

FIRST PRINT

VETERINARY SURGEONS BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Prevention of Cruelty to Animals (Prescribed Defences) Amendment Bill 1986 is cognate with this Bill.

The object of this Bill is to revise the laws relating to veterinary surgeons by repealing the Veterinary Surgeons Act 1923 and enacting a new Act. It is proposed—

- (a) to re-constitute the Board of Veterinary Surgeons, the Investigating Committee and the Disciplinary Tribunal;
- (b) to provide for additional categories of registration of veterinary surgeons, namely—
 - (i) registration on an honorary basis;
 - (ii) registration as a specialist; and
 - (iii) limited registration for specific purposes;
- (c) to restrict the right to registration on the basis of an overseas academic award;
- (d) to regulate further the conduct of veterinary surgeons by making provision for a code of conduct and by extending the grounds on which disciplinary action may be taken by the Investigating Committee and the Disciplinary Tribunal;
- (e) to limit the acts of veterinary science that may be performed by persons who are not qualified as veterinary surgeons;
- (f) to increase penalties for offences; and

- (g) to make other changes to the present requirements relating to the practice of veterinary science.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence, with minor exceptions, on a day appointed by the Governor-in-Council.

Clause 3 is an interpretation provision. An important definition is that of "veterinary science" which is defined in similar terms to that contained in the repealed Act (as extended by the regulations under the repealed Act).

PART 2—BOARD OF VETERINARY SURGEONS OF NEW SOUTH WALES

Clause 4 constitutes the Board.

Clause 5 (and Schedule 1) make provision with respect to the members and procedure of the Board. The Board is comprised of 6 members, being—

- (a) 3 veterinary surgeons appointed from a panel nominated by the N.S.W. Division of the Australian Veterinary Association;
- (b) 2 veterinary surgeons nominated by the Minister; and
- (c) 1 veterinary surgeon appointed from a panel of members of the Faculty of Veterinary Science of the University of Sydney nominated by the Senate of that University.

Except for the addition of the member referred to in (c) above, the composition of the Board is the same as under the repealed Act.

Clause 6 provides for the appointment of one of the members as President of the Board.

Clause 7 provides for the employment of a Registrar and other staff of the Board under the Public Service Act 1979.

PART 3—REGISTRATION OF VETERINARY SURGEONS

DIVISION 1—*Registers*

Clause 8 requires the Board to keep a register of veterinary surgeons divided as follows:

- (a) a division of veterinary surgeons registered under proposed section 12 (full registration);
- (b) a division of honorary veterinary surgeons registered under proposed section 13; and
- (c) a division of veterinary surgeons registered under proposed section 14 (limited registration).

Clause 9 requires the Board to keep a register of specialists.

Clause 10 contains general provisions relating to the registers, including a new provision which enables the Board, on application, to record additional particulars in relation to registered veterinary surgeons and a new provision requiring a register to be open to public inspection.

DIVISION 2—*Registration*

Clause 11 specifies as prerequisites to registration—

- (a) the existing requirement that the applicant be of good fame and character; and
- (b) the new requirement that the applicant make the declaration relating to the conduct to be observed by veterinary surgeons.

Clause 12 sets out the qualifications required for full registration as a veterinary surgeon. The qualifications are any one of the following:

- (a) a 5 year academic course in veterinary science at a university, college or institution in Australia, New Zealand or the United Kingdom prescribed by the regulations (at present the academic courses that may be prescribed are not limited to any particular country);
- (b) a 4 year academic course in veterinary science at any other university, college or institution, together with (unless specifically exempted) the passing of an examination prescribed by the regulations and residency in Australia for at least 12 months;
- (c) previous registration under the repealed Act; or
- (d) subject to certain conditions, registration as a veterinary surgeon in another State or Territory of Australia.

Applicants for registration from all overseas countries other than New Zealand and the United Kingdom will be required in future to pass the prescribed examination, unless exempted by the Minister on the recommendation of the Board.

Clause 13 sets out the qualifications for registration as an honorary veterinary surgeon. This is a new classification that will enable the Board to honour certain veterinary surgeons, such as those of long standing in the profession.

Clause 14 sets out the qualifications for limited registration as a veterinary surgeon. Under this new classification registration is available for specific purposes (for example, overseas veterinary surgeons visiting for research work) and is limited to 12 months (with renewal for an additional 12 months).

Clause 15 provides for the new classification of specialist. The qualifications and experience required are to be determined by the Board, but the regulations may require a minimum number of years registration as a veterinary surgeon as a prerequisite to registration as a specialist.

Clause 16 makes provision for applications for registration and the determination of those applications. If an application is refused, the reasons for that refusal must be given to the applicant.

Clause 17 enables certificates of provisional registration to be given to graduands (as at present) pending the conferring of the academic award and the grant of full registration.

Clause 18 provides for the issue of certificates of registration. Provision has been included to enable the Board to recall certificates where a person's name is removed from a register or correction of the certificate is necessary.

DIVISION 3—*General provisions relating to registration*

Clause 19 provides (as at present) for the payment of an annual roll fee by a registered veterinary surgeon.

Clause 20 authorises the Board (as at present) to remove from the register the name of a veterinary surgeon who has died, who was not qualified to be registered, who is mentally ill or who requests the name be removed.

Clause 21 maintains the existing right of appeal to the District Court against decisions of the Board to refuse to register a veterinary surgeon or to remove a veterinary surgeon's name from a register.

PART 4—DISCIPLINARY PROVISIONS

DIVISION 1—*Preliminary*

Clause 22 defines "misconduct in a professional respect" to include, among other things, a breach of prescribed provisions of the proposed code of conduct for veterinary surgeons under clause 23.

Clause 23 authorises the promulgation by regulation of a veterinary surgeons' code of professional conduct.

DIVISION 2—*Constitution of Investigating Committee and Disciplinary Tribunal*

Clause 24 constitutes the Veterinary Surgeons Investigating Committee. The membership of the Investigating Committee (which at present comprises a barrister or solicitor, an officer of the Department of Agriculture and a veterinary surgeon nominated by the Australian Veterinary Association) is to be increased to 4 members by the addition of a member of the Board.

Clause 25 constitutes the Veterinary Surgeons Disciplinary Tribunal. The membership of the Disciplinary Tribunal (which at present comprises a Judge of the District Court as chairperson and the members of the Board) is to be increased by the appointment of another Judge of that Court as the deputy chairperson. A quorum at an inquiry of the Disciplinary Tribunal is the chairperson or the deputy chairperson and 2 members of the Board.

DIVISION 3—*Making of complaints to, and investigation by, Investigating Committee*

Clause 26 specifies the grounds on which a person may lodge a complaint to the Investigating Committee against a veterinary surgeon. In addition to the present grounds for complaint, provision is made to enable a complaint to be made even though it may not constitute misconduct in a professional respect—if the complaint is warranted the Investigating Committee may under clause 28 caution or reprimand the veterinary surgeon concerned. The clause contains other provisions relating to complaints.

Clause 27 makes provision (as at present) with respect to the investigation of complaints by the Investigating Committee.

Clause 28 empowers the Investigating Committee—

- (a) to dismiss a complaint;
- (b) to caution or reprimand the veterinary surgeon and to require the payment of the costs of the investigation (up to a prescribed maximum amount); or
- (c) to refer the complaint to the Disciplinary Tribunal for inquiry.

The powers of the Investigating Committee have been extended by the power to award costs against the veterinary surgeon in addition to, or in substitution for, a caution or reprimand.

Clause 29 contains miscellaneous provisions relating to investigations of complaints. Provision is made (with a limited exception) for a prohibition on the publication of the proceedings before the Investigating Committee.

DIVISION 4—Inquiry into, and determination of, complaints by Disciplinary Tribunal

Clause 30 makes provision (as at present) for an inquiry by the Disciplinary Tribunal into a complaint referred to it by the Investigating Committee.

Clause 31 deals with the powers of the chairperson or deputy chairperson of the Disciplinary Tribunal. As at present, the chairperson or deputy chairperson fixes the date of the hearing, gives directions relating to the publication of proceedings and decides questions of law.

Clause 32 empowers the Disciplinary Tribunal to exercise any of the following powers on finding that a complaint against a veterinary surgeon has been proved:

- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for up to 12 months;
- (c) remove the veterinary surgeon's name from a register;
- (d) impose a fine on the veterinary surgeon not exceeding \$10,000;
- (e) require the veterinary surgeon to pay the costs of the hearing.

The powers of the Disciplinary Tribunal have been extended by the power to impose a fine and award costs.

DIVISION 5—General provisions relating to disciplinary proceedings

Clause 33 is a new provision which enables disciplinary proceedings against a veterinary surgeon to be continued notwithstanding that the veterinary surgeon ceases to be registered.

Clause 34 maintains the existing right of appeal to the Supreme Court against a decision of the Disciplinary Tribunal. However, provision has been made to make it clear that an appeal by a veterinary surgeon is by way of a new hearing and an appeal by the complainant is limited to a question of law or the penalty imposed.

Clause 35 makes provision, as at present, for the restoration to a register of the name of a person removed as a result of disciplinary proceedings—subject to any minimum period of removal from the register imposed by the Disciplinary Tribunal or the Supreme Court.

Clause 36 makes provision for the recording of proceedings and decisions of the Investigating Committee and the Disciplinary Tribunal.

PART 5—REGULATION OF PRACTICE OF VETERINARY SCIENCE

Clause 37 makes it an offence (maximum penalty—\$2,000) for an unregistered person to practise veterinary science or hold a prescribed office or position. The clause does not repeat the present requirement that, in certain cases, the unqualified person must practise for fee or reward before the offence is established. As at present, the owner of an animal, or an employee of the owner, is not required to be registered in order to perform acts of veterinary science in respect of the animal.

Clause 38 makes it an offence (maximum penalty—\$2,000) to practise as a specialist in a branch of veterinary science unless registered as a specialist in that branch.

Clause 39 requires, as at present, a veterinary surgeon to practise in his or her own name (maximum penalty—\$2,000). The clause makes it clear that a veterinary surgeon may practice as an employee of another veterinary surgeon.

Clause 40 requires, as at present, certain certificates to be signed by registered veterinary surgeons (maximum penalty—\$2,000).

Clause 41 makes it an offence to use a false qualification, etc., in the practice of veterinary science (maximum penalty—\$2,000).

Clause 42 prohibits, as at present, advertising of the practice of veterinary science except as authorised by the regulations or by the Board (maximum penalty—\$2,000). The prohibition has been extended to persons other than veterinary surgeons.

Clause 43 prohibits, as at present, the recovery of fees or charges by persons who are not registered veterinary surgeons.

Clause 44 specifies the practices that are permitted to be carried out by unregistered persons. Some of the existing permitted practices (dehorning of animals, Mules operation, tailing of sheep, castrating of animals, etc.) have been limited to certain ages or types of animals. The permitted practices have been extended to include the diagnosing of pregnancy in sheep by the use of ultrasonic techniques and any other practice specifically approved by the regulations or, upon application, by the Board. The total exemption of the owner, or an employee of the owner, of an animal is not affected by this clause.

Clause 45 maintains the present power of the Board to approve of persons who are not fully qualified for registration to practise under supervision pending registration.

PART 6—VETERINARY HOSPITALS

Clause 46 requires a person who conducts a veterinary hospital to have a licence issued by the Director-General of Agriculture (maximum penalty—\$2,000). The requirements of this clause and the other clauses in this Part are similar to the present requirements in relation to veterinary hospitals.

Clause 47 provides for different classes of licences.

Clause 48 deals with applications for licences.

Clause 49 provides for the issue or refusal of a licence to an applicant.

Clause 50 provides for the duration of a licence.

Clause 51 requires a licensee to pay an annual licence fee.

Clause 52 authorises the Director-General of Agriculture to suspend or cancel a licence in certain circumstances.

Clause 53 confers a right of appeal to the District Court against a decision of the Director-General under this Part.

Clause 54 requires the licensee to nominate himself or herself or another person as superintendent of the veterinary hospital and provides for the requisite qualifications of the superintendent.

PART 7—MISCELLANEOUS

Clause 55 confers on inspectors appointed by the Director-General of Agriculture powers of entry and examination for the purposes of the proposed Act. The existing power has been restricted by the exclusion of premises used for residential purposes.

Clause 56 continues the existing power of the President or other member of the Board or the chairperson of the Investigating Committee to examine persons on oath or take statutory declarations.

Clause 57 continues the existing power of the President or other member of the Board or the chairperson of the Investigating Committee to summon persons to give evidence or produce documents.

Clause 58 makes it an offence to make false or misleading statements in matters arising under the proposed Act (maximum penalty—\$2,000 or 12 months' imprisonment, or both).

Clause 59 is an evidentiary provision relating to the registration or approval of persons under the proposed Act.

Clause 60 is an evidentiary provision relating to entries in a register.

Clause 61 is an evidentiary provision relating to veterinary hospitals and inspectors.

Clause 62 provides that proof of certain matters is not required.

Clause 63 provides for the manner of serving notices under the proposed Act.

Clause 64 provides for the service of documents on the Board, Investigating Committee or Disciplinary Tribunal.

Clause 65 deals with the authentication of certain documents.

Clause 66 enables charges, fees, costs, fines, etc., under the proposed Act to be recovered as a debt.

Clause 67 requires fees, etc., to be carried to the Consolidated Fund.

Clause 68 exculpates certain persons from personal liability for actions done in good faith in executing the proposed Act.

Clause 69 enables directors and others concerned in the management of a corporation to be prosecuted for offences committed by the corporation.

Clause 70 provides for offences to be dealt with in a summary manner.

Clause 71 empowers the Governor to make regulations. The specific matters in respect of which regulations are authorised to be made are similar to those matters in respect of which regulations may at present be made.

Clause 72 gives effect to the Schedule of savings, transitional and other provisions.

Clause 73 repeals the Veterinary Surgeons Act 1923 and Acts amending that Act.

Schedule 1 makes provision with respect to the members and procedure of the Board.

Schedule 2 makes provision with respect to the members and procedure of the Investigating Committee.

Schedule 3 makes provision with respect to the members of the Disciplinary Tribunal.

Schedule 4 contains savings, transitional and other provisions.

