of—

(a) a chairman appointed by the Governor who—

(i) shall be a Judge of the District Court of New South Wales; and

(ii) except as provided in subsection (5) shall hold office for a term of seven years; and

(b) the members of the board.

(2) A quorum at any sitting of the disciplinary tribunal shall consist of the chairman and three members of the board.

(3)

Veterinary Surgeons (Amendment).

(3) The chairman and members of the board sitting on the disciplinary tribunal shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

(4) Where in the opinion of the Governor the chairman is unable for any cause to act in respect of any matter he may appoint a Judge of the District Court of New South Wales to be the deputy of the chairman and that Judge, while acting as deputy, shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the chairman in respect of that matter.

(5) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a Judge of the District Court.

19F. (1) Subject to subsection (1) of section 19G, the registrar shall convene all meetings of the disciplinary tribunal and shall keep a record of all proceedings and decisions of that tribunal. Inquiry by disciplinary tribunal.

(2) The proceedings before the disciplinary tribunal shall be in the nature of a rehearing.

(3) The disciplinary tribunal shall, in making any inquiry, sit in open court and the veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by his solicitor or counsel.

(4)

Veterinary Surgeons (Amendment).

(4) The person who made the complaint (not being a complaint deemed by subsection (5) of section 19A or subsection (2) of section 19D to have been made to the investigating committee or deemed by subsection (7) to have been referred to the disciplinary tribunal) shall, unless exempted from attendance by the disciplinary tribunal, be present and may be represented by his solicitor or counsel at the inquiry.

(5) The disciplinary tribunal may receive and admit on production, as evidence in the inquiry concerned—

- (a) the judgment and findings of any court (whether civil or criminal), the verdict or findings of a jury, or a certificate of the conviction of any person, in any case where the judgment, findings, verdict or certificate are, in the opinion of the disciplinary tribunal, relevant to the nature of the complaint; and
- (b) a copy of the depositions or a transcript of the shorthand or other notes, duly certified as correct, of the evidence of witnesses taken in any court in any case where, in the opinion of the disciplinary tribunal, that evidence is relevant to the nature of the complaint.

(6) For the purpose of an inquiry, the disciplinary tribunal and the chairman shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and

Division

Veterinary Surgeons (Amendment).

Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the disciplinary tribunal in the same way as it applies to a witness summoned before a royal commission.

(7) Where in the course of the inquiry into a complaint against a veterinary surgeon—

- (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it;
- (b) the disciplinary tribunal is satisfied that the investigating committee has not, under paragraph (a) or (b) of subsection (3) of section 19D, dealt with that other complaint or a complaint that was substantially the same as that other complaint; and
- (c) the disciplinary tribunal is of the opinion that that other complaint, or the complaint that is substantially the same as that other complaint, is one that could have been made to and received by the investigating committee in accordance with section 19A,

the disciplinary tribunal may itself make that other complaint, or a complaint that is substantially the same as that other complaint, which shall be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 19D.

(8) Notwithstanding anything in subsection (1) of section 19G, where in the course of any inquiry into a complaint against a veterinary

surgeon

Veterinary Surgeons (Amendment).

surgeon the disciplinary tribunal makes another complaint against the veterinary surgeon under subsection (7), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

(9) Where the persons constituting the disciplinary tribunal are divided in opinion as to the decision to be given upon any question (not being a question to which subsection (5) of section 19G relates) the question shall be decided according to the opinion of the majority, if there is a majority, but if those persons are equally divided in opinion, the decision shall be in favour of the veterinary surgeon concerned.

**Powers of
chairman of
disciplinary
tribunal.**

19G. (1) The chairman shall fix a date and place for the hearing of an inquiry by the disciplinary tribunal and the registrar shall give at least seven days' notice to the veterinary surgeon concerned of the date and place so fixed.

(2) The chairman, upon request made by the person who made a complaint, the veterinary surgeon concerned or any other interested person, may—

- (a) direct that the name of any witness shall not be disclosed at the inquiry;
- (b) direct that all or any of the following matters, that is to say :—
 - (i) the name and address of any witness;
 - (ii) the name and address of the person who made the complaint ;

(iii)

Veterinary Surgeons (Amendment).

- (iii) the name and address of the veterinary surgeon concerned;
- (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,

shall not be published in any newspaper, except a publication bona fide intended primarily for the use of the legal or veterinary profession, or by radio or television; and

- (c) notwithstanding subsection (3) of section 19F, direct that the inquiry be held in camera.

(3) The chairman—

- (a) may revoke a direction given under subsection (2) at any time; and
- (b) may exercise his powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but he shall not exercise his powers under subsection (2) before the inquiry unless reasonable notice is given to the person who made the request, the person who made the complaint, the veterinary surgeon concerned and such other persons as the chairman thinks fit, of the time and place appointed by him for the consideration of the request.

(4) Any person who contravenes a direction given under subsection (3) is guilty of an offence.

(5)

Veterinary Surgeons (Amendment).

(5) The decision of the chairman upon any question of law or procedure which may arise in any inquiry shall be the decision of the disciplinary tribunal.

Penalties.

19H. (1) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, that tribunal may by order—

- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for a period not exceeding twelve months; or
- (c) direct that the name of the veterinary surgeon be removed from the register.

(2) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, the tribunal shall not make an order suspending him from practice or directing that his name be removed from the register where the matter of the complaint is such that, whether from its trivial nature or from the circumstances in which it occurred or from any other reason, it does not in the public interest disqualify the person from practising his profession.

(3) Where the disciplinary tribunal makes an order pursuant to paragraph (a) or (b) of subsection (1), that tribunal may by the same order direct the veterinary surgeon to comply during a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

(4)

Veterinary Surgeons (Amendment).

(4) If the disciplinary tribunal has reason to believe that a person in respect of whom a direction under subsection (3) has been made has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if it is proved to the satisfaction of the disciplinary tribunal that that person has failed to comply with the direction, may make a further order under subsection (1).

(5) Where the disciplinary tribunal directs that the name of a veterinary surgeon be removed from the register it may fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

(6) While any order of suspension from practice under this section remains in force the person concerned shall, except for the purposes of section 11, be deemed not to be a veterinary surgeon, but forthwith upon the expiry of the order all his rights and privileges as a veterinary surgeon shall be revived as from that expiry.

(7) An order made by the disciplinary tribunal pursuant to this section shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order has been given to the veterinary surgeon by the registrar in accordance with section 19k.

(8) If within the period specified in subsection (7) the veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

(a) shall not take effect at the expiration of that period but shall, where the Court confirms the order without variation, and unless it otherwise orders, take effect upon the day upon which the order is confirmed; or

(b)

Veterinary Surgeons (Amendment).

- (b) shall not take effect at the expiration of that period nor shall it take effect at any other time where the Court allows the appeal, or dismisses the appeal but varies the order of the disciplinary tribunal.

Appeal
against
order of
disciplinary
tribunal.

19I. (1) There shall be a right of appeal to the Supreme Court from an order made under section 19H and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case.

(2) An appeal under subsection (1) shall be made in accordance with the rules of Court.

(3) The provisions of subsections (2) and (3) of section 19G shall, subject to the rules of Court, apply in the same way as those provisions apply to the hearing of a complaint by the disciplinary tribunal.

(4) Without affecting the generality of the foregoing provisions of this section, the Court may make any order which the disciplinary tribunal might have made under section 19H, or may vary any order made by the disciplinary tribunal.

Restoration
of name to
register.

19J. (1) In this section "the former provisions" means the provisions of section 18A of this Act as in force immediately before the commencement of section 10 of the *Veterinary Surgeons (Amendment) Act, 1974*.

(2) Subject to subsection (5) of section 19H, any person whose name has been removed from the register pursuant to section 19H or by the board pursuant to the former provisions, may apply

to

Veterinary Surgeons (Amendment).

to have his name restored to the register, and all the provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application.

(3) The disciplinary tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 19H or by the board pursuant to the former provisions before the expiration of the period specified in the order of suspension, and, except where the Court upon an appeal makes an order referred to in subsection (5) of section 19H, may direct that any name removed from the register at the direction of the disciplinary tribunal pursuant to section 19H or by the board pursuant to the former provisions be restored to the register.

(4) Notwithstanding subsection (3), the name of any person which has been removed from the register pursuant to section 19H or the former provisions shall not be restored to the register until the prescribed restoration fee is paid.