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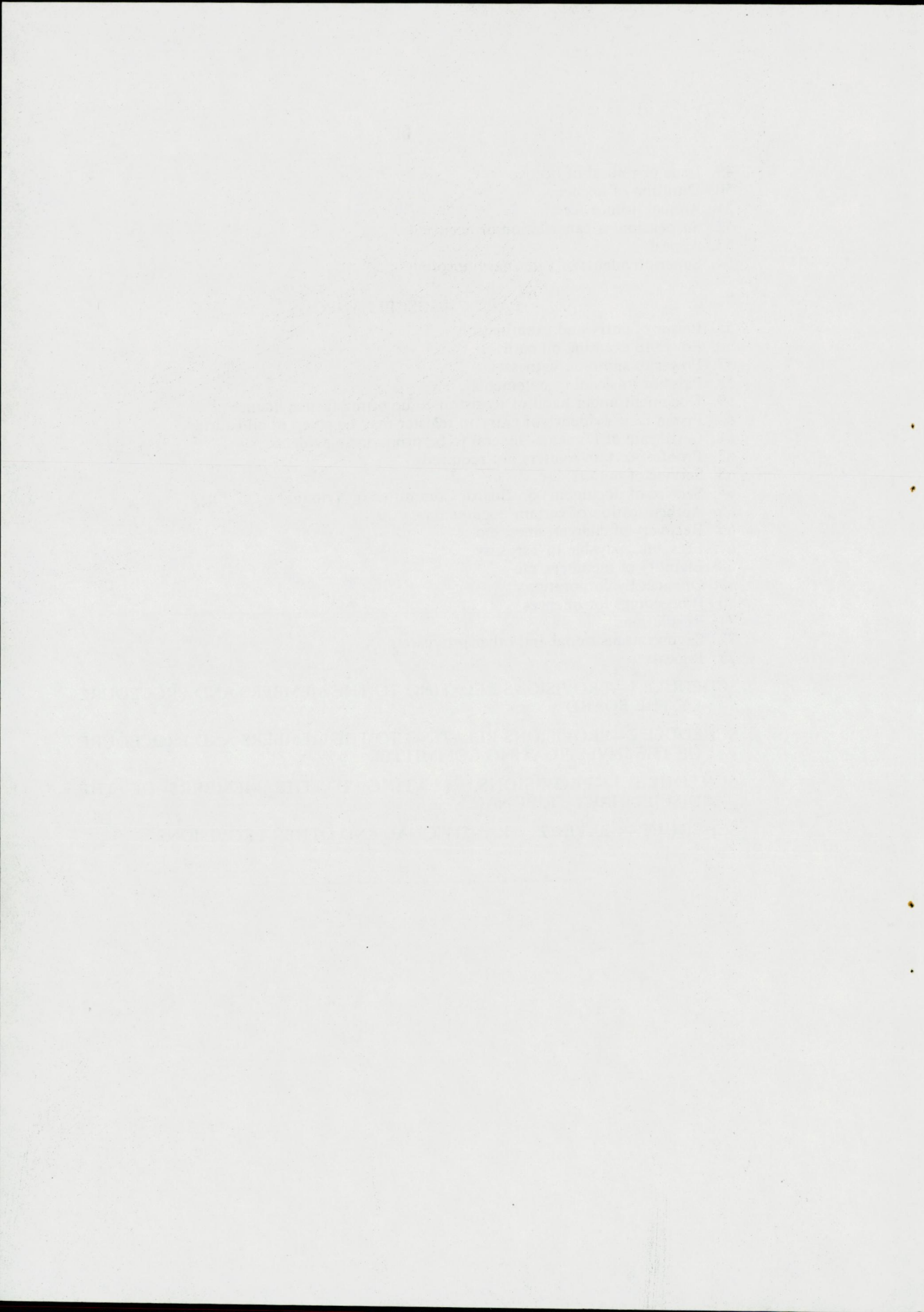
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VETERINARY SURGEONS BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act relating to the practice of veterinary science; to repeal the Veterinary Surgeons Act 1923; and for other purposes.

See also Prevention of Cruelty to Animals (Prescribed Defences) Amendment Bill 1986.

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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:

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PART 1

PRELIMINARY

Short title

1. This Act may be cited as the "Veterinary Surgeons Act 1986".

Commencement

- 10 2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

15 **Interpretation**

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Board of Veterinary Surgeons of New South Wales constituted under section 4;

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

"Disciplinary Tribunal" means the Veterinary Surgeons Disciplinary Tribunal constituted under section 25;

- 25 "Investigating Committee" means the Veterinary Surgeons Investigating Committee constituted under section 24;

"practise", in relation to veterinary science, means do or perform, or attempt to do or perform, any act, matter or thing which forms part of veterinary science;

- 30 "register of specialists" means the register of specialists kept under section 9;

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“register of veterinary surgeons” means the register of veterinary surgeons kept under section 8;

“registered” means registered under this Act;

5 “registered veterinary surgeon” means a person who is for the time being—

- (a) registered as a veterinary surgeon under section 12 (full registration), including a person provisionally so registered;
- (b) registered as an honorary veterinary surgeon under section 13; or
- 10 (c) registered as a veterinary surgeon under section 14 (limited registration);

“Registrar” means Registrar of the Board;

“regulation” means a regulation made under this Act;

15 “veterinary hospital” means a place used or intended to be used for the purpose of the practice of veterinary science, but does not include—

- 20 (a) a place at which any act, matter or thing permitted by section 37 (4) or 44 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 the place;
- (b) a place at which an artificial breeding procedure, within the meaning of the Stock (Artificial Breeding) Act 1985, is carried out if—
 - 25 (i) the use of the place for the carrying out of that procedure is authorised by a licence in force under that Act; and
 - (ii) 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 the place; or
- 30 (c) a place or class of places exempted from this definition by the regulations;

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“veterinary science” includes any branch of the science or art of veterinary medicine or of veterinary surgery and, without limiting the generality of the foregoing, includes—

- 5 (a) the examination of or attendance on 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;
- 10 (c) without limiting the generality of paragraph (a), the diagnosing of pregnancy in an animal;
- (d) without limiting the generality of paragraph (b)—
- (i) the carrying out of any artificial breeding procedure involving surgery; and
- 15 (ii) the de-antlering of deer; and
- (e) the doing or performing of any act, matter or thing that is prescribed as forming part of the practice of veterinary science.

(2) In this Act—

- 20 (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2
25 BOARD OF VETERINARY SURGEONS OF NEW SOUTH WALES**The Board**

4. (1) There is constituted by this Act a corporation under the corporate name of the “Board of Veterinary Surgeons of New South Wales”.

(2) The Board shall have and may exercise the functions conferred or
30 imposed on it by or under this or any other Act.

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Members of the Board

5. (1) The Board shall consist of 6 members who shall be appointed by the Governor.

(2) Of the members of the Board—

- 5 (a) 3 shall be persons selected by the Minister from a panel of not less than 7 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association;
- (b) 2 shall be registered veterinary surgeons nominated by the Minister; and
- 10 (c) 1 shall be a registered veterinary surgeon selected by the Minister from a panel of not less than 3 members of the Faculty of Veterinary Science of the University of Sydney nominated by the Senate of that University.

(3) Schedule 1 has effect with respect to the members and procedure of 15 the Board.

President of the Board

6. Of the members of the Board, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as President of the Board.

20 Staff of the Board

7. A Registrar and such other staff as may be necessary to enable the Board to exercise its functions shall be employed under the Public Service Act 1979.

PART 3**25 REGISTRATION OF VETERINARY SURGEONS****DIVISION 1—Registers****Register of veterinary surgeons**

8. (1) The Board shall keep a register of veterinary surgeons.

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(2) The register of veterinary surgeons shall be divided as follows:

- (a) a division of veterinary surgeons registered under section 12 (full registration);
- (b) a division of honorary veterinary surgeons registered under section 13;
- (c) a division of veterinary surgeons registered under section 14 (limited registration).

(3) A person is registered as a veterinary surgeon under section 12 (full registration) or registered as an honorary veterinary surgeon under section 13 or registered as a veterinary surgeon under section 14 (limited registration) by the entry in the appropriate division of the register of veterinary surgeons of—

- (a) the full name and address of the person;
- (b) the description of the person's qualification for registration;
- (c) in the case of a person registered as a veterinary surgeon under section 14 (limited registration)—the date on which the registration will expire and any condition attached to the registration; and
- (d) such other particulars as may be prescribed.

(4) The name of a person shall be removed from any division of the register of veterinary surgeons if the name of the person is entered in any other division of that register.

(5) A registered veterinary surgeon ceases to be registered under section 12, 13 or 14, as the case may require, when the veterinary surgeon's name is removed from the relevant division of the register of veterinary surgeons.

Register of specialists

9. (1) The Board shall keep a register of specialists.

(2) A registered veterinary surgeon is registered as a specialist by the entry in the register of specialists of—

- (a) the full name and address of the veterinary surgeon;
- (b) the description of the veterinary surgeon's qualification for registration as a specialist;

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(c) the branch of veterinary science in respect of which the veterinary surgeon is registered as a specialist; and

(d) such other particulars as may be prescribed.

(3) The name of a person shall be removed from the register of specialists
5 if the name of the person is removed from the register of veterinary surgeons.

(4) A registered veterinary surgeon ceases to be registered as a specialist when the veterinary surgeon's name is removed from the register of specialists.

10 General provisions relating to registers

10. (1) In this section, "register" means the register of veterinary surgeons or the register of specialists.

(2) Where a registered veterinary surgeon applies for particulars to be recorded in a register in addition to those required to be recorded under
15 this Act, the Board may, on payment of the prescribed fee, cause to be recorded in that register such of those additional particulars as the Board approves.

(3) A register shall be open to inspection, at the office of the Board at all times when that office is open for business, by any person on payment of
20 the prescribed fee.

(4) Where the description of a person's qualifications is required to be entered into a register, the description shall include the date on which the qualification was awarded.

(5) The name of a registered veterinary surgeon is removed from a
25 register by the making in that register of such recording as the Board directs.

(6) The Board shall, as soon as practicable after 30 June in each year, cause to be printed and published a copy of each register certified by the Registrar to be correct as at 30 June of that year.

*Veterinary Surgeons 1986*DIVISION 2—*Registration***Prerequisite to registration as veterinary surgeon**

11. A person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) or as an honorary veterinary surgeon under section 13 or as a veterinary surgeon under section 14 (limited registration) unless the person—

(a) satisfies the Board that the person is of good fame and character; and

10 (b) has made the prescribed declaration relating to the conduct to be observed by registered veterinary surgeons.

Full registration

12. (1) A person is entitled to be registered as a veterinary surgeon under this section if—

15 (a) the person holds an academic award in veterinary science awarded on the completion of a regular graded course of study—

(i) extending over at least 5 academic years; and

(ii) in which a general study of veterinary science was made, at a university, college or institution within Australia, New Zealand or the United Kingdom prescribed for the purposes of this paragraph;

20

(b) the person—

25 (i) holds an academic award in veterinary science awarded on the completion of a regular graded course of study in veterinary science of at least 4 years' duration at a university, college or institution (other than one prescribed for the purposes of paragraph (a)), being an academic award that at the time it was granted was accepted in the country in which it was granted as a sufficient qualification for the practice of veterinary science in that country;

30

(ii) has passed the prescribed examination; and

(iii) has been resident in Australia, at the time of making application for registration, for a continuous period of 12 months or more; or

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(c) the person was, at any time before the commencement of this Act, registered as a veterinary surgeon under the Veterinary Surgeons Act 1923 and is no longer registered.

(2) Where the Minister is satisfied, on the recommendation of the Board, that a person has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the exemption of the person from the requirement to pass the prescribed examination under subsection (1) (b) (ii), the Minister may exempt the person from that requirement.

(3) The Board may exempt a person from the requirement of residency in Australia under subsection (1) (b) (iii).

(4) A person who does not hold the requisite qualifications for registration as a veterinary surgeon under this section is entitled to be so registered if—

(a) the person satisfies the Board that the person is registered as a veterinary surgeon under an Act regulating the practice of veterinary science in any other State or a Territory of the Commonwealth;

(b) the Board is of the opinion that—

(i) the qualification in respect of which the person was registered in that State or Territory is of a standard substantially equivalent to the qualifications prescribed under this section; and

(ii) a person registered under this Act is, by virtue of that registration and without further examination (other than an examination equivalent to an examination prescribed under paragraph (c)), entitled to be registered under the Act regulating the practice of veterinary science in that State or Territory; and

(c) in any particular case that the Board so requires—the person has passed the prescribed examination.

(5) A regulation for the purposes of subsection (1) (a) 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 university, college or institution.

Registration as an honorary veterinary surgeon

13. A person who is entitled to be, or is, registered as a veterinary surgeon under section 12 (full registration) may be registered as an honorary veterinary surgeon under this section if the Board is satisfied that—

- 5 (a) the person is a registered veterinary surgeon of not less than 40 years' standing;
- (b) the person is a registered veterinary surgeon of long standing and is of or above the age of 65 years; or
- 10 (c) the person's standing in the profession of veterinary science is such as to justify the person's registration as an honorary veterinary surgeon.

Limited registration

14. (1) A person may be registered as a veterinary surgeon under this section if the Board is satisfied that—

- 15 (a) the registration is necessary to enable the person to carry on the practice of veterinary science for a specific purpose for a limited time; and
- (b) the person has such qualifications in veterinary science or such
20 experience in the practice of veterinary science as to justify the registration.

(2) The registration of a person as a veterinary surgeon under this section is subject to such conditions as may be specified by the Board in the certificate of registration.

(3) The registration of a person as a veterinary surgeon under this section
25 expires—

- (a) 12 months after the date of registration; or
- (b) at such earlier time as may be specified by the Board in the certificate of registration,

but may be renewed in accordance with the regulations for a further period
30 (not exceeding 12 months) determined by the Board.

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(4) The Board may cause to be removed from the register of veterinary surgeons the name of a veterinary surgeon registered under this section—

- (a) if the veterinary surgeon has breached a condition specified in the certificate of registration; or
- 5 (b) for any other reason.

Registration as a specialist

15 15. (1) A registered veterinary surgeon may be registered as a specialist in a prescribed branch of veterinary science if the Board is satisfied that the veterinary surgeon has such qualifications in veterinary science and such
10 experience in the practice of veterinary science as to justify the registration.

(2) The regulations may prescribe prerequisites for registration as a specialist in a branch of veterinary science, including being a registered veterinary surgeon for a specified number of years.

Application for registration and determination of application

15 16. (1) An application for registration (including registration as a specialist) shall—

- (a) be made to the Board as prescribed;
 - (b) be supported by such evidence as the Board may require; and
 - (c) be accompanied by the prescribed fee.
- 20 (2) The Board shall consider and determine any such application.
- (3) The Board may refuse any such application if, in the opinion of the Board—
- (a) the applicant is not entitled to be registered as requested in the application; or
 - 25 (b) any ground exists on which the applicant's name, if the applicant were so registered, might be removed from the register of veterinary surgeons or register of specialists.

(4) If the Board refuses any such application, the Board shall cause the applicant to be given notice of its refusal and the reasons for its refusal.

Provisional registration

17. (1) In this section—

“authorised member of the Board” means the President of the Board or any other member authorised by the Board.

5 (2) Where a person has applied to be registered as a veterinary surgeon under section 12 (full registration), an authorised member of the Board, on being satisfied that the applicant—

(a) is entitled to be so registered; or

10 (b) has satisfied all the requirements for an academic award referred to in section 12 (1) (a) and, but for the conferring of the award, would be entitled to be so registered,

may, on behalf of the Board, issue to the applicant a certificate of provisional registration in the form approved by the Board.

15 (3) An authorised member of the Board shall not issue a provisional certificate of registration to a person unless satisfied that the person is of good fame and character and has made the prescribed declaration referred to in section 11 (b).

20 (4) A person who is the holder of a certificate of provisional registration shall be deemed to be registered as a veterinary surgeon under section 12 (full registration) for a period of 3 months from the date of issue of the certificate.

25 (5) The Board may, for any reason, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered as a veterinary surgeon under section 12.

(6) On the cancellation or expiry of a certificate of provisional registration, the holder of the certificate shall cease to be deemed to be registered as a veterinary surgeon under section 12.

30 (7) If a person to whom a certificate of provisional registration has been issued becomes registered as a veterinary surgeon under section 12 (full registration) during the currency of the certificate—

(a) the person's registration shall, unless otherwise determined by the Board, date from the issue of the certificate of provisional registration; and

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- (b) the person's provisional registration shall, notwithstanding subsection (4), expire on the day on which the person becomes so registered.

Registration certificate

5 **18. (1)** The Board may issue certificates of registration under this Act.

(2) If—

(a) the name of a person is removed from the register of veterinary surgeons or the register of specialists; or

10 (b) any detail on a certificate of registration issued to a person is incorrect,

the Board may, by notice served on the person, require the person to return the relevant certificate of registration to the Board within the time specified in the notice.

15 **(3)** A person on whom any such notice is served shall comply with the notice.

Penalty: \$500.

(4) Where a certificate of registration has been returned to the Board pursuant to—

20 (a) subsection (2) (a)—the certificate, or a duplicate of the certificate, shall be returned to the person if the name of the person is restored to the register of veterinary surgeons or register of specialists, as the case may be; or

25 (b) subsection (2) (b)—an amended or substituted certificate of registration shall, unless the person is not entitled to be registered, be issued to the person.

*DIVISION 3—General provisions relating to registration***Roll fee**

30 **19. (1)** Every registered veterinary surgeon whose name is entered in the division of veterinary surgeons or the division of honorary veterinary surgeons of the register of veterinary surgeons shall, in or before the month of October in each year, pay to the Registrar the roll fee prescribed for the following year in respect of that division.

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(2) If a registered veterinary surgeon does not pay a roll fee in accordance with subsection (1), the Board may—

- (a) cause the veterinary surgeon's name to be removed from the register of veterinary surgeons; and
- 5 (b) where the veterinary surgeon's name is also entered in the register of specialists—cause that name to be removed from that register.

(3) If the name of any person is removed from a register under this section, the Board may restore the person's name to that register—

- 10 (a) on production of the person's certificate of registration or proof to the satisfaction of the Board of the person's former registration; and
- (b) on payment of the prescribed fee for restoration or such lesser fee as the Board may in any particular case determine.

15 (4) A roll fee is payable under this section notwithstanding that the registered veterinary surgeon has been suspended from practice.

Removal of name of deceased veterinary surgeon, etc.

20 20. (1) The Board shall cause to be removed from the register of veterinary surgeons or the register of specialists the name of any person who—

- 20 (a) has died;
- (b) has ceased to possess or does not possess the qualification in respect of which the person was registered;
- 25 (c) has become 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; or
- (d) requests that the person's name be so removed.

30 (2) Where the Board under this section removes the name of any person from the register of veterinary surgeons or the register of specialists, the name of that person shall not be again entered in that register except by direction of the Board or by order of any court.

- (3) The Board may, if it thinks fit in any case, restore to the register of veterinary surgeons or the register of specialists any name removed from that register under this section without payment of any fee or on payment of such fee, not exceeding the relevant fee prescribed under section 16 (1) 5 (c), as the Board may from time to time direct.

Right of appeal

21. (1) Where the Board—

- 10 (a) refuses to register an applicant for registration as a veterinary surgeon under section 12 (full registration), not being a refusal on the ground that the applicant has failed to pass the prescribed examination; or
- (b) causes the name of any person to be removed from a register pursuant to section 20 (1) (b) or (c),

15 the applicant or person 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 Board.

(2) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision of the Board was made, may be given on the appeal.

20 (3) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing or disposing of an appeal, have all the functions and discretions that the Board had in respect of the matter the subject of an appeal.

25 (4) The District Court, in deciding an appeal, may—

- (a) confirm the decision of the Board; or
- (b) disallow that decision and make such order as the District Court considers appropriate.

30 (5) The decision of the District Court in respect of an appeal shall be deemed to be the final decision of the Board and shall be given effect to accordingly.

PART 4

DISCIPLINARY PROVISIONS

DIVISION 1—*Preliminary***Misconduct in a professional respect**

- 5 22. Without limiting the meaning of the expression “misconduct in a professional respect”, a registered veterinary surgeon shall be deemed to be guilty of misconduct in a professional respect if the veterinary surgeon—
- 10 (a) permits or requires an unregistered person employed by the veterinary surgeon to practise veterinary science except where that person acts in accordance with this or any other Act;
- (b) allows the use of the veterinary surgeon’s name in connection with a purported practice of veterinary science at premises at which the veterinary surgeon or a partner does not actually carry on the practice of veterinary science; or
- 15 (c) breaches any provision, prescribed for the purposes of this paragraph, of the veterinary surgeons’ code of professional conduct established under section 23.

Veterinary surgeons’ code of professional conduct

- 20 23. (1) The regulations may establish a veterinary surgeons’ code of professional conduct setting out the rules of conduct which should be observed by a registered veterinary surgeon in carrying on the practice of veterinary science.
- (2) The Board may make recommendations to the Minister with respect to the code.

25 DIVISION 2—*Constitution of Investigating Committee and Disciplinary Tribunal***Constitution of Veterinary Surgeons Investigating Committee**

24. (1) There is constituted by this Act a Veterinary Surgeons Investigating Committee.
- 30 (2) The Investigating Committee shall consist of 4 members who shall be appointed by the Minister.

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- (3) Of the members of the Investigating Committee—
- (a) 1 shall be a barrister or solicitor and shall be chairperson of the Investigating Committee;
 - 5 (b) 1 shall be an officer of the Department of Agriculture who is a registered veterinary surgeon but not a member of the Board;
 - (c) 1 shall be a registered veterinary surgeon, not being a member of the Board, appointed from a panel of not less than 3 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association; and
 - 10 (d) 1 shall be a member of the Board.
- (4) Schedule 2 has effect with respect to the members and procedure of the Investigating Committee.

Constitution of Veterinary Surgeons Disciplinary Tribunal

- 25 (1) There is constituted by this Act a Veterinary Surgeons Disciplinary Tribunal.
- (2) The Disciplinary Tribunal shall consist of—
- (a) a chairperson and a deputy chairperson appointed by the Governor, being Judges of the District Court; and
 - (b) the members of the Board.
- 20 (3) A quorum at any sitting of the Disciplinary Tribunal shall consist of the chairperson or deputy chairperson and 2 members of the Board.
- (4) A member of the Board who sat on the Investigating Committee which referred a complaint to the Disciplinary Tribunal shall not sit on the Disciplinary Tribunal during an inquiry into the complaint.
- 25 (5) More than one sitting of the Disciplinary Tribunal may be held at the same time.
- (6) The chairperson and the deputy chairperson shall not sit on the same inquiry.
- 30 (7) The deputy chairperson, when sitting on an inquiry, shall preside at the inquiry.

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(8) Schedule 3 has effect with respect to the members of the Disciplinary Tribunal.

DIVISION 3—*Making of complaints to, and investigation by, Investigating Committee*

5 **Complaints against veterinary surgeons**

26. (1) A complaint may be made to the Investigating Committee that a registered veterinary surgeon—

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

(2) A complaint shall be made in writing.

(3) The Investigating Committee, by notice in writing served on the complainant—

- (a) may require further particulars of any complaint to be given; and
- 25 (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.

(4) Where further particulars of a complaint are not furnished or a complaint or further particulars are not verified as required by the
30 Investigating Committee, the Investigating Committee may refuse to investigate the complaint.

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(5) The Investigating Committee may investigate a complaint relating to the conduct of a registered veterinary surgeon notwithstanding that it does not appear to constitute misconduct in a professional respect or any other ground on which a complaint may be made under subsection (1), but where
 5 the Investigating Committee considers that the matter to which any such complaint relates does not warrant the making of the complaint, the Investigating Committee shall refuse to investigate the complaint any further.

(6) Where—

- 10 (a) a person is convicted in New South Wales of an offence, other than a prescribed offence; and
- (b) the court before which the person is convicted has reasonable grounds to believe that the person is a registered veterinary surgeon,
- 15 that court shall cause a certificate of conviction in respect of the person to be furnished to the Investigating Committee.

(7) If the Investigating Committee so directs, a certificate of conviction received by it under subsection (6) shall be deemed to be a complaint made to it in accordance with this section.

20 (8) A 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 New South Wales Division of the Australian Veterinary Association,
- 25 acting in the person's capacity as such a member, who makes a complaint to the Investigating Committee against a registered veterinary surgeon shall deposit with the Investigating Committee the sum of \$20 at the time of lodging the complaint.

Investigation by Investigating Committee

- 30 27. (1) The Investigating Committee shall, except as provided by section 26 (4) and (5), cause all complaints against registered veterinary surgeons made to it in accordance with section 26 to be investigated.

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

- (a) it appears to the Investigating Committee that, having regard to the matters arising during the investigation—
- 5 (i) another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; or
- (ii) a complaint could be made to it against another registered veterinary surgeon; and
- 10 (b) the Investigating Committee is of the opinion that the other complaint, or the complaint against the other veterinary surgeon, is one that could be made to it in accordance with section 26,

the Investigating Committee may itself make that other complaint or the complaint against that other veterinary surgeon, which shall thereupon be
15 deemed to be a complaint made to it in accordance with section 26.

(3) The proceedings of the Investigating Committee shall be held in the absence of the public.

(4) For the purposes of any investigation conducted by it, the Investigating Committee may conduct the investigation in such manner as
20 it thinks fit and is not bound to observe rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.

Decision of Investigating Committee on complaint

28. (1) The Investigating Committee—

- 25 (a) may dismiss any complaint made to it;
- (b) if it is satisfied of the truth of the complaint but considers that the complaint is not sufficiently serious to warrant its being referred to the Disciplinary Tribunal, may do either or both of the following:
- 30 (i) by order, caution or reprimand the veterinary surgeon;
- (ii) order that the prescribed costs of, or incidental to, investigating the complaint be paid by the veterinary surgeon; or

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(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.

5 (2) Where the Investigating Committee considers that the conduct of a registered veterinary surgeon warranted the making of the complaint but the conduct does not constitute misconduct in a professional respect or any other ground on which a complaint may be made under section 26 (1), the
10 subsection (1) (b) in respect of the conduct.

(3) The Investigating Committee shall, before exercising its powers under subsection (1) (b), give the registered veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it.

15 **Miscellaneous provisions relating to investigations of complaints**

29. (1) Where the persons constituting the Investigating Committee are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, but if those persons are equally divided in opinion, the decision shall be in favour
20 of the registered veterinary surgeon concerned.

(2) The chairperson of the Investigating Committee may direct that—

(a) any specified evidence during the investigation of a complaint made to the Investigating Committee;

(b) the subject-matter of a complaint; and

25 (c) details of, and reasons for, the decision of the Investigating Committee with respect to a complaint,

may be published in a publication intended primarily for the use of the legal or veterinary profession.

30 (3) A person shall not publish any particular referred to in subsection (2) unless the publication is in accordance with a direction of the chairperson.

Penalty: \$2,000 or 12 months' imprisonment, or both.

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(4) Where an amount is deposited pursuant to section 26 (8) and the Investigating Committee—

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

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

10 the Investigating Committee may so declare and the amount deposited shall be forfeited.

(5) If no declaration under subsection (4) is made, the amount deposited shall be refunded to the person by whom it was deposited.

15 (6) The Investigating Committee may, when referring a complaint to the Disciplinary Tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of Division 4, be deemed to be the person who made the complaint.

(7) At the conclusion of the investigation of a complaint, the Investigating Committee shall notify the Board of—

20 (a) the name and address of the registered veterinary surgeon concerned; and

(b) any action taken by the Investigating Committee under section 28, and may, in addition, notify the Board of—

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

(d) the name and address of any witness; and

25 (e) any other particulars it thinks fit.

*DIVISION 4—Inquiry into, and determination of, complaints by
Disciplinary Tribunal*

Inquiry by Disciplinary Tribunal

30 30. (1) The proceedings before the Disciplinary Tribunal shall be by way of new hearing, and fresh evidence, or evidence in addition to or in substitution for the evidence given before the Investigating Committee, may be given in the proceedings before the Disciplinary Tribunal.

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(2) The Disciplinary Tribunal shall, in making any inquiry, sit in open court and the registered veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by the veterinary surgeon's solicitor or counsel.

5 (3) The person who made the complaint (not being a complaint deemed by section 26 (7) or 27 (2) to have been made to the Investigating Committee or deemed by subsection (6) to have been referred to the Disciplinary Tribunal) shall, unless exempted from attendance by the
10 Disciplinary Tribunal, be present and may be represented by the person's solicitor or counsel at the inquiry.

(4) 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, where the judgment, findings, verdict or certificate is or are, in the opinion of the Disciplinary Tribunal, relevant to the complaint; and

20 (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, where, in the opinion of the Disciplinary Tribunal, that evidence is relevant to the complaint.

(5) For the purpose of an inquiry, the Disciplinary Tribunal and the chairperson or deputy chairperson shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act 1923
25 on a commissioner and the chairperson of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and 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.

30 (6) Where in the course of an inquiry into a complaint against a registered veterinary surgeon—

35 (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;

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(b) the Disciplinary Tribunal is satisfied that the Investigating Committee has not, under section 28 (1) (a) or (b), dealt with that other complaint or a complaint that was substantially the same as that other complaint; and

5 (c) the Disciplinary Tribunal is of the opinion that that other complaint is one that could have been made to the Investigating Committee in accordance with section 26,

the Disciplinary Tribunal may itself make that other complaint, which shall be deemed to have been referred to the Disciplinary Tribunal in accordance
10 with section 28 (1) (c).

(7) Where in the course of any inquiry into a complaint against a registered veterinary surgeon the Disciplinary Tribunal makes another complaint against the veterinary surgeon under subsection (6), that other complaint may be dealt with at that inquiry after such adjournment (if any)
15 as is just and equitable in the circumstances.

(8) Where the persons constituting the Disciplinary Tribunal are divided in opinion as to the decision to be given on any question (not being a question to which section 31 (5) relates), the question shall be decided according to the opinion of the majority, if there is a majority, but if those
20 persons are equally divided in opinion, the decision shall be in favour of the registered veterinary surgeon concerned.

Powers of chairperson of Disciplinary Tribunal

31. (1) The chairperson shall fix a date and place for the hearing of an inquiry by the Disciplinary Tribunal and the Registrar shall give at least 7
25 days' notice to the registered veterinary surgeon concerned of the date and place so fixed.

(2) The chairperson may, on request being made by the person who made a complaint, the registered veterinary surgeon concerned or any other interested person—

30 (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;

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

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- (iii) the name and address of the registered veterinary surgeon concerned;
- (iv) any evidence given at the inquiry specified or described in the direction;
- 5 (v) the subject-matter of the complaint,
shall not be published in any newspaper (except a publication intended primarily for the use of the legal or veterinary profession) or by radio or television; and
- (c) direct that the inquiry be held in the absence of the public.
- 10 (3) The chairperson—
- (a) may revoke a direction given under subsection (2); and
- (b) may exercise the powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but shall not exercise the powers under subsection (2) before the inquiry unless reasonable
- 15 notice is given to the person who made the request, the person who made the complaint, the registered veterinary surgeon concerned and such other persons as the chairperson thinks fit, of the time and place appointed by the chairperson for the consideration of the request.
- 20 (4) A person shall not contravene a direction under subsection (2).
Penalty: \$2,000 or 12 months' imprisonment, or both.
- (5) The decision of the chairperson on any question of law or procedure which may arise in any inquiry shall be the decision of the Disciplinary Tribunal.
- 25 (6) In subsections (2), (3) and (5), "chairperson", in relation to an inquiry at which the deputy chairperson is presiding, means the deputy chairperson.

Determination of complaints by Disciplinary Tribunal

32. (1) Where the matter of a complaint against a registered veterinary surgeon has been proved to the satisfaction of the Disciplinary Tribunal,
- 30 the Disciplinary Tribunal may, by order—
- (a) reprimand or caution the veterinary surgeon;
- (b) suspend the veterinary surgeon from practice for a period not exceeding 12 months;

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- (c) direct that the name of the veterinary surgeon be removed from the register of veterinary surgeons or the register of specialists;
 - (d) impose a fine on the veterinary surgeon of an amount, not exceeding \$10,000, specified in the order; or
 - 5 (e) require the veterinary surgeon to pay such costs of or incidental to the hearing as are specified in the order,
- or exercise any combination of those powers.

(2) Where the matter of a complaint against a registered veterinary surgeon has been proved to the satisfaction of the Disciplinary Tribunal, the Disciplinary Tribunal shall not make an order suspending the veterinary surgeon from practice or directing that the veterinary surgeon's name be removed from a register if 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
10 veterinary surgeon from practising.
15

(3) Where the Disciplinary Tribunal considers that the conduct of a registered veterinary surgeon warranted the making of the complaint but the conduct does not constitute misconduct in a professional respect or any other ground on which a complaint may be made under section 26, the
20 Disciplinary Tribunal may deal with the veterinary surgeon under subsection (1) (a) or (e), or both, in respect of the conduct.

(4) Where the Disciplinary Tribunal makes an order under subsection (1) (a) or (b), the Disciplinary Tribunal may, by the same order, direct the registered veterinary surgeon to comply, during a period specified in the
25 order, with such requirements as it thinks fit and as are specified in the order, and may amend or revoke that direction by a subsequent order.

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

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(6) Where the Disciplinary Tribunal directs that the name of a veterinary surgeon be removed from a register, it may fix a time after which the person whose name is so removed may apply for restoration of the name to that register.

5 (7) While any order of suspension from practice under this section remains in force, the person concerned shall be deemed not to be a registered veterinary surgeon.