19K. (1) A notice under this Division by the registrar, investigating committee, disciplinary tribunal or a court may be served by delivering it personally to the person to whom it is addressed or by leaving it for him with some person apparently over the age of fourteen years at his address last known to the registrar, investigating committee, disciplinary tribunal or court, as the case may be. Service of notices.

(2) Any person upon whom a notice is served in accordance with subsection (1) and who, where that notice requires that person to do some act, without reasonable excuse fails or refuses to comply with the notice, is guilty of an offence.

19L.

Veterinary Surgeons (Amendment).

Notations
in register.

19L. Where the disciplinary tribunal or the Supreme Court makes an order under section 19H the registrar shall make a notation of the terms of the order in the register adjacent to the name of the person in respect of whom the order was made.

Part IV.
(New
heading.)

- (f) by inserting in Part IV next before section 20 the following new matter :—

DIVISION 3.—*General.*

Sec. 21.
(Prohibited
practices.)

- (g) by omitting section 21 (2) and by inserting instead the following subsections :—

(2) No veterinary surgeon shall carry on the practice of veterinary science under a name other than his own name except where—

- (a) he is a member of a partnership carrying on business under the name or names of one or more of the partners ;
- (b) he is duly appointed as the locum tenens of a veterinary surgeon ;
- (c) after the commencement of section 9 of the Veterinary Surgeons (Amendment) Act, 1974, he is duly appointed as the superintendent of a veterinary hospital ;
- (d) he is carrying on practice as a superintendent pursuant to an authorisation under section 22 ; or
- (e) the board otherwise permits in writing.

(2A)

Veterinary Surgeons (Amendment).

(2A) For the purposes of subsection (2), no veterinary surgeon shall be a duly appointed locum tenens unless—

- (a) he is appointed in writing by the veterinary surgeon in respect of whom he is acting as locum tenens; and
- (b) he is employed only during the temporary absence of his employer and for a period not exceeding three months or such longer period as the board may in any particular case permit in writing.

(h) by inserting in Part IV next before section 24A the following new matter :— Part IV.
(New heading.)

DIVISION 4.—*Supervised Practitioners.*

- (i) (i) by omitting section 24A (9) (c); Sec. 24A.
- (ii) by omitting section 24A (10) and by inserting instead the following subsection :— (Approved persons may perform certain acts under supervision.)

(10) Division 2 applies to a person in respect of whom an approval is in force under this section as if that person were registered as a veterinary surgeon and a reference in that Division—

- (a) to the suspension for any period from practice of a veterinary surgeon shall be construed as a reference to the withdrawal for that period of an approval in force under this section; and
- (b) to the removal of the name of a veterinary surgeon from the register shall be construed as a reference to the cancellation of the approval in force under this section.

(j) by omitting section 26A.

Sec. 26A.
(Application of sections 25 and 26.)
(2)

Veterinary Surgeons (Amendment).

(2) Any complaint or charge made to the board under section 18A of the Principal Act before the commencement of subsection (1) and not finally dealt with by the board in accordance with that section at that commencement shall be deemed to be a complaint made to the investigating committee in accordance with section 19A of that Act as amended by that subsection.

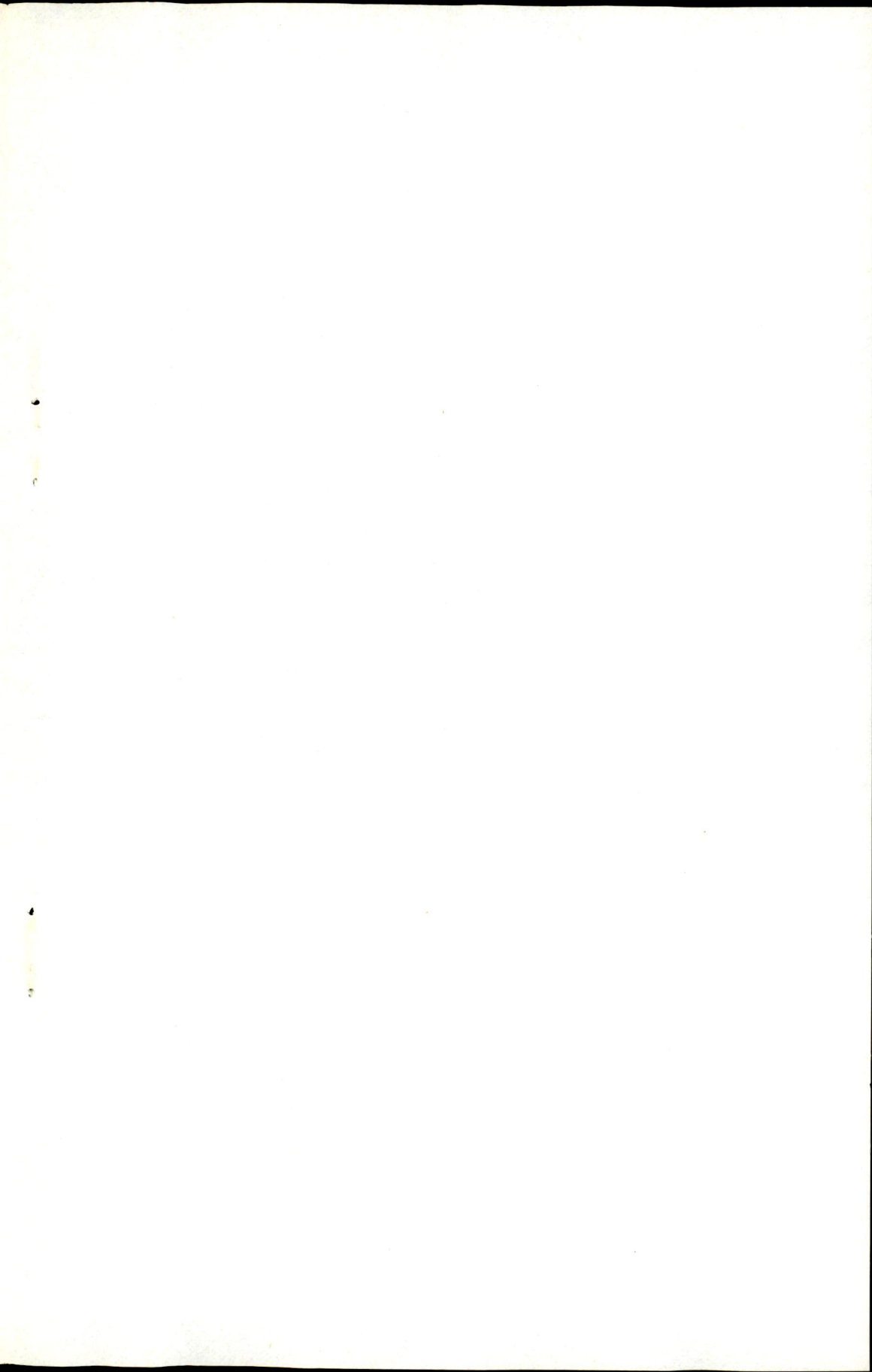
(3) An appeal commenced under section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) may be continued and be dealt with in all respects as if subsection (1) had not been enacted and a decision given on any such appeal shall be final and shall be given effect to by the board.