10 (8) An order made by the Disciplinary Tribunal under this section shall not take effect until the expiration of a period of 21 days after notice of the making of the order has been given to the registered veterinary surgeon by the Registrar.

(9) If within that period of 21 days the registered veterinary surgeon duly gives notice of appeal to the Supreme Court, the order—

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

20 (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.

DIVISION 5—General provisions relating to disciplinary proceedings

Disciplinary proceedings against veterinary surgeon who ceases to be registered

25 33. (1) The Investigating Committee and the Disciplinary Tribunal may continue to deal with a complaint against a registered veterinary surgeon notwithstanding that the veterinary surgeon ceases to be registered.

30 (2) If the Disciplinary Tribunal so directs, the name of the former veterinary surgeon shall be deemed to have been removed from the register of veterinary surgeons pursuant to the order of the Disciplinary Tribunal under section 32.

Appeal against order of Disciplinary Tribunal

34. (1) There shall be a right of appeal to the Supreme Court from an order made by the Disciplinary Tribunal under section 32—

5 (a) by the registered veterinary surgeon or former registered veterinary surgeon against whom the order was made; or

(b) by the person who made the complaint, but only—

(i) on a point of law; or

(ii) with respect to any penalty imposed.

(2) An appeal shall be made in accordance with rules of court.

10 (3) An appeal under subsection (1) (a) shall be by way of new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence given on the hearing before the Disciplinary Tribunal, may be given on the appeal if the Supreme Court is satisfied that there were good reasons for the evidence not having been given on the hearing before the
15 Disciplinary Tribunal.

(4) The Supreme Court may, on an appeal, make such order as it thinks proper having regard to the merits of the case.

(5) The provisions of section 31 (2) and (3) shall, subject to the rules of court, apply in respect of the hearing of an appeal in the same way as those
20 provisions apply in respect of the hearing of a complaint by the Disciplinary Tribunal.

(6) Without affecting the generality of this section, the Supreme Court may make any order which the Disciplinary Tribunal might have made under section 32, or may vary any order made by the Disciplinary Tribunal.

25 **Restoration of name to register, etc.**

35. (1) Subject to section 32 (6), any person whose name has been removed from a register by the Disciplinary Tribunal pursuant to section 32 may apply to have the person's name restored to that register.

(2) The provisions of this Act relating to applications for registration
30 shall, so far as applicable, apply to any such application for restoration.

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(3) The Disciplinary Tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 32 before the expiration of the period specified in the order of suspension.

(4) Subject to any order referred to in section 32 (6) that is made by the Supreme Court on an appeal, the Disciplinary Tribunal may direct that any name removed from a register at the direction of the Disciplinary Tribunal pursuant to section 32 be restored to that register.

(5) The name of any person which has been removed from a register pursuant to section 32 shall not be restored to the register until the prescribed restoration fee is paid.

Recording of proceedings and decisions of Investigating Committee and Disciplinary Tribunal

36. (1) The Registrar, or a person appointed by the Registrar, shall keep a record of all proceedings and decisions of the Investigating Committee and the Disciplinary Tribunal.

(2) The Registrar shall make a notation in the register of veterinary surgeons or, if applicable, the register of specialists of the terms of—

- (a) an order of the Disciplinary Tribunal or the Supreme Court under section 32; and
- (b) an order of the Investigating Committee under section 28 (1) (b).

PART 5

REGULATION OF PRACTICE OF VETERINARY SURGEONS

Offence for unregistered person to practise

37. (1) A person, other than a registered veterinary surgeon, shall not—
- (a) do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science;
 - (b) use the title or description “veterinary surgeon” or “veterinary”, or any abbreviation or derivative thereof, either alone or in connection with any other title or description; or

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- (c) hold any prescribed office or position or any office or position of a prescribed class or description.

Penalty: \$2,000.

- 5 (2) Subsection (1) (b) does not prohibit persons from using the description "veterinary" only as indicating that they carry on the business of suppliers of goods or materials used in connection with veterinary science.

- 10 (3) Notwithstanding subsection (1), a society registered under the Co-operation Act 1923 may provide a veterinary service for its members and charge for that service if the persons employed or engaged by the society to do or perform any act, matter or thing in connection with any such service forming part of the practice of veterinary science are registered veterinary surgeons.

- 15 (4) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may, in respect of an animal, do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if the person is—

(a) the owner of the animal; or

- 20 (b) an employee of the owner of the animal and the act, matter or thing was done or performed incidentally to the primary duties of that employment.

- (5) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may do or perform any act, matter or thing permitted by section 44 or 45.

Offence to practise as specialist unless registered as specialist

- 25 38. A registered veterinary surgeon shall not—

- 30 (a) use the title or description "specialist" or any abbreviation or derivative thereof or any title, description, words or letters implying, or capable of being understood as implying, that the veterinary surgeon is a specialist in a branch of veterinary science; or

- (b) advertise or hold out that the veterinary surgeon is a specialist in a branch of veterinary science,

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unless the veterinary surgeon is registered under this Act as a specialist in that branch.

Penalty: \$2,000.

Practice to be carried on in veterinary surgeon's name

5 **39. (1)** A registered veterinary surgeon shall not carry on the practice of veterinary science under a name other than the veterinary surgeon's own name, except where—

- (a) the veterinary surgeon is a member of a partnership carrying on business under the name or names of one or more of the partners;
- 10 (b) the veterinary surgeon is employed by another registered veterinary surgeon and is carrying on business under the name of that employer or under the name or names of a partnership of which that employer is a member;
- 15 (c) the veterinary surgeon is duly appointed as the locum tenens of a registered veterinary surgeon;
- (d) the veterinary surgeon is duly acting as the superintendent of a veterinary hospital;
- 20 (e) the veterinary surgeon is carrying on the practice of a deceased veterinary surgeon pursuant to an authorisation under subsection (3); or
- (f) the Board otherwise permits in writing.

Penalty: \$2,000.

(2) For the purpose of subsection (1) (c), a person is not duly appointed as the locum tenens of a registered veterinary surgeon unless the person—

- 25 (a) is appointed in writing by the veterinary surgeon; and
- (b) is employed only during the temporary absence of the veterinary surgeon and for a period not exceeding 3 months or such longer period as the Board may in any particular case permit in writing.

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(3) On the death of a registered veterinary surgeon, the Board may postpone the removal of the veterinary surgeon's name from the register of veterinary surgeons or the register of specialists, and may authorise the veterinary surgeon's executor, administrator or trustee to carry on under the same name the practice formerly carried on by the veterinary surgeon on the condition that the practice is carried on under the personal superintendence of a registered veterinary surgeon.

Signing certificates

40. A person, other than a registered veterinary surgeon, shall not sign any certificate required by law to be signed by a veterinary surgeon.

Penalty: \$2,000.

Use of false qualification

41. A person shall not use or publish in connection with veterinary science, or the practice of veterinary science, any title, description, words or letters implying, or capable of being understood as implying, qualification in veterinary science, or as a veterinary surgeon, or qualification for registration as a veterinary surgeon, other than such title, description, words or letters as truly indicate the academic award or other qualification which the person in fact holds or possesses.

20 Penalty: \$2,000.

Advertising by registered veterinary surgeons and others

42. A person, including a registered veterinary surgeon, shall not advertise that the person is able or willing to do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science unless the advertisement is authorised by the regulations or the Board.

Penalty: \$2,000.

Unregistered person may not recover fees or charges

43. A person, other than a registered veterinary surgeon, is not entitled to recover any fee or charge for doing any act, matter or thing which is required by this Act to be done or performed by a registered veterinary surgeon.

Permitted practices for unregistered persons

44. (1) A person, other than a registered veterinary surgeon, may—
- (a) de-worm any animal;
 - 5 (b) perform the Mules operation on sheep that are less than 12 months of age;
 - (c) dehorn—
 - (i) cattle that are less than 12 months of age; or
 - (ii) goats that are less than 1 month of age;
 - (d) horn tip any animal;
 - 10 (e) castrate—
 - (i) cattle, sheep or goats that are less than 6 months of age; or
 - (ii) pigs that are less than 2 months of age;
 - (f) tail sheep that are less than 6 months of age;
 - 15 (g) carry out any immunising procedure except an immunising procedure—
 - (i) prescribed under paragraph (e) of the definition of “veterinary science” in section 3 (1); or
 - 20 (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;
 - (h) carry out any artificial breeding procedure, within the meaning of the Stock (Artificial Breeding) Act 1985, if the person is authorised so to do by a certificate of competency issued under that Act;
 - 25 (i) determine the sex of chickens;
 - (j) under the immediate and direct supervision of a registered veterinary surgeon, administer an anaesthetic to an animal;
 - (k) where a registered veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment;
 - 30 (l) diagnose pregnancy in sheep by external ultrasonic techniques, subject to compliance with such conditions as may be prescribed; or

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(m) do or perform any other act, matter or thing prescribed for the purposes of this paragraph.

(2) A person other than a registered veterinary surgeon may, with the approval in writing of the Board, do or perform any act, matter or thing
5 the doing or performance of which—

(a) forms part of the practice of veterinary science; and

(b) is not authorised by subsection (1).

(3) Application for an approval shall—

(a) be made in such manner as the Board may require;

10 (b) be supported by such evidence as the Board may require; and

(c) be accompanied by the prescribed fee.

(4) An approval shall—

(a) remain in force from the date it is given until the expiration of the period specified in the approval; and

15 (b) be subject to any conditions specified in the approval.

(5) The Board may, for any reason, by notice served on a person to whom an approval has been given cancel the approval or suspend the approval for such period as it sees fit.

(6) In this section—

20 “de-horn” means remove the horn of an animal by methods which destroy or remove the keratin producing cells and structures at the base of the horn, but does not include horn tipping;

“horn tip” means remove the insensitive part of the horn of an animal.

Approved persons may perform certain acts under supervision

25 45. (1) A person, other than a registered veterinary surgeon, who has obtained an academic award referred to in section 12 (1) (b) (i) may do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if—

30 (a) there is in force an approval given to that person under this section; and

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- (b) that person does or performs the act, matter or thing in the course of the person's employment with, and under the supervision of, a registered veterinary surgeon.

(2) The Board may give approval, by notice in writing, to a person to do or perform any act, matter or thing referred to in subsection (1) if the Board is satisfied that that person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) by reason only that—

- (a) the person has not passed the examination prescribed under section 12 (1) (b) (ii);
- 10 (b) the person has not been resident in Australia for a continuous period of 12 months or more; or
- (c) the person has not passed that examination and has not been so resident.

(3) An approval given under this section remains in force—

- 15 (a) until the person to whom the approval was given becomes a registered veterinary surgeon; or
- (b) until the expiration of the period of 5 years commencing on the day on which the approval is given,

whichever first occurs.

20 (4) A person to whom an approval has been given under this section shall not be given a further approval.

(5) Application for an approval under this section shall—

- (a) be made in such manner as the Board may require;
- (b) be supported by such evidence as the Board may require; and
- 25 (c) be accompanied by the prescribed fee.

(6) The Board shall cancel an approval under this section if the person to whom the approval was given—

- (a) has ceased to possess or does not possess the qualification referred to in subsection (1); or

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(b) has become 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.

5 (7) During the period an approval is in force, the person to whom the approval was given shall give notice in writing of—

(a) the name and address of each registered veterinary surgeon by whom the person is employed; and

(b) each change of the person's private address,

10 to the Registrar within 7 days of the person's becoming so employed or changing address.

Penalty: \$500.

(8) Where a person to whom an approval has been given under this section—

15 (a) is convicted in New South Wales or elsewhere by any court of any offence; or

(b) fails to give any notice as required by subsection (7),

the Board may cancel the approval or suspend the approval for such period as the Board thinks fit.

20 (9) Part 4 applies to a person in respect of whom an approval is in force under this section as if that person were a registered veterinary surgeon and a reference in that Part—

25 (a) to the suspension for any period from practice of a registered veterinary surgeon shall be construed as a reference to the suspension under this section for that period of the approval; and

(b) to the removal of the name of a registered veterinary surgeon from a register shall be construed as a reference to the cancellation under this section of the approval.

PART 6

VETERINARY HOSPITALS

Veterinary hospitals to be licensed

46. A person shall not conduct a veterinary hospital unless—

- 5 (a) a licence to conduct the veterinary hospital has been issued to the person by the Director-General and the licence is in force; and
- (b) the veterinary hospital is managed by a superintendent who has been nominated in accordance with section 54.

Penalty: \$2,000.

10 **Classes of licences**

47. The regulations may prescribe different classes of licences for different classes of veterinary hospitals.

Application for licence

48. An application for a licence for a veterinary hospital shall—

- 15 (a) be made to the Director-General;
- (b) be in the form approved by the Director-General;
- (c) specify the class of licence applied for;
- (d) be accompanied by such documents as the Director-General may require; and
- 20 (e) be accompanied by the licence fee prescribed in respect of the class of licence applied for.

Issue or refusal of licence

49. (1) The Director-General may issue or refuse to issue a licence for a veterinary hospital to an applicant for the licence.

25 (2) The Director-General shall not issue a licence for a veterinary hospital unless—

- (a) the applicant is a registered veterinary surgeon or a person who, in the opinion of the Director-General, has the necessary qualifications and experience to conduct a veterinary hospital; 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 licence is made.

(3) Where the Director-General refuses to issue a licence 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, the Director-General may, if satisfied that that place conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue a licence for a veterinary hospital of that other class.

(4) Where the Director-General refuses to issue to an applicant a licence for a veterinary hospital of any class, the Director-General shall serve on the person notice in writing of the refusal and of the reasons for that refusal.

(5) Where the Director-General issues a licence of a different class to that applied for, the Director-General shall refund to the applicant any amount by which the licence fee for the licence applied for exceeds the licence fee for the licence issued.

Duration of licence

50. A licence for a veterinary hospital shall, subject to this Act, continue in force until it is cancelled.

Annual licence fee

51. (1) A licensee shall, on or before 31 March in each year, pay to the Director-General the prescribed annual licence fee in respect of the class of licence issued to the licensee.

(2) The regulations may prescribe different annual licence fees for different classes of licences.

(3) An annual licence fee is payable under this section notwithstanding that the licence is suspended.

Suspension or cancellation of licence

52. (1) The Director-General may suspend a licence for a period not exceeding 12 months or may cancel a licence if—

(a) the annual licence fee is not paid in accordance with section 51 (1);

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- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations;
- 5 (c) the licensee or the superintendent is, as a consequence of a complaint under Division 3 of Part 4, suspended from practice as a veterinary surgeon or is no longer registered as a veterinary surgeon;
- (d) the place in respect of which the licence was issued ceases to conform to the minimum standard prescribed for a veterinary hospital of that class;
- 10 (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;
- 15 (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) in the case of the cancellation of a licence—the licensee so requests.
- 20 (2) The Director-General may, under subsection (1) (h), cancel a licence on the occurrence of an event specified in the request.
- (3) The Director-General shall not suspend or cancel a licence under subsection (1) (d), (e) or (f) unless—
- (a) the Director-General has first served on the licensee a notice specifying—
- 25 (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;
- 30 (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
- 35 (iii) the manner in which the veterinary hospital is not being conducted as prescribed,

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5 as the case may require, 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, the Director-General may suspend or cancel the licence; and

(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.

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

15 (5) A suspension or cancellation of a licence (except at the request of the licensee) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be made, or where such an appeal is made, until the appeal is determined or withdrawn.

(6) Where a licence is cancelled at the request of the licensee, the Director-General may refund to the licensee part of the annual licence fee last paid by the licensee.

Appeal

20 53. (1) Where the Director-General—

(a) refuses to issue a licence to an applicant;

(b) issues to an applicant a licence of a class other than the class applied for;

(c) suspends a licence; or

25 (d) cancels a licence, except at the request of the licensee,

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

(2) The period within which an appeal may be made is 21 days after notice of the decision of the Director-General is given to the applicant or
30 licensee.

(3) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision of the Director-General was made, may be given on the appeal.

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(4) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing or disposing of an appeal, have all the functions and discretions that the Director-General had in respect of the matter the subject
5 of the appeal.

(5) The District Court, in deciding an appeal, may—

- (a) confirm the decision of the Director-General; or
- (b) disallow that decision and make such order as the District Court considers appropriate.

10 (6) The decision of the District Court in respect of an appeal shall be deemed to be the final decision of the Director-General and shall be given effect to accordingly.

Superintendents of veterinary hospitals

15 54. (1) A licensee of a veterinary hospital may, by instrument in writing in the form approved by the Director-General, nominate himself or herself or another person to be the superintendent of the veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person is not qualified to be nominated as the superintendent of a veterinary hospital—

- 20 (a) unless the person is a registered veterinary surgeon; and
- (b) if the person is the superintendent of another veterinary hospital, except with the permission in writing of the Director-General and subject to such conditions, if any, as the Director-General specifies in that permission.

25 (3) Within 7 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 to be the superintendent; or

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

as the case may require.

Penalty—subsection (3): \$500.

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PART 7

MISCELLANEOUS

Power of entry and examination

55. (1) An inspector may, for the purpose of ascertaining—

- 10 (a) whether any provision of this Act or the regulations has been or is being contravened; or
- (b) whether the conduct of a registered veterinary surgeon constitutes misconduct in a professional respect,

15 at any reasonable time enter any premises in which a registered veterinary surgeon is, or any premises in which the inspector 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.

(2) An inspector may—

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

in or from premises entered in accordance with subsection (1) as the inspector considers necessary in connection with the administration of this Act.

25 (3) An inspector may exercise the powers conferred by this section with the aid of such assistants as the inspector considers necessary.

(4) A person shall not, without reasonable excuse—

- (a) obstruct or hinder an inspector in the exercise of the inspector's powers under this section; or

- (b) being the occupier of the premises—refuse to assist the inspector in exercising those powers.

Penalty: \$2,000.

- (5) This section does not authorise an inspector to enter that part of any premises being used for residential purposes without the consent of the occupier of that part of the premises.

- (6) In this section—

“inspector” means a person appointed in writing by the Director-General as an inspector for the purposes of this Act.

10 Power to examine on oath

56. (1) The President of the Board or any other member authorised by the Board may, for the purpose of the exercise of the Board’s functions, examine any person on oath or take a statutory declaration from any person.

(2) The chairperson of the Investigating Committee may, for the purpose of an investigation of a complaint under Part 4, examine any person on oath or take a statutory declaration from any person.

Power to summon witnesses

57. (1) The President of the Board or any other member authorised by the Board may, by notice in writing, summon any person to attend at the place and time specified in the notice—

- (a) for the purpose of giving evidence before the Board; or
- (b) for the purpose of providing any document,

with respect to any matter within the jurisdiction of the Board.

(2) The chairperson of the Investigating Committee may, by notice in writing, summon any person to attend at the time and place specified in the notice—

- (a) for the purpose of giving evidence before the Investigating Committee; or
- (b) for the purpose of providing any document,

with respect to any investigation of a complaint by that Committee.

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(3) A person who is duly summoned shall not, without reasonable cause—

- (a) fail or neglect to attend after reasonable expenses have been paid or tendered to the person;
- 5 (b) refuse to be sworn or to make a statutory declaration; or
- (c) refuse to answer any lawful question.

Penalty—subsection (3): \$2,000.

False or misleading statements

58. (1) A person shall not, in or in connection with an application—

- 10 (a) for registration, or restoration of registration, as a veterinary surgeon or as a specialist;
- (b) for an approval under section 45; or
- (c) for a licence for a veterinary hospital,

or in respect of any other matter before the Board, make a statement which
15 the person knows to be false or misleading in a material particular.

(2) A person shall not, in respect of any matter before the Investigating Committee or the Disciplinary Tribunal, make a statement which the person knows to be false or misleading in a material particular.

(3) This section does not apply to evidence given on oath or a statement
20 verified by statutory declaration.

(4) In this section, “statement” means a verbal or written statement.

Penalty: \$2,000 or 12 months’ imprisonment, or both.

Document under hand of Registrar to be prima facie evidence

59. A document purporting to be a certificate under the hand of the
25 Registrar and stating any one or more of the following matters:

- (a) that any person was or was not on any date or during any period mentioned in the certificate registered as a veterinary surgeon or as a specialist under this Act;
- 30 (b) that on any date or during any period mentioned in the certificate the registration of any person was suspended;

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- (c) that any person was or was not on any date or during any period mentioned in the certificate a person in respect of whom an approval was in force under section 45,

shall in all courts and before all persons and bodies authorised by law to receive evidence be prima facie evidence of the facts stated.

Prima facie evidence of entry in register may be given in all courts

60. (1) Prima facie evidence of any entry in a register under this Act may be given in all courts and before all persons and bodies authorised by law to receive evidence—

- 10 (a) by production of a document purporting to be a true copy of such entry and purporting to be certified as such by the Registrar; or
- (b) by production of a copy of that register purporting to be printed by the Government Printer which is for the time being the latest copy so printed.

- 15 (2) An entry in a register under this Act shall be prima facie evidence in all courts and before all persons and bodies authorised by law to receive evidence of the truth of all matters contained in it.

Certificate of Director-General to be prima facie evidence

20 **61.** In any proceedings before any court or before any persons and bodies authorised by law to receive evidence a certificate purporting to be signed by the Director-General and certifying that, on a day or during a period specified in the certificate—

- 25 (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 licence had been issued in respect of a veterinary hospital specified in the certificate;
- 30 (c) a person specified in the certificate was or was not a person nominated as a superintendent in accordance with section 54; or
- (d) a person specified in the certificate was or was not duly appointed as an inspector under section 55,

shall be prima facie evidence of the facts stated in the certificate.

Proof of certain matters not required

62. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- 5 (a) the constitution of the Board, the Investigating Committee or the Disciplinary Tribunal;
- (b) any resolution or determination of the Board, the Investigating Committee or the Disciplinary Tribunal;
- 10 (c) the appointment of, or the holding of office by, any member of the Board, the Investigating Committee or the Disciplinary Tribunal; or
- (d) the presence or nature of a quorum at any meeting of the Board, the Investigating Committee or the Disciplinary Tribunal.

Service of notices, etc.

63. Any notice or other instrument issued, made or given for the purposes of this Act or the regulations may be served—

- (a) by delivering it personally to the person to whom it is addressed;
- 20 (b) by delivering it to the last known place of residence or business of the person to whom it is addressed and by leaving it there with some person apparently of or above the age of 14 years for the person to whom it is addressed; or
- (c) by post addressed to the last known place of residence or business of the person.

Service of documents on Board, Committee or Tribunal

64. (1) A document may be served on the Board, the Investigating Committee or the Disciplinary Tribunal by leaving it at, or by sending it by post to—

- (a) the office of the Board, that Committee or that Tribunal; or
- (b) if the Board, that Committee or that Tribunal has more than one office—any one of its offices.
- 30 (2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board, the Investigating Committee or the Disciplinary Tribunal in a manner not provided for by subsection (1).

Authentication of certain documents

65. Every summons, process, demand, order, notice, statement, direction or other document requiring authentication—

- 5 (a) by the Board may be sufficiently authenticated without the seal of the Board if signed by the President of the Board or by any member of the staff of the Board authorised to do so by the President;
- (b) by the Investigating Committee may be sufficiently authenticated if signed by the chairperson of that Committee; or
- 10 (c) by the Disciplinary Tribunal may be sufficiently authenticated if signed by the chairperson or deputy chairperson of that Tribunal.

Recovery of charges, fines, etc.

66. (1) Any charge, fee or money due to the Board or the Director-General under this Act may be recovered by the Board or the Director-
15 General as a debt in a court of competent jurisdiction.

(2) Any costs or fine payable by order of the Investigating Committee or the Disciplinary Tribunal under Part 4 may be recovered by the Registrar as a debt in a court of competent jurisdiction.

Fees, etc., payable to Treasury

20 67. The fees and other money payable under this Act shall be paid into the Treasury and carried to the Consolidated Fund.

Liability of members, etc.

25 68. No matter or thing done by the Board, the Investigating Committee or the Disciplinary Tribunal, any member of the Board, of that Committee or of that Tribunal, the Director-General or any person acting under the direction of the Board, that Committee, that Tribunal or the Director-General shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board, a member of that Committee, a member of that Tribunal, the Director-General or a
30 person so acting personally to any action, liability, claim or demand.

Offences by corporations

69. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision unless the person satisfies the court that—

- (a) the corporation contravened the provision without the knowledge of the person;
- (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Proceedings for offences

70. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

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

- (a) regulating the proceedings of the Board;
- (b) regulating the duties of the staff of the Board;
- (c) regulating the keeping of the register of veterinary surgeons and the register of specialists;

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- (d) 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;
- 5 (e) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (f) prescribing fees payable under this Act;
- (g) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- 10 (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 and staff and other persons;
- 15 (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;
- 20 (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;
- 25 (iv) the provision to be made for the storage, preparation and serving of food for animals;
- (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;
- (vii) the manner in which overcrowding of any part of a veterinary hospital shall be prevented; and
- (viii) the methods to be used to ensure cleanliness of a veterinary hospital;

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- (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;
 - 5 (l) prescribing the maximum period between each attendance at a veterinary hospital by the superintendent of the veterinary hospital;
 - (m) prescribing any continuous period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to nominate another superintendent; and
 - 10 (n) regulating the manner and extent to which a veterinary hospital may be advertised.

(2) A regulation may create an offence punishable by a penalty not exceeding \$1,000.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- 20 (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Savings, transitional and other provisions

25 72. Schedule 4 has effect.

Repeals

73. The following Acts are repealed:

Veterinary Surgeons Act 1923 No. 25

Veterinary Surgeons (Amendment) Act 1974 No. 6

Veterinary Surgeons 1986

 Veterinary Surgeons (Artificial Breeding of Stock) Amendment Act
 1985 No. 197

SCHEDULE 1

(Sec. 5 (3))

 5 **PROVISIONS RELATING TO THE MEMBERS
 AND PROCEDURE OF THE BOARD**
Interpretation

1. In this Schedule—

“member” means member of the Board.

10 **Nomination of members**

2. Where, for the purposes of section 5 (2) (a) or (c), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body or organisation entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been duly nominated.

Age of members

3. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

20 **President of the Board**

4. (1) The Governor may remove a member from the office of President of the Board.

(2) A person who is a member and President shall be deemed to have vacated office as President if the person—

(a) is removed from that office by the Governor under subclause (1);

25 (b) resigns that office by instrument in writing addressed to the Minister; or

(c) ceases to be a member.

Acting members and acting President

5. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

30 (2) The Governor may, from time to time, appoint a member to act in the office of President of the Board during the illness or absence of the President and the member, while so acting, shall have and may exercise all the functions of the President and shall
 35 be deemed to be the President.

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE BOARD—*continued*

(3) The Governor may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause a vacancy in the office of a member or the President of the Board shall be deemed to be an absence from office of the member or President, as the case may be.

Terms of office

10 6. Subject to this Schedule, a member shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

15 7. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

8. (1) If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

20 (2) Where a member referred to in section 5 (2) (a) is appointed to fill a casual vacancy in the office of a member, the panel from which the member is appointed may consist of not less than 3 persons instead of not less than 7 persons.

Casual vacancies

9. (1) A member shall be deemed to have vacated office if the member—

- 25 (a) dies;
- 30 (b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 35 (d) 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;

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- 5 (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years;
- (h) ceases to be a registered veterinary surgeon; or
- (i) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office.

10 Effect of certain other Acts

10. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

- (2) Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.
- 15

- (3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.
- 20

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

Quorum

- 25 12. The quorum for a meeting of the Board is 4 members.

Presiding member

13. (1) The President of the Board or, in the absence of the President, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Board.

- 30 (2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
BOARD—*continued***Minutes**

15. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

SCHEDULE 2

5

(Sec. 24 (4))

PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE
OF THE INVESTIGATING COMMITTEE**Interpretation**

1. (1) In this Schedule—

10 “chairperson” means the chairperson of the Investigating Committee;

“member” means member of the Investigating Committee.

(2) The chairperson may be referred to as the chairman or chairwoman, as the case requires.

Nomination of members

15 2. Where, for the purposes of section 24 (3) (c), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Minister may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to be a member.

20 Age of members

3. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

Acting members

25 4. (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Minister may remove any person from any office to which the person was appointed under this clause.

30 (3) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

*Veterinary Surgeons 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
INVESTIGATING COMMITTEE—*continued*

(4) For the purposes of this clause a vacancy in the office of a member shall be deemed to be an absence from office of the member.

Terms of office

5. Subject to this Schedule, a member shall hold office—

- 5 (a) in the case of a member referred to in section 24 (3) (a)–(c)—for such period not exceeding 3 years; or
- (b) in the case of the member referred to in section 24 (3) (d)—for such period not exceeding 1 year,

10 as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

6. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

15 Filling of vacancy in office of member

7. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancy

8. (1) A member shall be deemed to have vacated office if the member—

- 20 (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 25 (c) 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;
- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- 30 (e) resigns the office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years;
- (g) ceases to hold the qualification by virtue of which the member was appointed;
- or

*Veterinary Surgeons 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
INVESTIGATING COMMITTEE—*continued*

(h) is removed from office by the Minister under subclause (2).

(2) The Minister may remove a member from office.

Effect of certain other Acts

9. (1) The Public Service Act 1979 does not apply to or in respect of the appointment
15 of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the
holder of a specified office to devote the whole of his or her time to the duties of that
office, or prohibiting the person from engaging in employment outside the duties of that
office, that provision shall not operate to disqualify the person from holding that office
10 and also the office of a member or from accepting and retaining any remuneration
payable to the person under this Act as a member.

(3) The office of a member shall for the purposes of any Act be deemed not to be an
office or place of profit under the Crown.

General procedure

15 10. The procedure for the calling of meetings of the Investigating Committee and for
the conduct of business at those meetings shall, subject to this Act, be as determined by
the Investigating Committee.

Quorum

20 11. The quorum for a meeting of the Investigating Committee is 3 members, including
the chairperson.

Presiding member

12. The chairperson shall preside at a meeting of the Investigating Committee.

SCHEDULE 3

(Sec. 25 (8))

25 PROVISIONS RELATING TO THE MEMBERS OF
THE DISCIPLINARY TRIBUNAL**Terms of office of chairperson and deputy chairperson**

30 1. Subject to this Schedule, the chairperson and deputy chairperson of the Disciplinary
Tribunal shall each hold office for such period (not exceeding 7 years) as may be specified
in the instrument of appointment of the chairperson or deputy chairperson, but are
eligible (if otherwise qualified) for re-appointment.

*Veterinary Surgeons 1986*SCHEDULE 3—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE DISCIPLINARY
TRIBUNAL—*continued***Remuneration**

2. A member of the Disciplinary Tribunal is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Acting chairperson or deputy chairperson

3. Where, in the opinion of the Governor, the chairperson or deputy chairperson is unable for any cause to act in respect of any matter, the Governor may appoint a Judge of the District Court to act in the place of the chairperson or deputy chairperson and that Judge, while so acting, shall have and may exercise all the functions conferred or imposed by this Act upon the chairperson or deputy chairperson, as the case may be, in respect of that matter.

Vacation of office

4. A person holding office as the chairperson or deputy chairperson, or acting chairperson or deputy chairperson, shall vacate that office—

- 15 (a) if the person ceases to be a Judge of the District Court; or
(b) if the person resigns the office by instrument in writing addressed to the Minister.

References to chairperson or deputy chairperson

5. The chairperson or deputy chairperson may be referred to as the chairman or chairwoman, or the deputy chairman or deputy chairwoman, as the case requires.

SCHEDULE 4

(Sec. 72)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Interpretation

25 1. In this Schedule—

“former Act” means the Veterinary Surgeons Act 1923.

Board

2. (1) In this clause—

30 “former Board” means the body corporate constituted by section 4 of the former Act.

(2) The Board is a continuation of, and the same legal entity as, the former Board.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued*

(3) A person who was, immediately before the commencement of this Act, a member of the former Board, shall be deemed to have been appointed as a member of the Board for the balance of the term for which the person was appointed under the former Act.