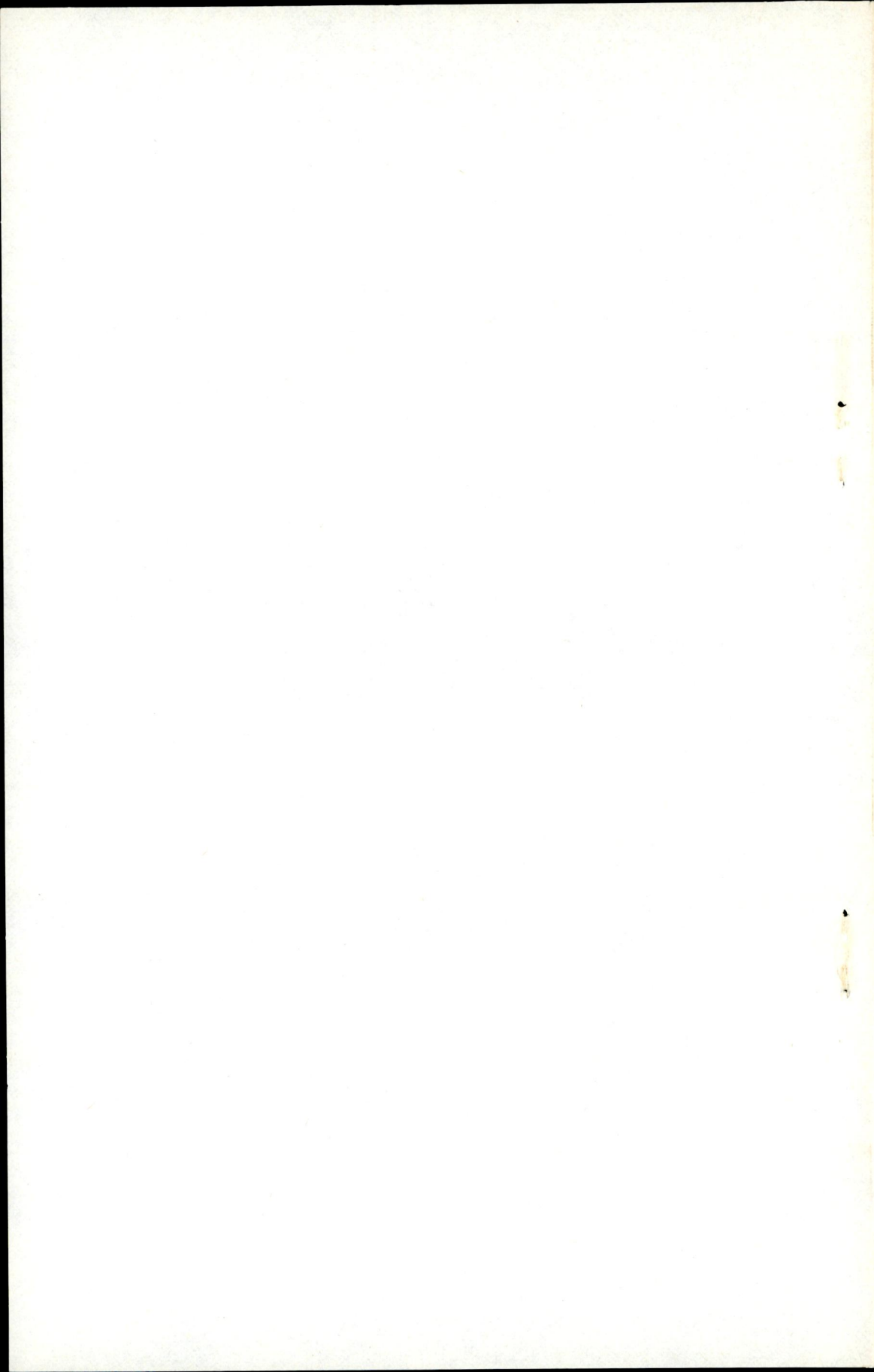
(4) A person referred to in section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) who has not, within three months after the date on which notice was given to him in accordance with that subsection, appealed in accordance with that subsection, may within three months after the date on which that notice was given to him, appeal to the Supreme Court in accordance with section 19I of the Principal Act in force after the commencement of that subsection as if the order of the board were an order of the disciplinary tribunal.

(5) Where the board suspended the registration of a veterinary surgeon in accordance with section 18A of the Principal Act as in force immediately before the commencement of subsection (1), that suspension shall, subject to subsection (3) and section 19J (2) of the Principal Act as amended by subsection (1), remain in force according to its terms.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974





I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 March, 1974.*

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 6, 1974.

An Act to make further provisions with respect to the appointment of members of the Board of Veterinary Surgeons of New South Wales; to provide for the licensing and control of veterinary hospitals; for these and other purposes to amend the Veterinary Surgeons Act, 1923; and for purposes connected therewith. [Assented to, 26th March, 1974.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Veterinary Surgeons (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Veterinary Surgeons (Amendment) Act, 1974".

**Commence-
ment.**

2. The provisions—

- (a) of section 1 and of this section, and of sections 3, 4, 5 and 6, shall commence upon the date of assent to this Act;
- (b) of sections 7 and 8 shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette;
- (c) of section 9 shall commence upon such day, being a day not earlier than the day referred to in paragraph (d), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette; and
- (d) of section 10 shall commence upon the appointed day referred to in section 4 (1).

**Construc-
tion.**

3. The Veterinary Surgeons Act, 1923, is in this Act referred to as the Principal Act.

Veterinary Surgeons (Amendment).

4. (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this section referred to as the "appointed day") the Board of Veterinary Surgeons of New South Wales shall be reconstituted and shall consist of five members who shall be appointed in accordance with section 5 of the Principal Act as amended by this section.

Reconstitution of the Board of Veterinary Surgeons of New South Wales.

(2) Nothing in this section prejudices or affects in any way the continuity of the body corporate constituted under section 4 of the Principal Act and it shall continue notwithstanding the provisions of this section and be deemed, notwithstanding that there are or have been at any time or times vacancies in the offices of all of the members of the body corporate or of any one or more of them, to have always continued.

(3) For the purposes only of the appointment of persons to be the president and the other members of the Board of Veterinary Surgeons of New South Wales as reconstituted under this section, and of any matters necessary for or incidental to that appointment or reconstitution, the provisions of subsection (5) shall commence on the date of assent to this Act.

(4) The persons so appointed shall assume their offices as president and the other members of the Board of Veterinary Surgeons of New South Wales upon the appointed day and on that day the provisions of subsection (5) shall come into force for all purposes

(5)

Veterinary Surgeons (Amendment).

Amend-
ment of
Act No. 25,
1923.
Subst. secs.
5-7 incl.

(5) The Principal Act is amended by omitting sections 5, 6 and 7 and by inserting instead the following sections:—

Appoint-
ment of
members
and deputy
members of
board.

5. (1) The board shall consist of five members appointed by the Governor, of whom—

- (a) subject to section 6, three shall be persons nominated by the Minister from a panel of not less than seven veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing; and
- (b) two shall be veterinary surgeons nominated by the Minister.

(2) One of the members shall, in and by the instrument by which he is appointed, or in and by another instrument executed by the Governor, be appointed as president of the board.

(3) A person shall not be appointed as a member if he is of or above the age of seventy years.

(4) Subject to this Act, the term of office of a member is three years.

(5) Upon the expiration of the term of office of a member he shall, if otherwise qualified, be eligible for re-appointment from time to time.

(6) If a member is likely from any cause to be absent from meetings of the board for more than three months the Governor may appoint a veterinary surgeon as a deputy to act for that member during his absence.

(7) A deputy member shall have the same powers, rights and duties as the member for whom he is appointed to act.

(8)

Veterinary Surgeons (Amendment).

(8) Each member and deputy member shall be entitled to receive such fees and travelling expenses as the Governor may from time to time determine in respect of him.

5A. (1) A member shall be deemed to have vacated his office if— Casual
vacancy.

- (a) he dies;
- (b) he is absent from three consecutive ordinary meetings of the board of which reasonable notice has been given to him personally or in the ordinary course of post unless on leave granted by the board or unless excused by the board for his absence from those meetings before the expiration of four weeks after the last of those meetings;
- (c) he becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his estate for their benefit;
- (d) he becomes a temporary patient, a continued treatment patient, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or longer, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour so punishable;
- (f) he resigns his office by writing under his hand addressed to the Governor;

(g)

Veterinary Surgeons (Amendment).

- (g) he attains the age of seventy years;
- (h) he ceases to be a veterinary surgeon; or
- (i) he is removed from office by the Governor.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a member from office.

Filling
of casual
vacancy.

5B. (1) Where a vacancy occurs in the office of a member, the Governor may appoint a person to fill the vacant office so that the board is constituted in accordance with subsection (1) of section 5.

(2) Where a vacancy occurs in the office of a member appointed pursuant to a nomination under paragraph (a) of subsection (1) of section 5, his successor shall be appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister directs in writing.

(3) A person appointed under subsection (1) shall be appointed for the remainder of the term of office of his predecessor.

Default in
nomination
of panels.

6. If sufficient veterinary surgeons are not nominated to form a panel referred to in paragraph (a) of subsection (1) of section 5 or subsection (2) of section 5B and the period within which that panel may be nominated has expired, the Governor may appoint such number of veterinary surgeons as are required to be appointed and are nominated by the Minister as members of the board or to fill a vacancy on the board, as the case may be, instead of the members or member required to be appointed from a panel.

Veterinary Surgeons (Amendment).

7. Subsection (I) of section 39 of the Interpretation Act, 1897, applies to the board as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Acts and
proceedings
of board.

5. The Principal Act is further amended—

Further
amendment
of Act No.
25, 1923.