- 5 (4) A person who was, immediately before the commencement of this Act, the President of the former Board shall be deemed to have been appointed as the President of the Board for the balance of the term for which the person was appointed under the former Act.

Investigating Committee

- 10 3. The persons holding office as members of the Investigating Committee under section 19C of the former Act immediately before the commencement of this Act—

- (a) shall cease to hold office as such on that commencement; and
(b) are not entitled to any compensation for ceasing to hold office.

Disciplinary Tribunal

- 15 4. The person holding office as chairman of the Disciplinary Tribunal under section 19E of the former Act, immediately before the commencement of this Act, shall be deemed to have been appointed under section 25 as the chairperson of the Disciplinary Tribunal for the balance of the term for which the person was appointed under section 19E of the former Act.

Registrar and other staff

- 20 5. The Registrar of the Board, an inspector or any other person holding office under section 8 of the former Act immediately before the commencement of this Act shall be deemed to be employed under section 7.

Register of veterinary surgeons

- 25 6. (1) The register kept under section 9 of the former Act immediately before the commencement of this Act shall be deemed to be the division of veterinary surgeons registered under section 12 (full registration) for the purposes of this Act.

(2) A person who is, immediately before the commencement of this Act, registered as a veterinary surgeon under the former Act shall be deemed to be registered as a veterinary surgeon under section 12 (full registration).

30 **Application for registrations under former Act, etc.**

7. (1) An application for registration or provisional registration as a veterinary surgeon pending under the former Act at the commencement of this Act shall be deemed to be an application under this Act for registration or provisional registration under section 12 (full registration).

- 35 (2) The entitlement to registration or provisional registration of—
(a) any such applicant; or

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued*

- (b) an applicant who holds a certificate of provisional registration under the former Act immediately before the commencement of this Act and who applies after that commencement for registration under section 12,

shall be determined in accordance with the relevant provisions of the former Act instead
5 of this Act.

Continuation of provisional certificates of registration

8. A provisional certificate of registration in force under section 15A of the former Act immediately before the commencement of this Act shall be deemed to be a provisional certificate of registration issued under section 17.

10 Continuation of certificates of registration

9. A certificate of registration issued under section 16 of the former Act and held by a veterinary surgeon immediately before the commencement of this Act shall be deemed to be a certificate of registration issued under section 18.

Continuation of approvals to perform certain acts under supervision

15 10. An approval in force under section 24A of the former Act immediately before the commencement of this Act shall be deemed to be an approval given under section 45.

Continuation of approval for executor, etc., of the practice of deceased veterinary surgeon

20 11. An authority in force under section 22 of the former Act immediately before the commencement of this Act shall be deemed to be an authorisation given under section 39 (3).

Failure to pay roll fee under former Act

12. The Board may exercise its powers under section 19 (2) to remove the name of a person from a register for failure to pay a roll fee where that roll fee was due under section 11 of the former Act and has not been paid.

25 Restoration of name of veterinary surgeon previously removed from register

30 13. (1) The removal of the name of a veterinary surgeon from the register under section 11 (2) or 18 of the former Act before the commencement of this Act shall, for the purposes of section 19 (3) or 20 (2) and (3), as the case may require, be deemed to be a removal of that name from the register of veterinary surgeons under section 19 (2) or 20 (1).

(2) The provisions of section 35 relating to the restoration of a person's name to a register apply to a person whose name was removed by the Disciplinary Tribunal under section 19H of the former Act or by the Board under section 18A of the former Act in the same way as those provisions apply to a person whose name is removed by the
35 Disciplinary Tribunal under section 32.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Pending complaints against veterinary surgeons**

14. (1) A complaint against a veterinary surgeon made under section 19A of the former Act which has not been finally determined before the commencement of this Act shall be deemed to have been made under section 26.
- 5 (2) Any such complaint which is, immediately before the commencement of this Act, being investigated by the Investigating Committee under the former Act may continue to be investigated and determined under this Act by the Investigating Committee constituted under this Act.
- 10 (3) Any complaint referred to the Disciplinary Tribunal for inquiry under the former Act before the commencement of this Act and not finally determined by that Tribunal before that commencement may continue to be inquired into and determined under this Act by the Disciplinary Tribunal constituted by this Act.

Continuation of orders of Disciplinary Tribunal

- 15 (1) A registered veterinary surgeon who is, immediately before the commencement of this Act, suspended from practice by order of the Disciplinary Tribunal under section 19H of the former Act shall be deemed to have been suspended from practice under section 32.
- 20 (2) A direction given in an order of the Disciplinary Tribunal under section 19H (3) of the former Act and in force immediately before the commencement of this Act shall be deemed to have been given under section 32 (4).
- (3) An order under section 19H (5) of the former Act before the commencement of this Act shall be deemed to have been made under section 32 (6).
- 25 (4) An order made by the Disciplinary Tribunal under the former Act which has not taken effect before the commencement of this Act shall take effect on the day determined in accordance with the provisions of section 19H (7) and (8) of the former Act.

Veterinary hospitals

16. (1) A licence for a veterinary hospital in force under Part IVA of the former Act immediately before the commencement of this Act shall be deemed to be a licence for that hospital issued under Part 6.
- 30 (2) An application for a licence for a veterinary hospital pending under Part IVA of the former Act at the commencement of this Act shall be deemed to have been made under Part 6.
- 35 (3) The nomination or appointment of a superintendent of a veterinary hospital which was notified to the Director-General in accordance with section 24H of the former Act shall be deemed to be the nomination of a superintendent notified in accordance with section 54.
- (4) A licence for a veterinary hospital which is immediately before the commencement of this Act suspended under section 24E of the former Act shall be deemed to have been suspended under section 52.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Pending appeals, etc.**

17. (1) An appeal under the former Act to a court against a decision of the Board, the Disciplinary Tribunal or the Director-General and pending at the commencement of this Act shall be deemed to be an appeal under the corresponding provision of this Act.

(2) An appeal may be made to a court under this Act against a decision of the Board, the Disciplinary Tribunal or the Director-General notwithstanding that the decision was made under the former Act if the period for making the appeal under the former Act has not expired.

10 Regulations

18. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later day.

15 (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

20 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

25 (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

 BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

1911

1911



VETERINARY SURGEONS ACT 1986 No. 55

NEW SOUTH WALES



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VETERINARY SURGEONS ACT 1986 No. 55

NEW SOUTH WALES



Act No. 55, 1986

An Act relating to the practice of veterinary science; to repeal the Veterinary Surgeons Act 1923; and for other purposes. [Assented to, 15 May 1986]

See also Prevention of Cruelty to Animals (Prescribed Defences) Amendment Act 1986.

Veterinary Surgeons 1986

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:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the "Veterinary Surgeons Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Board of Veterinary Surgeons of New South Wales constituted under section 4;

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

"Disciplinary Tribunal" means the Veterinary Surgeons Disciplinary Tribunal constituted under section 25;

"Investigating Committee" means the Veterinary Surgeons Investigating Committee constituted under section 24;

"practise", in relation to veterinary science, means do or perform, or attempt to do or perform, any act, matter or thing which forms part of veterinary science;

"register of specialists" means the register of specialists kept under section 9;

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“register of veterinary surgeons” means the register of veterinary surgeons kept under section 8;

“registered” means registered under this Act;

“registered veterinary surgeon” means a person who is for the time being—

- (a) registered as a veterinary surgeon under section 12 (full registration), including a person provisionally so registered;
- (b) registered as an honorary veterinary surgeon under section 13; or
- (c) registered as a veterinary surgeon under section 14 (limited registration);

“Registrar” means Registrar of the Board;

“regulation” means a regulation made under this Act;

“veterinary hospital” means a place used or intended to be used for the purpose of the practice of veterinary science, but does not include—

- (a) a place at which any act, matter or thing permitted by section 37 (4) or 44 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 the place;
- (b) a place at which an artificial breeding procedure, within the meaning of the Stock (Artificial Breeding) Act 1985, is carried out if—
 - (i) the use of the place for the carrying out of that procedure is authorised by a licence in force under that Act; and
 - (ii) 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 the place; or
- (c) a place or class of places exempted from this definition by the regulations;

Veterinary Surgeons 1986

“veterinary science” includes any branch of the science or art of veterinary medicine or of veterinary surgery and, without limiting the generality of the foregoing, includes—

- (a) the examination of or attendance on 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;
 - (c) without limiting the generality of paragraph (a), the diagnosing of pregnancy in an animal;
 - (d) without limiting the generality of paragraph (b)—
 - (i) the carrying out of any artificial breeding procedure involving surgery; and
 - (ii) the de-antlering of deer; and
 - (e) the doing or performing of any act, matter or thing that is prescribed as forming part of the practice of veterinary science.
- (2) In this Act—
- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART 2

BOARD OF VETERINARY SURGEONS OF NEW SOUTH WALES

The Board

4. (1) There is constituted by this Act a corporation under the corporate name of the “Board of Veterinary Surgeons of New South Wales”.

(2) The Board shall have and may exercise the functions conferred or imposed on it by or under this or any other Act.

Members of the Board

5. (1) The Board shall consist of 6 members who shall be appointed by the Governor.

(2) Of the members of the Board—

- (a) 3 shall be persons selected by the Minister from a panel of not less than 7 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association;
- (b) 2 shall be registered veterinary surgeons nominated by the Minister; and
- (c) 1 shall be a registered veterinary surgeon selected by the Minister from a panel of not less than 3 members of the Faculty of Veterinary Science of the University of Sydney nominated by the Senate of that University.

(3) Schedule 1 has effect with respect to the members and procedure of the Board.

President of the Board

6. Of the members of the Board, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as President of the Board.

Staff of the Board

7. A Registrar and such other staff as may be necessary to enable the Board to exercise its functions shall be employed under the Public Service Act 1979.

PART 3**REGISTRATION OF VETERINARY SURGEONS****DIVISION 1—Registers****Register of veterinary surgeons**

8. (1) The Board shall keep a register of veterinary surgeons.

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(2) The register of veterinary surgeons shall be divided as follows:

- (a) a division of veterinary surgeons registered under section 12 (full registration);
- (b) a division of honorary veterinary surgeons registered under section 13;
- (c) a division of veterinary surgeons registered under section 14 (limited registration).

(3) A person is registered as a veterinary surgeon under section 12 (full registration) or registered as an honorary veterinary surgeon under section 13 or registered as a veterinary surgeon under section 14 (limited registration) by the entry in the appropriate division of the register of veterinary surgeons of—

- (a) the full name and address of the person;
- (b) the description of the person's qualification for registration;
- (c) in the case of a person registered as a veterinary surgeon under section 14 (limited registration)—the date on which the registration will expire and any condition attached to the registration; and
- (d) such other particulars as may be prescribed.

(4) The name of a person shall be removed from any division of the register of veterinary surgeons if the name of the person is entered in any other division of that register.

(5) A registered veterinary surgeon ceases to be registered under section 12, 13 or 14, as the case may require, when the veterinary surgeon's name is removed from the relevant division of the register of veterinary surgeons.

Register of specialists

9. (1) The Board shall keep a register of specialists.

(2) A registered veterinary surgeon is registered as a specialist by the entry in the register of specialists of—

- (a) the full name and address of the veterinary surgeon;
- (b) the description of the veterinary surgeon's qualification for registration as a specialist;

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- (c) the branch of veterinary science in respect of which the veterinary surgeon is registered as a specialist; and
- (d) such other particulars as may be prescribed.

(3) The name of a person shall be removed from the register of specialists if the name of the person is removed from the register of veterinary surgeons.

(4) A registered veterinary surgeon ceases to be registered as a specialist when the veterinary surgeon's name is removed from the register of specialists.

General provisions relating to registers

10. (1) In this section, "register" means the register of veterinary surgeons or the register of specialists.

(2) Where a registered veterinary surgeon applies for particulars to be recorded in a register in addition to those required to be recorded under this Act, the Board may, on payment of the prescribed fee, cause to be recorded in that register such of those additional particulars as the Board approves.

(3) A register shall be open to inspection, at the office of the Board at all times when that office is open for business, by any person on payment of the prescribed fee.

(4) Where the description of a person's qualifications is required to be entered into a register, the description shall include the date on which the qualification was awarded.

(5) The name of a registered veterinary surgeon is removed from a register by the making in that register of such recording as the Board directs.

(6) The Board shall, as soon as practicable after 30 June in each year, cause to be printed and published a copy of each register certified by the Registrar to be correct as at 30 June of that year.

DIVISION 2—*Registration***Prerequisite to registration as veterinary surgeon**

11. A person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) or as an honorary veterinary surgeon under section 13 or as a veterinary surgeon under section 14 (limited registration) unless the person—

- (a) satisfies the Board that the person is of good fame and character; and
- (b) has made the prescribed declaration relating to the conduct to be observed by registered veterinary surgeons.

Full registration

12. (1) A person is entitled to be registered as a veterinary surgeon under this section if—

- (a) the person holds an academic award in veterinary science awarded on the completion of a regular graded course of study—
 - (i) extending over at least 5 academic years; and
 - (ii) in which a general study of veterinary science was made, at a university, college or institution within Australia, New Zealand or the United Kingdom prescribed for the purposes of this paragraph;
- (b) the person—
 - (i) holds an academic award in veterinary science awarded on the completion of a regular graded course of study in veterinary science of at least 4 years' duration at a university, college or institution (other than one prescribed for the purposes of paragraph (a)), being an academic award that at the time it was granted was accepted in the country in which it was granted as a sufficient qualification for the practice of veterinary science in that country;
 - (ii) has passed the prescribed examination; and
 - (iii) has been resident in Australia, at the time of making application for registration, for a continuous period of 12 months or more; or

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- (c) the person was, at any time before the commencement of this Act, registered as a veterinary surgeon under the Veterinary Surgeons Act 1923 and is no longer registered.

(2) Where the Minister is satisfied, on the recommendation of the Board, that a person has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the exemption of the person from the requirement to pass the prescribed examination under subsection (1) (b) (ii), the Minister may exempt the person from that requirement.

(3) The Board may exempt a person from the requirement of residency in Australia under subsection (1) (b) (iii).

(4) A person who does not hold the requisite qualifications for registration as a veterinary surgeon under this section is entitled to be so registered if—

- (a) the person satisfies the Board that the person is registered as a veterinary surgeon under an Act regulating the practice of veterinary science in any other State or a Territory of the Commonwealth;

(b) the Board is of the opinion that—

- (i) the qualification in respect of which the person was registered in that State or Territory is of a standard substantially equivalent to the qualifications prescribed under this section; and

- (ii) a person registered under this Act is, by virtue of that registration and without further examination (other than an examination equivalent to an examination prescribed under paragraph (c)), entitled to be registered under the Act regulating the practice of veterinary science in that State or Territory; and

- (c) in any particular case that the Board so requires—the person has passed the prescribed examination.

(5) A regulation for the purposes of subsection (1) (a) 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 university, college or institution.

Registration as an honorary veterinary surgeon

13. A person who is entitled to be, or is, registered as a veterinary surgeon under section 12 (full registration) may be registered as an honorary veterinary surgeon under this section if the Board is satisfied that—

- (a) the person is a registered veterinary surgeon of not less than 40 years' standing;
- (b) the person is a registered veterinary surgeon of long standing and is of or above the age of 65 years; or
- (c) the person's standing in the profession of veterinary science is such as to justify the person's registration as an honorary veterinary surgeon.

Limited registration

14. (1) A person may be registered as a veterinary surgeon under this section if the Board is satisfied that—

- (a) the registration is necessary to enable the person to carry on the practice of veterinary science for a specific purpose for a limited time; and
- (b) the person has such qualifications in veterinary science or such experience in the practice of veterinary science as to justify the registration.

(2) The registration of a person as a veterinary surgeon under this section is subject to such conditions as may be specified by the Board in the certificate of registration.

(3) The registration of a person as a veterinary surgeon under this section expires—

- (a) 12 months after the date of registration; or
- (b) at such earlier time as may be specified by the Board in the certificate of registration,

but may be renewed in accordance with the regulations for a further period (not exceeding 12 months) determined by the Board.