(a) (i) by omitting from the matter relating to Part V in section 2 the figures "29" and by inserting instead the figures "30";

Sec. 2.
(Parts.)

(ii) by omitting from the matter relating to Part II in section 2 the figure "8" and by inserting instead the matter "8A";

(b) (i) by inserting in section 3 next after the definition of "Board" the following new definition :—

Sec. 3.
(Defini-
tions.)

"Director-General" means the person for the time being holding office or acting as the Director-General of the Department of Agriculture.

(ii) by inserting in the definition of "Veterinary science" in section 3 after the word "surgery" the following words :—

and, without limiting the generality of the foregoing, includes—

(a) the examination of or attendance upon any animal for the purpose of diagnosing the physiological or pathological condition of the animal;

(b) the giving of any anaesthetic to, the performance of any operation on, or the making of any radiological diagnosis of, any animal;
and

(c)

Veterinary Surgeons (Amendment).

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

Sec. 8.
(Registrar,
inspectors
and other
officers.)

(c) by omitting from section 8 (1) the words "An inspector may, for the purposes of ascertaining whether any of the provisions of this Act or of the regulations made thereunder has been or is being contravened by a veterinary surgeon or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, enter and inspect any premises in which such veterinary surgeon is carrying on the practice of veterinary science and may make such enquiries therein as he may think fit.";

New sec.
8A.

(d) by inserting next after section 8 the following new section :—

Power
of entry.

8A. (1) An inspector may, for the purpose of ascertaining whether any provision of this Act or the regulations has been or is being contravened, or whether a veterinary surgeon is so conducting himself as to be guilty of misconduct in a professional respect, at any reasonable time enter any premises or place in which a veterinary surgeon is, or any premises or place in which he has reasonable cause to believe that any person is, doing or performing any act, matter or thing that forms part of the practice of veterinary science and may—

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

in

Veterinary Surgeons (Amendment).

in or from those premises or that place as he considers necessary in connection with the administration of this Act.

(2) Any person who wilfully delays or obstructs an inspector in the exercise of his powers under subsection (1) or who, being an occupier of any premises or place referred to in subsection (1), refuses to permit an inspector to carry out those powers or reasonably to assist an inspector in the exercise of those powers, is guilty of an offence.

- (e) (i) by omitting from section 18 (1) (c) the words "mentally ill person, a protected person or an incapable person" and by inserting instead the words "temporary patient, a continued treatment patient, a protected person, or an incapable person,"; Sec. 18. (Removal of name of deceased veterinary surgeons, etc.)
- (ii) by omitting from section 18 (1) (c) the words "as subsequently amended;" and by inserting instead the words "or a person under detention under Part VII of that Act; or";
- (f) by omitting from section 20 the words "holding some one of the qualifications mentioned in subsection one of section thirteen of this Act"; Sec. 20. (Issuing certificates under other Acts.)
- (g) (i) by omitting from section 21 the words "registered under this Act" wherever occurring; Sec. 21. (Prohibited practices.)
- (ii) by omitting from section 21 (3) (b) the words "science; or" and by inserting instead the following words :—
 science, otherwise than—
- (i) as an employee of the owner of the animal in respect of which the act, matter or thing was done or performed; and
- (ii) incidentally to the primary duties of his employment;
- (iii)

Veterinary Surgeons (Amendment).

- (iii) by omitting from section 21 (3) (c) the word "business:" and by inserting instead the following words and new paragraph :—
- business; or
- (d) hold any prescribed office or position or any office or position of a prescribed class or description :
- (iv) by omitting from the proviso in section 21 (3) the words "this subsection" and by inserting instead the matter "paragraph (c)";
- (v) by omitting section 21 (4);
- Sec. 23.
(Suing for fees.)
- (h) (i) by omitting from section 23 (2) the words "After the coming into operation of this Act no" and by inserting instead the word "No";
- (ii) by omitting from section 23 (2) the words "in respect of instructions received after the coming into operation of this Act unless he is registered as a veterinary surgeon under this Act." and by inserting instead the following words :—
- unless—
- (a) he is a veterinary surgeon; or
- (b) the fee or charge arises from the doing or performing of an act, matter or thing referred to in section 24.
- Subst.
sec. 24.
- (i) by omitting section 24 and by inserting instead the following section :—
- Permitted practices.
24. Notwithstanding any other provision of this Act, a person other than a veterinary surgeon may, for fee or reward—
- (a) de-worm any animal;
- (b) perform the Mules operation on sheep;
- (c) de-horn any animal;
- (d)

Veterinary Surgeons (Amendment).

- (d) castrate or spay any animal except—
 - (i) a horse, dog or cat; or
 - (ii) cattle, sheep or pigs that are more than twelve months of age;
 - (e) tail lambs;
 - (f) carry out any immunising procedure except an immunising procedure—
 - (i) prescribed under paragraph (c) of the definition of “Veterinary science” in section 3; or
 - (ii) the carrying out of which by a person other than a specified person or class of persons is prohibited by or under any other Act;
 - (g) determine the sex of chickens;
 - (h) under the immediate and direct supervision of a veterinary surgeon, administer an anaesthetic to an animal;
 - (i) where a veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment; or
 - (j) do or perform—
 - (i) except as provided in subparagraph (ii), any other act, matter or thing prescribed for the purposes of this paragraph; or
 - (ii) any other act, matter or thing prescribed for the purposes of this paragraph in such circumstances as may be prescribed.
- (j) (i) by omitting section 24A (7) (b) and by inserting instead the following paragraph :—
- (b) has become a temporary patient, a continued treatment patient, a protected person, or an incapable person,

Sec. 24A.
(Approved persons may perform certain acts under supervision.)

within

Veterinary Surgeons (Amendment).

within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(ii) by omitting section 24A (9) (a) and by inserting instead the following paragraph :—

(a) been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence;

(iii) by omitting from section 24A (9) (d) the word "has";

Sec. 26.
(Power to
summon
witnesses.)

(k) by omitting from section 26 (2) the words "shall be liable to a penalty not exceeding forty dollars" and by inserting instead the words "is guilty of an offence";

New sec.
30.

(l) by inserting next after section 29 the following new section :—

General
penalty.

30. A person who is guilty of an offence against this Act shall, where no other penalty is expressly provided, be liable to a penalty not exceeding two hundred dollars.

Further
amendment
of Act No.
25, 1923.
Subst.
sec. 29.

6. (1) The Principal Act is further amended by omitting section 29 and by inserting instead the following section :—

Regulations.

29. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which, by this Act, is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2)

Veterinary Surgeons (Amendment).

(2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may make regulations for or with respect to—

- (a) regulating the proceedings and fixing the quorum of the board;
- (b) regulating the duties of officers;
- (c) regulating the holding of examinations for the purposes of this Act, the appointment and remuneration of examiners, the times at which those examinations shall be held and the subjects of and fees for those examinations;
- (d) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (e) prescribing fees payable under this Act;
- (f) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- (g) prescribing acts, matters or things the doing or performing of which forms part of the practice of veterinary science.

(3) A regulation may impose a penalty not exceeding forty dollars for any breach thereof and any such penalty may be recovered in a summary manner before a stipendiary magistrate or any two justices of the peace sitting in petty sessions.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(2) Notwithstanding the repeal effected by subsection (1), the regulations in force immediately before the day upon which this section takes effect shall continue in force as if made under the Principal Act as amended by this section.

Veterinary Surgeons (Amendment).

Further
amendment
of Act No.
25, 1923.

7. (1) The Principal Act is further amended—

Sec. 12.
(Good
fame and
character.)

- (a) by omitting from section 12 the words “has attained the age of twenty-one years and”;

Sec. 13.
(Qualifica-
tions for
registration.)

- (b) (i) by omitting section 13 (1) (a) and (b) and by inserting instead the following paragraph:—

(a) holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—

(i) extending over at least five academic years; and

(ii) in which a general study of veterinary science was made,

at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;

(ii) by omitting from section 13 (1) (c) (i) the word “school” and by inserting instead the words “institution prescribed for the purposes of this paragraph on the recommendation of the board”;

(iii) by omitting from section 13 (1) (c) (i) the word “schools” and by inserting instead the words “institutions so prescribed”;

(iv) by omitting from section 13 (1) (c) (ii) the words “school a degree, diploma or license of competency” and by inserting instead the words “institution an academic award”;

(v)

Veterinary Surgeons (Amendment).

- (v) by omitting section 13 (1) (c) (iii) and by inserting instead the following subparagraph :—
- (iii) has passed the prescribed examination;
and;
- (vi) by omitting from section 13 (1A) the word “examiners” and by inserting instead the word “board”;
- (vii) by omitting section 13 (2) (a), (b), (c), (d), (e), (f) and (f1) and by inserting instead the following paragraph :—
- (a) is a person who holds an academic award in veterinary science awarded by virtue of his having completed a regular graded course of study—
- (i) extending over at least four years;
- (ii) in which a general study of veterinary science was made;
and
- (iii) which he completed on or before 1st January, 1943,
- at a university, college or institution prescribed for the purposes of this paragraph on the recommendation of the board; or;
- (viii) by omitting section 13 (3) and (4) and by inserting instead the following subsections :—
- (3) A person who was, at any time before the commencement of section 7 of the Veterinary Surgeons (Amendment) Act,

1974,

Veterinary Surgeons (Amendment).

1974, registered under this Act and who is no longer registered shall be entitled to be registered if he—

- (a) makes application for registration in the manner prescribed;
- (b) satisfies the board that he is of good fame and character; and
- (c) pays the fee referred to in paragraph (c) of section 15.

(4) A regulation for the purposes of paragraph (a) of subsection (1) may prescribe in respect of a university, college or institution a date before or after which, or dates between which, that university, college or institution is a prescribed institution.

Sec. 14.
(Right of appeal.)

- (c) (i) by inserting in section 14 after the word "examination," the words "or if the name of any person is removed from the register by direction of the board pursuant to paragraph (b) or (c) of subsection (1) of section 18,";
- (ii) by omitting from section 14 the words "district court of the district in which" and by inserting instead the words "District Court sitting at the nearest proclaimed place to the place where";

Sec. 21.
(Prohibited practices.)

- (d) by omitting from section 21 (1) the words "degree, diploma, license, certificate," and by inserting instead the words "academic award";

Sec. 24A.
(Approved persons may perform certain acts under supervision.)

- (e) by omitting from section 24A (1) (b) the words "a degree, diploma or license of competency" and by inserting instead the words "an academic award".

(2) Nothing in subsection (1) shall be construed as requiring the removal from the register of the name of any person who, immediately before the commencement of this section, was registered under the Principal Act.

Veterinary Surgeons (Amendment).

8. The Principal Act is further amended—

Further amendment of Act No. 25, 1923.

- (a) by inserting in the definition of "Veterinary surgeon" in section 3 after the word "registered" the words "or provisionally registered"; Sec. 3. (Definitions.)
- (b) by inserting next after section 15 the following new section :— New sec. 15A.

15A. (1) In this section, "prescribed person" means the president of the board or, in his absence from Sydney, any other member of the board authorised generally in that behalf by the board. Provisional registration.

(2) Where a person has applied to be registered, a prescribed person, upon being satisfied that the applicant—

- (a) is entitled to be registered under this Act; or
- (b) is a person who—
- (i) is entitled to an academic award referred to in paragraph (a) of subsection (1) of section 13;
 - (ii) will have that award conferred upon him in due course according to the practice of the university, college or institution in question in conferring awards; and
 - (iii) is of good fame and character,

may, on behalf of the board, issue to the applicant a certificate of provisional registration in the prescribed form.

(3) A person who has obtained a certificate of provisional registration shall be deemed to be registered for a period of three months from the date of issue of the certificate.

(4)

Veterinary Surgeons (Amendment).

(4) The board may, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered.

(5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be registered.

(6) If a person to whom a certificate of provisional registration has been issued becomes registered under this Act during the currency of the certificate—

(a) his registration shall, unless otherwise determined by the board, date from the issue of the certificate of provisional registration; and

(b) his provisional registration shall, notwithstanding subsection (3), expire on the day upon which he becomes registered.

Sec. 27.
(Penalty for forging registration.)

(c) by inserting in section 27 after the word "registered" the words "or provisionally registered";

Sec. 27A.
(Document under hand of registrar to be prima facie evidence.)

(d) by inserting in section 27A (a) after the word "registered" the words "or provisionally registered".

Further amendment of Act No. 25, 1923.

9. The Principal Act is further amended—

Sec. 2.
(Parts.)

(a) by inserting in section 2 next after the matter relating to Part IV the following new matter :—

PART IVA.—VETERINARY HOSPITALS—ss. 24B-24H.

(b)

Veterinary Surgeons (Amendment).

- (b) by inserting in section 3 next after the definition of "Registrar" the following new definition :— Sec. 3. (Definitions.)
- "Veterinary hospital" means a place used or intended to be used for the purpose of the doing or performing, for fee or reward, of any act, matter or thing the doing or performance of which forms part of the practice of veterinary science, but does not include—
- (a) a place at which any act, matter or thing permitted by section 24 is done or performed if no other act, matter or thing the doing or performance of which forms part of the practice of veterinary science is done or performed at that place; or
- (b) a place or class of places prescribed for the purposes of this definition.
- (c) by inserting next after Part IV the following new New Part IVa. Part :—

PART IVa.

VETERINARY HOSPITALS.

24B. After the expiration of three months from the day upon which section 9 of the Veterinary Surgeons (Amendment) Act, 1974, commences, Veterinary hospitals to be licensed. no person shall carry on or conduct a veterinary hospital unless—

- (a) a license has been granted in respect thereof by the Director-General; and
- (b) it is managed by a superintendent thereof, the nomination or appointment of whom has been notified to the Director-General in accordance with section 24H.

24c. (1) An application for a license shall be made to the Director-General in the prescribed manner and shall be accompanied by the license fee prescribed in respect of the class of license applied for. Application for license.

(2)

Veterinary Surgeons (Amendment).

(2) The Director-General shall not approve of the issue to an applicant of a license for a veterinary hospital unless—

- (a) the applicant is a veterinary surgeon or a person approved by the board; and
- (b) the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for the class of veterinary hospital for which the application for a license is made.

(3) A license shall, subject to this Act, continue in force until it is cancelled but, except to the extent that this Act otherwise provides, shall be deemed not to be in force while it is suspended.

(4) Where the Director-General refuses to approve of the issue to an applicant of a license of the class applied for on the ground that the place intended to be used as a veterinary hospital does not conform to the minimum standard prescribed for a veterinary hospital of that class, he may, if he is satisfied that the place intended to be used as a veterinary hospital conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue to the applicant a license for a veterinary hospital of that other class.

(5) Where the Director-General refuses to approve of the issue to an applicant of a license under this section, except where pursuant to subsection (4) he issues to the applicant a license of some other class, he shall serve on that person notice in writing of his refusal.

(6) Where the Director-General issues to an applicant a license as referred to in subsection (4) he shall refund to the applicant any amount by which the license fee for the license applied for exceeds the license fee for the license issued.

(7) The regulations may prescribe different classes of licenses for different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

24D. (1) A licensee shall, while the license remains in force, on or before each anniversary of the day upon which the license was issued, pay to the Director-General the prescribed annual license fee in respect of the class of license issued to him. ^{Annual license fee.}

(2) The regulations may prescribe different annual license fees for different classes of licenses.

(3) For the purposes of this section, a license shall be deemed not to have ceased to be in force by reason only of its suspension.

24E. (1) Subject to this section, the Director-General may suspend a license for a period not exceeding twelve months or may cancel a license if— ^{Suspension or cancellation of license.}

- (a) the prescribed annual license fee is not paid in accordance with subsection (1) of section 24D ;
- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations ;
- (c) the licensee, where he is a veterinary surgeon, or the superintendent, is suspended from practice or has his name removed from the register pursuant to section 19H ;
- (d) the place in respect of which the license was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class ;
- (e) the number and qualifications of staff employed in or about the veterinary hospital do not conform to the minimum number and qualifications prescribed for a veterinary hospital of that class ;
- (f) the veterinary hospital is not conducted as prescribed ;

(g)

Veterinary Surgeons (Amendment).

(g) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or

(h) the licensee so requests.

(2) The Director-General may, under paragraph (h) of subsection (1), cancel a license upon the occurrence of an event specified in the request.

(3) The Director-General shall not suspend or cancel a license under paragraph (d), (e) or (f) of subsection (1) unless—

(a) he has first served on the licensee a notice specifying—

(i) the works or repairs required to be carried out to bring the veterinary hospital to the minimum standard prescribed for a veterinary hospital of the class for which it is licensed;

(ii) the number and qualifications of additional staff required to be employed in or about the veterinary hospital so that it is conducted in conformity with the regulations applicable to a veterinary hospital of the class for which it is licensed ;
or

(iii) the manner in which the veterinary hospital is not being conducted as prescribed,

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

(b)

Veterinary Surgeons (Amendment).