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(4) The Board may cause to be removed from the register of veterinary surgeons the name of a veterinary surgeon registered under this section—

- (a) if the veterinary surgeon has breached a condition specified in the certificate of registration; or
- (b) for any other reason.

Registration as a specialist

15. (1) A registered veterinary surgeon may be registered as a specialist in a prescribed branch of veterinary science if the Board is satisfied that the veterinary surgeon has such qualifications in veterinary science and such experience in the practice of veterinary science as to justify the registration.

(2) The regulations may prescribe prerequisites for registration as a specialist in a branch of veterinary science, including being a registered veterinary surgeon for a specified number of years.

Application for registration and determination of application

16. (1) An application for registration (including registration as a specialist) shall—

- (a) be made to the Board as prescribed;
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by the prescribed fee.

(2) The Board shall consider and determine any such application.

(3) The Board may refuse any such application if, in the opinion of the Board—

- (a) the applicant is not entitled to be registered as requested in the application; or
- (b) any ground exists on which the applicant's name, if the applicant were so registered, might be removed from the register of veterinary surgeons or register of specialists.

(4) If the Board refuses any such application, the Board shall cause the applicant to be given notice of its refusal and the reasons for its refusal.

Provisional registration

17. (1) In this section—

“authorised member of the Board” means the President of the Board or any other member authorised by the Board.

(2) Where a person has applied to be registered as a veterinary surgeon under section 12 (full registration), an authorised member of the Board, on being satisfied that the applicant—

(a) is entitled to be so registered; or

(b) has satisfied all the requirements for an academic award referred to in section 12 (1) (a) and, but for the conferring of the award, would be entitled to be so registered,

may, on behalf of the Board, issue to the applicant a certificate of provisional registration in the form approved by the Board.

(3) An authorised member of the Board shall not issue a provisional certificate of registration to a person unless satisfied that the person is of good fame and character and has made the prescribed declaration referred to in section 11 (b).

(4) A person who is the holder of a certificate of provisional registration shall be deemed to be registered as a veterinary surgeon under section 12 (full registration) for a period of 3 months from the date of issue of the certificate.

(5) The Board may, for any reason, cancel a certificate of provisional registration without prejudice to the application of the person who was the holder of the certificate to be registered as a veterinary surgeon under section 12.

(6) On the cancellation or expiry of a certificate of provisional registration, the holder of the certificate shall cease to be deemed to be registered as a veterinary surgeon under section 12.

(7) If a person to whom a certificate of provisional registration has been issued becomes registered as a veterinary surgeon under section 12 (full registration) during the currency of the certificate—

(a) the person's registration shall, unless otherwise determined by the Board, date from the issue of the certificate of provisional registration; and

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- (b) the person's provisional registration shall, notwithstanding subsection (4), expire on the day on which the person becomes so registered.

Registration certificate

18. (1) The Board may issue certificates of registration under this Act.

(2) If—

- (a) the name of a person is removed from the register of veterinary surgeons or the register of specialists; or
- (b) any detail on a certificate of registration issued to a person is incorrect,

the Board may, by notice served on the person, require the person to return the relevant certificate of registration to the Board within the time specified in the notice.

(3) A person on whom any such notice is served shall comply with the notice.

Penalty: \$500.

(4) Where a certificate of registration has been returned to the Board pursuant to—

- (a) subsection (2) (a)—the certificate, or a duplicate of the certificate, shall be returned to the person if the name of the person is restored to the register of veterinary surgeons or register of specialists, as the case may be; or
- (b) subsection (2) (b)—an amended or substituted certificate of registration shall, unless the person is not entitled to be registered, be issued to the person.

DIVISION 3—*General provisions relating to registration***Roll fee**

19. (1) Every registered veterinary surgeon whose name is entered in the division of veterinary surgeons or the division of honorary veterinary surgeons of the register of veterinary surgeons shall, in or before the month of October in each year, pay to the Registrar the roll fee prescribed for the following year in respect of that division.

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(2) If a registered veterinary surgeon does not pay a roll fee in accordance with subsection (1), the Board may—

- (a) cause the veterinary surgeon's name to be removed from the register of veterinary surgeons; and
- (b) where the veterinary surgeon's name is also entered in the register of specialists—cause that name to be removed from that register.

(3) If the name of any person is removed from a register under this section, the Board may restore the person's name to that register—

- (a) on production of the person's certificate of registration or proof to the satisfaction of the Board of the person's former registration; and
- (b) on payment of the prescribed fee for restoration or such lesser fee as the Board may in any particular case determine.

(4) A roll fee is payable under this section notwithstanding that the registered veterinary surgeon has been suspended from practice.

Removal of name of deceased veterinary surgeon, etc.

20. (1) The Board shall cause to be removed from the register of veterinary surgeons or the register of specialists the name of any person who—

- (a) has died;
- (b) has ceased to possess or does not possess the qualification in respect of which the person was registered;
- (c) has become 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; or
- (d) requests that the person's name be so removed.

(2) Where the Board under this section removes the name of any person from the register of veterinary surgeons or the register of specialists, the name of that person shall not be again entered in that register except by direction of the Board or by order of any court.

(3) The Board may, if it thinks fit in any case, restore to the register of veterinary surgeons or the register of specialists any name removed from that register under this section without payment of any fee or on payment of such fee, not exceeding the relevant fee prescribed under section 16 (1) (c), as the Board may from time to time direct.

Right of appeal

21. (1) Where the Board—

- (a) refuses to register an applicant for registration as a veterinary surgeon under section 12 (full registration), not being a refusal on the ground that the applicant has failed to pass the prescribed examination; or
- (b) causes the name of any person to be removed from a register pursuant to section 20 (1) (b) or (c),

the applicant or person 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 Board.

(2) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision of the Board was made, may be given on the appeal.

(3) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing or disposing of an appeal, have all the functions and discretions that the Board had in respect of the matter the subject of an appeal.

(4) The District Court, in deciding an appeal, may—

- (a) confirm the decision of the Board; or
- (b) disallow that decision and make such order as the District Court considers appropriate.

(5) The decision of the District Court in respect of an appeal shall be deemed to be the final decision of the Board and shall be given effect to accordingly.

PART 4

DISCIPLINARY PROVISIONS

DIVISION 1—*Preliminary***Misconduct in a professional respect**

22. Without limiting the meaning of the expression “misconduct in a professional respect”, a registered veterinary surgeon shall be deemed to be guilty of misconduct in a professional respect if the veterinary surgeon—

- (a) permits or requires an unregistered person employed by the veterinary surgeon to practise veterinary science except where that person acts in accordance with this or any other Act;
- (b) allows the use of the veterinary surgeon’s name in connection with a purported practice of veterinary science at premises at which the veterinary surgeon or a partner does not actually carry on the practice of veterinary science; or
- (c) breaches any provision, prescribed for the purposes of this paragraph, of the veterinary surgeons’ code of professional conduct established under section 23.

Veterinary surgeons’ code of professional conduct

23. (1) The regulations may establish a veterinary surgeons’ code of professional conduct setting out the rules of conduct which should be observed by a registered veterinary surgeon in carrying on the practice of veterinary science.

(2) The Board may make recommendations to the Minister with respect to the code.

DIVISION 2—*Constitution of Investigating Committee and Disciplinary Tribunal***Constitution of Veterinary Surgeons Investigating Committee**

24. (1) There is constituted by this Act a Veterinary Surgeons Investigating Committee.

(2) The Investigating Committee shall consist of 4 members who shall be appointed by the Minister.

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(3) Of the members of the Investigating Committee—

- (a) 1 shall be a barrister or solicitor and shall be chairperson of the Investigating Committee;
- (b) 1 shall be an officer of the Department of Agriculture who is a registered veterinary surgeon but not a member of the Board;
- (c) 1 shall be a registered veterinary surgeon, not being a member of the Board, appointed from a panel of not less than 3 registered veterinary surgeons nominated by the New South Wales Division of the Australian Veterinary Association; and
- (d) 1 shall be a member of the Board.

(4) Schedule 2 has effect with respect to the members and procedure of the Investigating Committee.

Constitution of Veterinary Surgeons Disciplinary Tribunal

25. (1) There is constituted by this Act a Veterinary Surgeons Disciplinary Tribunal.

(2) The Disciplinary Tribunal shall consist of—

- (a) a chairperson and a deputy chairperson appointed by the Governor, being Judges of the District Court; and
- (b) the members of the Board.

(3) A quorum at any sitting of the Disciplinary Tribunal shall consist of the chairperson or deputy chairperson and 2 members of the Board.

(4) A member of the Board who sat on the Investigating Committee which referred a complaint to the Disciplinary Tribunal shall not sit on the Disciplinary Tribunal during an inquiry into the complaint.

(5) More than one sitting of the Disciplinary Tribunal may be held at the same time.

(6) The chairperson and the deputy chairperson shall not sit on the same inquiry.

(7) The deputy chairperson, when sitting on an inquiry, shall preside at the inquiry.

(8) Schedule 3 has effect with respect to the members of the Disciplinary Tribunal.

DIVISION 3—*Making of complaints to, and investigation by, Investigating Committee*

Complaints against veterinary surgeons

26. (1) A complaint may be made to the Investigating Committee that a registered veterinary surgeon—

- (a) has been convicted in New South Wales or elsewhere by any court of any offence;
- (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 the veterinary surgeon's registration to practise veterinary science cancelled under the law in force regulating the practice of veterinary science in a place outside New South Wales other than at the veterinary surgeon's 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 veterinary science.

(2) A complaint shall be made in writing.

(3) 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.

(4) 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 refuse to investigate the complaint.

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(5) The Investigating Committee may investigate a complaint relating to the conduct of a registered veterinary surgeon notwithstanding that it does not appear to constitute misconduct in a professional respect or any other ground on which a complaint may be made under subsection (1), but where the Investigating Committee considers that the matter to which any such complaint relates does not warrant the making of the complaint, the Investigating Committee shall refuse to investigate the complaint any further.

(6) Where—

- (a) a person is convicted in New South Wales of an offence, other than a prescribed offence; and
- (b) the court before which the person is convicted has reasonable grounds to believe that the person is a registered veterinary surgeon,

that court shall cause a certificate of conviction in respect of the person to be furnished to the Investigating Committee.

(7) If the Investigating Committee so directs, a certificate of conviction received by it under subsection (6) shall be deemed to be a complaint made to it in accordance with this section.

(8) A 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 New South Wales Division of the Australian Veterinary Association,

acting in the person's capacity as such a member, who makes a complaint to the Investigating Committee against a registered veterinary surgeon shall deposit with the Investigating Committee the sum of \$20 at the time of lodging the complaint.

Investigation by Investigating Committee

27. (1) The Investigating Committee shall, except as provided by section 26 (4) and (5), cause all complaints against registered veterinary surgeons made to it in accordance with section 26 to be investigated.

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

- (a) it appears to the Investigating Committee that, having regard to the matters arising during the investigation—
 - (i) another complaint could be made to it against the veterinary surgeon, whether instead of the complaint then being investigated or in addition to it; or
 - (ii) a complaint could be made to it against another registered veterinary surgeon; and
- (b) the Investigating Committee is of the opinion that the other complaint, or the complaint against the other veterinary surgeon, is one that could be made to it in accordance with section 26,

the Investigating Committee may itself make that other complaint or the complaint against that other veterinary surgeon, which shall thereupon be deemed to be a complaint made to it in accordance with section 26.

(3) The proceedings of the Investigating Committee shall be held in the absence of the public.

(4) For the purposes of any investigation conducted by it, the Investigating Committee may conduct the investigation in such manner as it thinks fit and is not bound to observe rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.

Decision of Investigating Committee on complaint

28. (1) The Investigating Committee—

- (a) may dismiss any complaint made to it;
- (b) if it is satisfied of the truth of the complaint but considers that the complaint is not sufficiently serious to warrant its being referred to the Disciplinary Tribunal, may do either or both of the following:
 - (i) by order, caution or reprimand the veterinary surgeon;
 - (ii) order that the prescribed costs of, or incidental to, investigating the complaint be paid by the 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.

(2) Where the Investigating Committee considers that the conduct of a registered veterinary surgeon warranted the making of the complaint but the conduct does not constitute misconduct in a professional respect or any other ground on which a complaint may be made under section 26 (1), the Investigating Committee may deal with the veterinary surgeon under subsection (1) (b) in respect of the conduct.

(3) The Investigating Committee shall, before exercising its powers under subsection (1) (b), give the registered veterinary surgeon against whom the complaint was made an opportunity to appear before it and make written representations to it.

Miscellaneous provisions relating to investigations of complaints

29. (1) Where the persons constituting the Investigating Committee are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, but if those persons are equally divided in opinion, the decision shall be in favour of the registered veterinary surgeon concerned.

(2) The chairperson of the Investigating Committee may direct that—

- (a) any specified evidence during the investigation of a complaint made to the Investigating Committee;
- (b) the subject-matter of a complaint; and
- (c) details of, and reasons for, the decision of the Investigating Committee with respect to a complaint,

may be published in a publication intended primarily for the use of the legal or veterinary profession.

(3) A person shall not publish any particular referred to in subsection (2) unless the publication is in accordance with a direction of the chairperson.

Penalty: \$2,000 or 12 months' imprisonment, or both.

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(4) Where an amount is deposited pursuant to section 26 (8) and the Investigating Committee—

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

the Investigating Committee may so declare and the amount deposited shall be forfeited.

(5) If no declaration under subsection (4) is made, the amount deposited shall be refunded to the person by whom it was deposited.

(6) The Investigating Committee may, when referring a complaint to the Disciplinary Tribunal, appoint a member of the Public Service to be nominal complainant and that person shall, for the purposes of Division 4, be deemed to be the person who made the complaint.

(7) At the conclusion of the investigation of a complaint, the Investigating Committee shall notify the Board of—

- (a) the name and address of the registered veterinary surgeon concerned; and
- (b) any action taken by the Investigating Committee under section 28, and may, in addition, notify the Board of—
 - (c) the name and address of the person who made the complaint;
 - (d) the name and address of any witness; and
 - (e) any other particulars it thinks fit.

DIVISION 4—*Inquiry into, and determination of, complaints by
Disciplinary Tribunal*

Inquiry by Disciplinary Tribunal

30. (1) The proceedings before the Disciplinary Tribunal shall be by way of new hearing, and fresh evidence, or evidence in addition to or in substitution for the evidence given before the Investigating Committee, may be given in the proceedings before the Disciplinary Tribunal.

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(2) The Disciplinary Tribunal shall, in making any inquiry, sit in open court and the registered veterinary surgeon concerned shall be afforded an opportunity of defence either in person or by the veterinary surgeon's solicitor or counsel.

(3) The person who made the complaint (not being a complaint deemed by section 26 (7) or 27 (2) to have been made to the Investigating Committee or deemed by subsection (6) to have been referred to the Disciplinary Tribunal) shall, unless exempted from attendance by the Disciplinary Tribunal, be present and may be represented by the person's solicitor or counsel at the inquiry.

(4) 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, where the judgment, findings, verdict or certificate is or are, in the opinion of the Disciplinary Tribunal, relevant to 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, where, in the opinion of the Disciplinary Tribunal, that evidence is relevant to the complaint.

(5) For the purpose of an inquiry, the Disciplinary Tribunal and the chairperson or deputy chairperson shall have the powers, authorities, protections and immunities conferred by the Royal Commissions Act 1923 on a commissioner and the chairperson of a commission respectively, appointed under Division 1 of Part II of that Act, and that Act, section 13 and 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.

(6) Where in the course of an inquiry into a complaint against a registered 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;

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- (b) the Disciplinary Tribunal is satisfied that the Investigating Committee has not, under section 28 (1) (a) or (b), 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 is one that could have been made to the Investigating Committee in accordance with section 26,

the Disciplinary Tribunal may itself make that other complaint, which shall be deemed to have been referred to the Disciplinary Tribunal in accordance with section 28 (1) (c).