(b) the works or repairs are not carried out, the additional staff is not employed or the veterinary hospital is not conducted as prescribed within the time so specified.

(4) Where the Director-General suspends or cancels a license he shall serve on the licensee and the superintendent a notice in writing specifying the grounds of the cancellation or suspension.

(5) A suspension or cancellation of a license under subsection (1) (paragraph (h) excepted) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be taken, or where such an appeal is taken, until the appeal is determined or withdrawn.

(6) Where a license is cancelled under paragraph (h) of subsection (1), the Director-General may refund to the licensee an amount that, on the day of cancellation, bears to the amount of the annual license fee last paid the same proportion as the number of whole unexpired months until the next annual license fee is payable bears to twelve.

24F. (1) Where the Director-General— **Appeal.**

- (a) refuses to approve of the issue to an applicant of a license;
- (b) issues to an applicant a license of a class other than the class applied for;
- (c) suspends a license; or
- (d) cancels a license, except pursuant to paragraph (h) of subsection (1) of section 24E,

the

Veterinary Surgeons (Amendment).

the applicant or licensee may, in the manner prescribed by rules of court and within the time so prescribed, appeal to the District Court against the decision of the Director-General.

(2) The decision of the District Court on any such appeal shall be final and shall be given effect to by the Director-General.

Service of
notices.

24G. A notice under this Part may be served by post upon—

- (a) an applicant, at the address stated in the application; and
- (b) a licensee or superintendent, at the address in respect of which the license is issued.

Superin-
tendents.

24H. (1) A licensee of a veterinary hospital may, by instrument in writing in the prescribed form, nominate himself or appoint another person to be the superintendent of that veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person shall not be capable of being nominated or appointed to be and shall not act as the superintendent of a veterinary hospital—

- (a) unless he is a veterinary surgeon; or
- (b) if he is the superintendent of another veterinary hospital except with the permission in writing of the board and subject to such conditions, if any, as the board specifies in its permission.

(3) Within seven days after a person becomes or ceases to be the superintendent of a veterinary hospital, the licensee shall lodge with the Director-General—

- (a) the instrument by which that person was nominated or appointed to be the superintendent; or
- (b)

Veterinary Surgeons (Amendment).

(b) a notice, in writing, specifying the day upon which that person ceased to be the superintendent,

as the case may be.

(d) by inserting next after section 27B the following New sec. 27c.
new section :—

27c. In any proceedings before any court and before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General certifying that, on a day or during a period specified in the certificate— Certificate of Director-General to be prima facie evidence.

- (a) any place specified in the certificate was or was not licensed as a veterinary hospital, or was or was not licensed as a particular class of veterinary hospital, under this Act;
- (b) a person specified in the certificate was or was not a person to whom a license had been issued in respect of a veterinary hospital specified in the certificate; or
- (c) a person specified in the certificate was or was not a person in respect of whom the Director-General had received an instrument or notice pursuant to subsection (3) of section 24H,

shall be prima facie evidence of the facts stated therein.

(e) by inserting in section 28 (1) after the word Sec. 28.
“payable” the words “for or in connection with the (Appropriation of registration fees and penalties.)
registration of a veterinary surgeon and in connection with the giving of an approval under section 24A”;

(f) (i) by omitting from section 29 (2) (g) the word Sec. 29.
“science.” and by inserting instead the (Regulations.)
following word and new paragraphs :—

science;

(h)

Veterinary Surgeons (Amendment).

- (h) prescribing standards to be observed in the construction and equipping of veterinary hospitals, including—
 - (i) structural requirements of buildings, lighting, ventilation, drainage and accommodation for animals, staff and other persons;
 - (ii) furniture and equipment;
 - (iii) operating theatres, dressing rooms, kennels and yards; and
 - (iv) the prevention of the ingress of, and the destruction of, flies and vermin;
- (i) prescribing the manner in which veterinary hospitals are to be conducted, including—
 - (i) the methods and apparatus to be used in cleansing and disinfecting buildings, kennels, yards and equipment;
 - (ii) the manner of disposal of refuse and other matter;
 - (iii) the manner of disposal of dead animals;
 - (iv) the provision to be made for the storage, preparation and serving of food;
 - (v) the manner in which care and attention shall be given to animals;
 - (vi) the manner of isolation or removal of animals suffering from infectious diseases;
 - (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and
 - (viii)

Veterinary Surgeons (Amendment).

- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;
 - (j) prescribing the duties of the superintendent of a veterinary hospital ;
 - (k) prescribing the number and qualifications of resident assistants and nursing staff of a veterinary hospital ;
 - (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of that veterinary hospital ;
 - (m) prescribing any continual period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to appoint another superintendent ;
 - (n) regulating the manner and extent to which a veterinary hospital may be advertised.
- (ii) by inserting at the end of section 29 the following new subsection :—
- (5) Different—
 - (a) provisions may be made pursuant to paragraphs (h), (i), (j) and (k) of subsection (2) ;
 - (b) periods and circumstances may be prescribed pursuant to paragraphs (l) and (m) of subsection (2),
- in respect of different classes of veterinary hospitals.

Veterinary Surgeons (Amendment).

Further amend-
ment of
Act No. 25,
1923.

Sec. 2.
(Parts.)

10. (1) The Principal Act is further amended—

- (a) by omitting from section 2 the matter relating to Part IV and by inserting instead the following matter :—

PART IV.—VETERINARY SURGEONS—ss. 12–24A.

DIVISION 1.—*Registration*—ss. 12–19.

DIVISION 2.—*Disciplinary Provisions*—ss. 19A–19L.

DIVISION 3.—*General*—ss. 20–24.

DIVISION 4.—*Supervised Practitioners*—s. 24A.

Part IV.
(New heading.)

- (b) by inserting in Part IV next before section 12 the following matter :—

DIVISION 1.—*Registration.*

Sec. 18A.
(Removal of name on account of misconduct, etc.)

- (c) by omitting section 18A;

Sec. 19.
(Restoration of name.)

- (d) (i) by omitting from section 19 the matter “or 18A” wherever occurring;
(ii) by omitting from section 19 (1) the words “a court of competent jurisdiction” and by inserting instead the words “the District Court”;

New secs.
19A–19L,
both incl.

- (e) by inserting next after section 19 the following new matter :—

DIVISION 2.—*Disciplinary Provisions.*

19A. (1) A complaint that any veterinary surgeon—

Complaints against veterinary surgeons.

- (a) has been convicted in New South Wales or elsewhere by any court of any felony, misdemeanour, crime or offence ;

(b)

Veterinary Surgeons (Amendment).

- (b) has been guilty of habitual drunkenness or of addiction to any deleterious drug;
- (c) has been guilty of misconduct in a professional respect;
- (d) has had his registration to practise veterinary science cancelled under the law in force relating to the registration of persons entitled to practise veterinary science in a place outside New South Wales other than at his own request or has been suspended from practice as a person so entitled under any such law;
- (e) is not of good character; or
- (f) is, by reason of infirmity, injury or illness, whether mental or physical, unfit to practise as a veterinary surgeon,

may be made to the investigating committee.

(2) A complaint shall be made in writing and the investigating committee, by notice in writing served on the complainant—

- (a) may require further particulars of any complaint to be given; and
- (b) may require the complaint or any further particulars to be verified by statutory declaration,

within such time as may be specified in the notice.

(3) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the investigating committee, the investigating committee may declare that the complaint be deemed not to have been received by it in accordance with subsection (2).

(4)

Veterinary Surgeons (Amendment).

(4) The court before which any veterinary surgeon is convicted of a felony, misdemeanour, crime or offence shall, except in such cases or classes of cases as may be specified or described in the regulations, forward particulars of the conviction to the investigating committee.

(5) The investigating committee may consider the particulars of the conviction of a veterinary surgeon forwarded to it under subsection (4) and, if it so directs, those particulars shall be deemed to be a complaint made to it against that veterinary surgeon under paragraph (a) of subsection (1) and received by it in accordance with this section.

(6) Every person other than—

- (a) a member of the police force;
- (b) a member of the Public Service; or
- (c) a member of the committee of the Australian Veterinary Association,

acting in his capacity as such a member, who makes a complaint to the investigating committee against a veterinary surgeon shall deposit with the investigating committee the sum of twenty dollars at the time of lodging the complaint.

Misconduct
in a
professional
respect.

19B. Without limiting the meaning of the expression "misconduct in a professional respect" a veterinary surgeon shall be deemed to be guilty of such misconduct where he—

- (a) permits or requires an unregistered person employed by him to do any act forming part of the practice of veterinary science except where that person acts in accordance with this or any other Act; or

(b)

Veterinary Surgeons (Amendment).

- (b) allows the use of his name in connection with a purported practice of veterinary science at premises at which he or a partner does not bona fide carry on the practice of veterinary science.

19c. (1) There shall be an investigating committee appointed by the Minister which shall consist of— Constitution of investigating committee.

- (a) a barrister or solicitor, who shall be chairman;
- (b) an officer of the Department of Agriculture who is a veterinary surgeon but not a member of the board; and
- (c) a veterinary surgeon who is not a member of the board appointed from a panel of not less than three veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association within such period as the Minister from time to time directs in writing.

(2) If sufficient veterinary surgeons are not nominated to form the panel referred to in paragraph (c) of subsection (1) and the period within which that panel may be nominated has expired, the Minister may appoint a veterinary surgeon other than a member of the board to the investigating committee instead of the veterinary surgeon required to be appointed from that panel.

(3) The chairman and members of the investigating committee shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

19d.

Veterinary Surgeons (Amendment).

Investigation
by
investigating
committee.

19D. (1) The investigating committee shall cause all complaints against veterinary surgeons received by it in accordance with section 19A to be investigated and for the purposes of that investigation the chairman may administer an oath and may, by notice in writing signed by him, require any person to attend at the place and at the time specified in the notice for the purpose of giving evidence before the investigating committee or producing any document relating to the investigation.

(2) Where in the course of the investigation of a complaint against a veterinary surgeon—

- (a) it appears to the investigating committee that, having regard to the matters arising during the investigation, another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; and
- (b) the investigating committee is of the opinion that the other complaint is one that could be made to it and received by it in accordance with section 19A,

the investigating committee may itself make that other complaint which shall thereupon be deemed to be a complaint made to it and received by it in accordance with section 19A.

(3) The investigating committee—

(a) may dismiss any complaint made to it;

(b)

Veterinary Surgeons (Amendment).

- (b) if it is satisfied of the truth of the complaint but does not consider that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, after giving the veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it, may caution or reprimand that veterinary surgeon; or
- (c) if it is satisfied that a prima facie case has been made out and considers that the complaint is sufficiently serious to warrant its being referred to the disciplinary tribunal, shall refer the complaint accordingly.

(4) The proceedings of the investigating committee shall be held in camera.

(5) Where an amount is deposited pursuant to subsection (6) of section 19A and the investigating committee—

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

the investigating committee may so declare and the amount deposited shall be forfeited.

(6)

Veterinary Surgeons (Amendment).

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

(7) The investigating committee may, when referring a charge to the disciplinary tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of section 19F, be deemed to be the person who made the complaint.

(8) At the conclusion of the investigation of a complaint against a veterinary surgeon the investigating committee shall notify the board of the action taken by it pursuant to subsection (3).

**Constitution
of
disciplinary
tribunal.**

19E. (1) The disciplinary tribunal shall consist of—

(a) a chairman appointed by the Governor who—

(i) shall be a Judge of the District Court of New South Wales; and

(ii) except as provided in subsection (5) shall hold office for a term of seven years; and

(b) the members of the board.

(2) A quorum at any sitting of the disciplinary tribunal shall consist of the chairman and three members of the board.

(3)

Veterinary Surgeons (Amendment).

(3) The chairman and members of the board sitting on the disciplinary tribunal shall receive such fees and allowances as the Governor may from time to time determine in respect of each of them.

(4) Where in the opinion of the Governor the chairman is unable for any cause to act in respect of any matter he may appoint a Judge of the District Court of New South Wales to be the deputy of the chairman and that Judge, while acting as deputy, shall have and may exercise and perform all the powers, authorities, duties and functions by this Act conferred or imposed upon the chairman in respect of that matter.

(5) A person holding office under this section as the chairman or deputy of the chairman shall cease to hold that office on the day upon which he ceases to be a Judge of the District Court.

19F. (1) Subject to subsection (1) of section 19G, the registrar shall convene all meetings of the disciplinary tribunal and shall keep a record of all proceedings and decisions of that tribunal. ^{Inquiry by disciplinary tribunal.}

(2) The proceedings before the disciplinary tribunal shall be in the nature of a rehearing.

(3) The disciplinary tribunal shall, in making any inquiry, sit in open court and the veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by his solicitor or counsel.

(4)

Veterinary Surgeons (Amendment).

(4) The person who made the complaint (not being a complaint deemed by subsection (5) of section 19A or subsection (2) of section 19D to have been made to the investigating committee or deemed by subsection (7) to have been referred to the disciplinary tribunal) shall, unless exempted from attendance by the disciplinary tribunal, be present and may be represented by his solicitor or counsel at the inquiry.

(5) The disciplinary tribunal may receive and admit on production, as evidence in the inquiry concerned—

- (a) the judgment and findings of any court (whether civil or criminal), the verdict or findings of a jury, or a certificate of the conviction of any person, in any case where the judgment, findings, verdict or certificate are, in the opinion of the disciplinary tribunal, relevant to the nature of the complaint; and
- (b) a copy of the depositions or a transcript of the shorthand or other notes, duly certified as correct, of the evidence of witnesses taken in any court in any case where, in the opinion of the disciplinary tribunal, that evidence is relevant to the nature of the complaint.

(6) For the purpose of an inquiry, the disciplinary tribunal and the chairman shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act, 1923, on a commissioner and the chairman of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and

Division

Veterinary Surgeons (Amendment).

Division 2 of Part II excepted, shall apply to any witness summoned by or appearing before the disciplinary tribunal in the same way as it applies to a witness summoned before a royal commission.

(7) Where in the course of the inquiry into a complaint against a veterinary surgeon—

- (a) it appears to the disciplinary tribunal that, having regard to the matters arising during the inquiry, another complaint could have been made against the veterinary surgeon, whether instead of the complaint then being inquired into or in addition to it;
- (b) the disciplinary tribunal is satisfied that the investigating committee has not, under paragraph (a) or (b) of subsection (3) of section 19D, dealt with that other complaint or a complaint that was substantially the same as that other complaint; and
- (c) the disciplinary tribunal is of the opinion that that other complaint, or the complaint that is substantially the same as that other complaint, is one that could have been made to and received by the investigating committee in accordance with section 19A,

the disciplinary tribunal may itself make that other complaint, or a complaint that is substantially the same as that other complaint, which shall be deemed to have been referred to the disciplinary tribunal in accordance with paragraph (c) of subsection (3) of section 19D.

(8) Notwithstanding anything in subsection (1) of section 19G, where in the course of any inquiry into a complaint against a veterinary

surgeon

Veterinary Surgeons (Amendment).

surgeon the disciplinary tribunal makes another complaint against the veterinary surgeon under subsection (7), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

(9) Where the persons constituting the disciplinary tribunal are divided in opinion as to the decision to be given upon any question (not being a question to which subsection (5) of section 19G relates) the question shall be decided according to the opinion of the majority, if there is a majority, but if those persons are equally divided in opinion, the decision shall be in favour of the veterinary surgeon concerned.

Powers of
chairman of
disciplinary
tribunal.

19G. (1) The chairman shall fix a date and place for the hearing of an inquiry by the disciplinary tribunal and the registrar shall give at least seven days' notice to the veterinary surgeon concerned of the date and place so fixed.

(2) The chairman, upon request made by the person who made a complaint, the veterinary surgeon concerned or any other interested person, may—

- (a) direct that the name of any witness shall not be disclosed at the inquiry;
- (b) direct that all or any of the following matters, that is to say :—
 - (i) the name and address of any witness;
 - (ii) the name and address of the person who made the complaint ;

(iii)

Veterinary Surgeons (Amendment).

- (iii) the name and address of the veterinary surgeon concerned;
- (iv) any evidence given at the inquiry specified or described in the direction; or
- (v) the subject-matter of the complaint or charge,

shall not be published in any newspaper, except a publication bona fide intended primarily for the use of the legal or veterinary profession, or by radio or television; and

- (c) notwithstanding subsection (3) of section 19F, direct that the inquiry be held in camera.

(3) The chairman—

- (a) may revoke a direction given under subsection (2) at any time; and
- (b) may exercise his powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but he shall not exercise his powers under subsection (2) before the inquiry unless reasonable notice is given to the person who made the request, the person who made the complaint, the veterinary surgeon concerned and such other persons as the chairman thinks fit, of the time and place appointed by him for the consideration of the request.

(4) Any person who contravenes a direction given under subsection (3) is guilty of an offence.

(A)

(5)

Veterinary Surgeons (Amendment).

(5) The decision of the chairman upon any question of law or procedure which may arise in any inquiry shall be the decision of the disciplinary tribunal.

Penalties.

19H. (1) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, that tribunal may by order—

- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for a period not exceeding twelve months; or
- (c) direct that the name of the veterinary surgeon be removed from the register.

(2) Where the matter of a complaint against a veterinary surgeon has been proved to the satisfaction of the disciplinary tribunal, the tribunal shall not make an order suspending him from practice or directing that his name be removed from the register where the matter of the complaint is such that, whether from its trivial nature or from the circumstances in which it occurred or from any other reason, it does not in the public interest disqualify the person from practising his profession.

(3) Where the disciplinary tribunal makes an order pursuant to paragraph (a) or (b) of subsection (1), that tribunal may by the same order direct the veterinary surgeon to comply during a period specified therein with such requirements as it thinks fit and as are specified therein, and may amend or revoke that direction by a subsequent order.

(4)

Veterinary Surgeons (Amendment).

(4) If the disciplinary tribunal has reason to believe that a person in respect of whom a direction under subsection (3) has been made has failed to comply with the direction, the disciplinary tribunal may hold an inquiry with respect thereto, and if it is proved to the satisfaction of the disciplinary tribunal that that person has failed to comply with the direction, may make a further order under subsection (1).

(5) Where the disciplinary tribunal directs that the name of a veterinary surgeon be removed from the register it may fix a time after which the person whose name is so removed may apply for restoration of his name to the register.

(6) While any order of suspension from practice under this section remains in force the person concerned shall, except for the purposes of section 11, be deemed not to be a veterinary surgeon, but forthwith upon the expiry of the order all his rights and privileges as a veterinary surgeon shall be revived as from that expiry.

(7) An order made by the disciplinary tribunal pursuant to this section shall not take effect until the expiration of a period of twenty-one days after notice of the making of the order has been given to the veterinary surgeon by the registrar in accordance with section 19k.

(8) If within the period specified in subsection (7) the veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

(a) shall not take effect at the expiration of that period but shall, where the Court confirms the order without variation, and unless it otherwise orders, take effect upon the day upon which the order is confirmed; or

(b)

Veterinary Surgeons (Amendment).

(b) shall not take effect at the expiration of that period nor shall it take effect at any other time where the Court allows the appeal, or dismisses the appeal but varies the order of the disciplinary tribunal.

Appeal
against
order of
disciplinary
tribunal.

19I. (1) There shall be a right of appeal to the Supreme Court from an order made under section 19H and on any such appeal the Court may make such order as it thinks proper, having regard to the merits of the case.

(2) An appeal under subsection (1) shall be made in accordance with the rules of Court.

(3) The provisions of subsections (2) and (3) of section 19G shall, subject to the rules of Court, apply in the same way as those provisions apply to the hearing of a complaint by the disciplinary tribunal.

(4) Without affecting the generality of the foregoing provisions of this section, the Court may make any order which the disciplinary tribunal might have made under section 19H, or may vary any order made by the disciplinary tribunal.

Restoration
of name to
register.

19J. (1) In this section "the former provisions" means the provisions of section 18A of this Act as in force immediately before the commencement of section 10 of the Veterinary Surgeons (Amendment) Act, 1974.

(2) Subject to subsection (5) of section 19H, any person whose name has been removed from the register pursuant to section 19H or by the board pursuant to the former provisions, may apply

to

Veterinary Surgeons (Amendment).

to have his name restored to the register, and all the provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application.

(3) The disciplinary tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 19H or by the board pursuant to the former provisions before the expiration of the period specified in the order of suspension, and, except where the Court upon an appeal makes an order referred to in subsection (5) of section 19H, may direct that any name removed from the register at the direction of the disciplinary tribunal pursuant to section 19H or by the board pursuant to the former provisions be restored to the register.

(4) Notwithstanding subsection (3), the name of any person which has been removed from the register pursuant to section 19H or the former provisions shall not be restored to the register until the prescribed restoration fee is paid.

19K. (1) A notice under this Division by the registrar, investigating committee, disciplinary tribunal or a court may be served by delivering it personally to the person to whom it is addressed or by leaving it for him with some person apparently over the age of fourteen years at his address last known to the registrar, investigating committee, disciplinary tribunal or court, as the case may be. ^{Service of notices.}

(2) Any person upon whom a notice is served in accordance with subsection (1) and who, where that notice requires that person to do some act, without reasonable excuse fails or refuses to comply with the notice, is guilty of an offence.

19L.

Veterinary Surgeons (Amendment).

Notations
in register.

19L. Where the disciplinary tribunal or the Supreme Court makes an order under section 19H the registrar shall make a notation of the terms of the order in the register adjacent to the name of the person in respect of whom the order was made.

Part IV.
(New
heading.)

(f) by inserting in Part IV next before section 20 the following new matter :—

DIVISION 3.—*General.*

Sec. 21.
(Prohibited
practices.)

(g) by omitting section 21 (2) and by inserting instead the following subsections :—

(2) No veterinary surgeon shall carry on the practice of veterinary science under a name other than his own name except where—

- (a) he is a member of a partnership carrying on business under the name or names of one or more of the partners ;
- (b) he is duly appointed as the locum tenens of a veterinary surgeon ;
- (c) after the commencement of section 9 of the Veterinary Surgeons (Amendment) Act, 1974, he is duly appointed as the superintendent of a veterinary hospital ;
- (d) he is carrying on practice as a superintendent pursuant to an authorisation under section 22 ; or
- (e) the board otherwise permits in writing.

(2A)

Veterinary Surgeons (Amendment).

(2A) For the purposes of subsection (2), no veterinary surgeon shall be a duly appointed locum tenens unless—

- (a) he is appointed in writing by the veterinary surgeon in respect of whom he is acting as locum tenens; and
- (b) he is employed only during the temporary absence of his employer and for a period not exceeding three months or such longer period as the board may in any particular case permit in writing.

- (h) by inserting in Part IV next before section 24A the following new matter :—
- Part IV.
(New heading.)

DIVISION 4.—Supervised Practitioners.

- (i) (i) by omitting section 24A (9) (c);
- (ii) by omitting section 24A (10) and by inserting instead the following subsection :—
- Sec. 24A.
(Approved persons may perform certain acts under supervision.)

(10) Division 2 applies to a person in respect of whom an approval is in force under this section as if that person were registered as a veterinary surgeon and a reference in that Division—

- (a) to the suspension for any period from practice of a veterinary surgeon shall be construed as a reference to the withdrawal for that period of an approval in force under this section; and
- (b) to the removal of the name of a veterinary surgeon from the register shall be construed as a reference to the cancellation of the approval in force under this section.

- (j) by omitting section 26A.

Sec. 26A.
(Application of sections 25 and 26.)
(2)

Veterinary Surgeons (Amendment).

(2) Any complaint or charge made to the board under section 18A of the Principal Act before the commencement of subsection (1) and not finally dealt with by the board in accordance with that section at that commencement shall be deemed to be a complaint made to the investigating committee in accordance with section 19A of that Act as amended by that subsection.

(3) An appeal commenced under section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) may be continued and be dealt with in all respects as if subsection (1) had not been enacted and a decision given on any such appeal shall be final and shall be given effect to by the board.

(4) A person referred to in section 18A (8) of the Principal Act as in force immediately before the commencement of subsection (1) who has not, within three months after the date on which notice was given to him in accordance with that subsection, appealed in accordance with that subsection, may within three months after the date on which that notice was given to him, appeal to the Supreme Court in accordance with section 19I of the Principal Act in force after the commencement of that subsection as if the order of the board were an order of the disciplinary tribunal.

(5) Where the board suspended the registration of a veterinary surgeon in accordance with section 18A of the Principal Act as in force immediately before the commencement of subsection (1), that suspension shall, subject to subsection (3) and section 19J (2) of the Principal Act as amended by subsection (1), remain in force according to its terms.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 26th March, 1974.*