(7) Where in the course of any inquiry into a complaint against a registered veterinary surgeon the Disciplinary Tribunal makes another complaint against the veterinary surgeon under subsection (6), that other complaint may be dealt with at that inquiry after such adjournment (if any) as is just and equitable in the circumstances.

(8) Where the persons constituting the Disciplinary Tribunal are divided in opinion as to the decision to be given on any question (not being a question to which section 31 (5) 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 registered veterinary surgeon concerned.

Powers of chairperson of Disciplinary Tribunal

31. (1) The chairperson shall fix a date and place for the hearing of an inquiry by the Disciplinary Tribunal and the Registrar shall give at least 7 days' notice to the registered veterinary surgeon concerned of the date and place so fixed.

(2) The chairperson may, on request being made by the person who made a complaint, the registered veterinary surgeon concerned or any other interested person—

- (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;

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(iii) the name and address of the registered veterinary surgeon concerned;

(iv) any evidence given at the inquiry specified or described in the direction;

(v) the subject-matter of the complaint,

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

(c) direct that the inquiry be held in the absence of the public.

(3) The chairperson—

(a) may revoke a direction given under subsection (2); and

(b) may exercise the powers under subsection (2) and paragraph (a) before or in the course of the inquiry, but shall not exercise the 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 registered veterinary surgeon concerned and such other persons as the chairperson thinks fit, of the time and place appointed by the chairperson for the consideration of the request.

(4) A person shall not contravene a direction under subsection (2).

Penalty: \$2,000 or 12 months' imprisonment, or both.

(5) The decision of the chairperson on any question of law or procedure which may arise in any inquiry shall be the decision of the Disciplinary Tribunal.

(6) In subsections (2), (3) and (5), "chairperson", in relation to an inquiry at which the deputy chairperson is presiding, means the deputy chairperson.

Determination of complaints by Disciplinary Tribunal

32. (1) Where the matter of a complaint against a registered veterinary surgeon has been proved to the satisfaction of the Disciplinary Tribunal, the Disciplinary Tribunal may, by order—

(a) reprimand or caution the veterinary surgeon;

(b) suspend the veterinary surgeon from practice for a period not exceeding 12 months;

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- (c) direct that the name of the veterinary surgeon be removed from the register of veterinary surgeons or the register of specialists;
- (d) impose a fine on the veterinary surgeon of an amount, not exceeding \$10,000, specified in the order; or
- (e) require the veterinary surgeon to pay such costs of or incidental to the hearing as are specified in the order,

or exercise any combination of those powers.

(2) Where the matter of a complaint against a registered veterinary surgeon has been proved to the satisfaction of the Disciplinary Tribunal, the Disciplinary Tribunal shall not make an order suspending the veterinary surgeon from practice or directing that the veterinary surgeon's name be removed from a register if 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 veterinary surgeon from practising.

(3) Where the Disciplinary Tribunal considers that the conduct of a registered veterinary surgeon warranted the making of the complaint but the conduct does not constitute misconduct in a professional respect or any other ground on which a complaint may be made under section 26, the Disciplinary Tribunal may deal with the veterinary surgeon under subsection (1) (a) or (e), or both, in respect of the conduct.

(4) Where the Disciplinary Tribunal makes an order under subsection (1) (a) or (b), the Disciplinary Tribunal may, by the same order, direct the registered veterinary surgeon to comply, during a period specified in the order, with such requirements as it thinks fit and as are specified in the order, and may amend or revoke that direction by a subsequent order.

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

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(6) Where the Disciplinary Tribunal directs that the name of a veterinary surgeon be removed from a register, it may fix a time after which the person whose name is so removed may apply for restoration of the name to that register.

(7) While any order of suspension from practice under this section remains in force, the person concerned shall be deemed not to be a registered veterinary surgeon.

(8) An order made by the Disciplinary Tribunal under this section shall not take effect until the expiration of a period of 21 days after notice of the making of the order has been given to the registered veterinary surgeon by the Registrar.

(9) If within that period of 21 days the registered 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 Supreme Court confirms the order without variation, and unless it otherwise orders, take effect on the day on which the order is confirmed; or
- (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.

DIVISION 5—*General provisions relating to disciplinary proceedings*

Disciplinary proceedings against veterinary surgeon who ceases to be registered

33. (1) The Investigating Committee and the Disciplinary Tribunal may continue to deal with a complaint against a registered veterinary surgeon notwithstanding that the veterinary surgeon ceases to be registered.

(2) If the Disciplinary Tribunal so directs, the name of the former veterinary surgeon shall be deemed to have been removed from the register of veterinary surgeons pursuant to the order of the Disciplinary Tribunal under section 32.

Appeal against order of Disciplinary Tribunal

34. (1) There shall be a right of appeal to the Supreme Court from an order made by the Disciplinary Tribunal under section 32—

- (a) by the registered veterinary surgeon or former registered veterinary surgeon against whom the order was made; or
- (b) by the person who made the complaint, but only—
 - (i) on a point of law; or
 - (ii) with respect to any penalty imposed.

(2) An appeal shall be made in accordance with rules of court.

(3) An appeal under subsection (1) (a) shall be by way of new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence given on the hearing before the Disciplinary Tribunal, may be given on the appeal if the Supreme Court is satisfied that there were good reasons for the evidence not having been given on the hearing before the Disciplinary Tribunal.

(4) The Supreme Court may, on an appeal, make such order as it thinks proper having regard to the merits of the case.

(5) The provisions of section 31 (2) and (3) shall, subject to the rules of court, apply in respect of the hearing of an appeal in the same way as those provisions apply in respect of the hearing of a complaint by the Disciplinary Tribunal.

(6) Without affecting the generality of this section, the Supreme Court may make any order which the Disciplinary Tribunal might have made under section 32, or may vary any order made by the Disciplinary Tribunal.

Restoration of name to register, etc.

35. (1) Subject to section 32 (6), any person whose name has been removed from a register by the Disciplinary Tribunal pursuant to section 32 may apply to have the person's name restored to that register.

(2) The provisions of this Act relating to applications for registration shall, so far as applicable, apply to any such application for restoration.

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(3) The Disciplinary Tribunal may, if it thinks fit, terminate any period of suspension imposed by it pursuant to section 32 before the expiration of the period specified in the order of suspension.

(4) Subject to any order referred to in section 32 (6) that is made by the Supreme Court on an appeal, the Disciplinary Tribunal may direct that any name removed from a register at the direction of the Disciplinary Tribunal pursuant to section 32 be restored to that register.

(5) The name of any person which has been removed from a register pursuant to section 32 shall not be restored to the register until the prescribed restoration fee is paid.

Recording of proceedings and decisions of Investigating Committee and Disciplinary Tribunal

36. (1) The Registrar, or a person appointed by the Registrar, shall keep a record of all proceedings and decisions of the Investigating Committee and the Disciplinary Tribunal.

(2) The Registrar shall make a notation in the register of veterinary surgeons or, if applicable, the register of specialists of the terms of—

- (a) an order of the Disciplinary Tribunal or the Supreme Court under section 32; and
- (b) an order of the Investigating Committee under section 28 (1) (b).

PART 5**REGULATION OF PRACTICE OF VETERINARY SURGEONS****Offence for unregistered person to practise**

37. (1) A person, other than a registered veterinary surgeon, shall not—

- (a) do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science;
- (b) use the title or description “veterinary surgeon” or “veterinary”, or any abbreviation or derivative thereof, either alone or in connection with any other title or description; or

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- (c) hold any prescribed office or position or any office or position of a prescribed class or description.

Penalty: \$2,000.

(2) Subsection (1) (b) does not prohibit persons from using the description "veterinary" only as indicating that they carry on the business of suppliers of goods or materials used in connection with veterinary science.

(3) Notwithstanding subsection (1), a society registered under the Co-operation Act 1923 may provide a veterinary service for its members and charge for that service if the persons employed or engaged by the society to do or perform any act, matter or thing in connection with any such service forming part of the practice of veterinary science are registered veterinary surgeons.

(4) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may, in respect of an animal, do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if the person is—

- (a) the owner of the animal; or
- (b) an employee of the owner of the animal and the act, matter or thing was done or performed incidentally to the primary duties of that employment.

(5) Notwithstanding subsection (1), a person other than a registered veterinary surgeon may do or perform any act, matter or thing permitted by section 44 or 45.

Offence to practise as specialist unless registered as specialist

38. A registered veterinary surgeon shall not—

- (a) use the title or description "specialist" or any abbreviation or derivative thereof or any title, description, words or letters implying, or capable of being understood as implying, that the veterinary surgeon is a specialist in a branch of veterinary science; or
- (b) advertise or hold out that the veterinary surgeon is a specialist in a branch of veterinary science,

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unless the veterinary surgeon is registered under this Act as a specialist in that branch.

Penalty: \$2,000.

Practice to be carried on in veterinary surgeon's name

39. (1) A registered veterinary surgeon shall not carry on the practice of veterinary science under a name other than the veterinary surgeon's own name, except where—

- (a) the veterinary surgeon is a member of a partnership carrying on business under the name or names of one or more of the partners;
- (b) the veterinary surgeon is employed by another registered veterinary surgeon and is carrying on business under the name of that employer or under the name or names of a partnership of which that employer is a member;
- (c) the veterinary surgeon is duly appointed as the locum tenens of a registered veterinary surgeon;
- (d) the veterinary surgeon is duly acting as the superintendent of a veterinary hospital;
- (e) the veterinary surgeon is carrying on the practice of a deceased veterinary surgeon pursuant to an authorisation under subsection (3); or
- (f) the Board otherwise permits in writing.

Penalty: \$2,000.

(2) For the purpose of subsection (1) (c), a person is not duly appointed as the locum tenens of a registered veterinary surgeon unless the person—

- (a) is appointed in writing by the veterinary surgeon; and
- (b) is employed only during the temporary absence of the veterinary surgeon and for a period not exceeding 3 months or such longer period as the Board may in any particular case permit in writing.

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(3) On the death of a registered veterinary surgeon, the Board may postpone the removal of the veterinary surgeon's name from the register of veterinary surgeons or the register of specialists, and may authorise the veterinary surgeon's executor, administrator or trustee to carry on under the same name the practice formerly carried on by the veterinary surgeon on the condition that the practice is carried on under the personal superintendence of a registered veterinary surgeon.

Signing certificates

40. A person, other than a registered veterinary surgeon, shall not sign any certificate required by law to be signed by a veterinary surgeon.

Penalty: \$2,000.

Use of false qualification

41. A person shall not use or publish in connection with veterinary science, or the practice of veterinary science, any title, description, words or letters implying, or capable of being understood as implying, qualification in veterinary science, or as a veterinary surgeon, or qualification for registration as a veterinary surgeon, other than such title, description, words or letters as truly indicate the academic award or other qualification which the person in fact holds or possesses.

Penalty: \$2,000.

Advertising by registered veterinary surgeons and others

42. A person, including a registered veterinary surgeon, shall not advertise that the person is able or willing to do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science unless the advertisement is authorised by the regulations or the Board.

Penalty: \$2,000.

Unregistered person may not recover fees or charges

43. A person, other than a registered veterinary surgeon, is not entitled to recover any fee or charge for doing any act, matter or thing which is required by this Act to be done or performed by a registered veterinary surgeon.

Permitted practices for unregistered persons

44. (1) A person, other than a registered veterinary surgeon, may—
- (a) de-worm any animal;
 - (b) perform the Mules operation on sheep that are less than 12 months of age;
 - (c) dehorn—
 - (i) cattle that are less than 12 months of age; or
 - (ii) goats that are less than 1 month of age;
 - (d) horn tip any animal;
 - (e) castrate—
 - (i) cattle, sheep or goats that are less than 6 months of age; or
 - (ii) pigs that are less than 2 months of age;
 - (f) tail sheep that are less than 6 months of age;
 - (g) carry out any immunising procedure except an immunising procedure—
 - (i) prescribed under paragraph (e) of the definition of “veterinary science” in section 3 (1); 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;
 - (h) carry out any artificial breeding procedure, within the meaning of the Stock (Artificial Breeding) Act 1985, if the person is authorised so to do by a certificate of competency issued under that Act;
 - (i) determine the sex of chickens;
 - (j) under the immediate and direct supervision of a registered veterinary surgeon, administer an anaesthetic to an animal;
 - (k) where a registered veterinary surgeon is not available, attend and treat an animal in urgent need of veterinary attention or treatment;
 - (l) diagnose pregnancy in sheep by external ultrasonic techniques, subject to compliance with such conditions as may be prescribed; or

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- (m) do or perform any other act, matter or thing prescribed for the purposes of this paragraph.
- (2) A person other than a registered veterinary surgeon may, with the approval in writing of the Board, do or perform any act, matter or thing the doing or performance of which—
- (a) forms part of the practice of veterinary science; and
 - (b) is not authorised by subsection (1).
- (3) Application for an approval shall—
- (a) be made in such manner as the Board may require;
 - (b) be supported by such evidence as the Board may require; and
 - (c) be accompanied by the prescribed fee.
- (4) An approval shall—
- (a) remain in force from the date it is given until the expiration of the period specified in the approval; and
 - (b) be subject to any conditions specified in the approval.
- (5) The Board may, for any reason, by notice served on a person to whom an approval has been given cancel the approval or suspend the approval for such period as it sees fit.
- (6) In this section—

“de-horn” means remove the horn of an animal by methods which destroy or remove the keratin producing cells and structures at the base of the horn, but does not include horn tipping;

“horn tip” means remove the insensitive part of the horn of an animal.

Approved persons may perform certain acts under supervision

45. (1) A person, other than a registered veterinary surgeon, who has obtained an academic award referred to in section 12 (1) (b) (i) may do or perform any act, matter or thing the doing or performance of which forms part of the practice of veterinary science if—

- (a) there is in force an approval given to that person under this section; and

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(b) that person does or performs the act, matter or thing in the course of the person's employment with, and under the supervision of, a registered veterinary surgeon.

(2) The Board may give approval, by notice in writing, to a person to do or perform any act, matter or thing referred to in subsection (1) if the Board is satisfied that that person is not entitled to be registered as a veterinary surgeon under section 12 (full registration) by reason only that—

- (a) the person has not passed the examination prescribed under section 12 (1) (b) (ii);
- (b) the person has not been resident in Australia for a continuous period of 12 months or more; or
- (c) the person has not passed that examination and has not been so resident.

(3) An approval given under this section remains in force—

- (a) until the person to whom the approval was given becomes a registered veterinary surgeon; or
- (b) until the expiration of the period of 5 years commencing on the day on which the approval is given,

whichever first occurs.

(4) A person to whom an approval has been given under this section shall not be given a further approval.

(5) Application for an approval under this section shall—

- (a) be made in such manner as the Board may require;
- (b) be supported by such evidence as the Board may require; and
- (c) be accompanied by the prescribed fee.

(6) The Board shall cancel an approval under this section if the person to whom the approval was given—

- (a) has ceased to possess or does not possess the qualification referred to in subsection (1); or

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- (b) has become 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.

(7) During the period an approval is in force, the person to whom the approval was given shall give notice in writing of—

- (a) the name and address of each registered veterinary surgeon by whom the person is employed; and
- (b) each change of the person's private address,

to the Registrar within 7 days of the person's becoming so employed or changing address.

Penalty: \$500.

(8) Where a person to whom an approval has been given under this section—

- (a) is convicted in New South Wales or elsewhere by any court of any offence; or
- (b) fails to give any notice as required by subsection (7),

the Board may cancel the approval or suspend the approval for such period as the Board thinks fit.

(9) Part 4 applies to a person in respect of whom an approval is in force under this section as if that person were a registered veterinary surgeon and a reference in that Part—

- (a) to the suspension for any period from practice of a registered veterinary surgeon shall be construed as a reference to the suspension under this section for that period of the approval; and
 - (b) to the removal of the name of a registered veterinary surgeon from a register shall be construed as a reference to the cancellation under this section of the approval.
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PART 6

VETERINARY HOSPITALS

Veterinary hospitals to be licensed

46. A person shall not conduct a veterinary hospital unless—
- (a) a licence to conduct the veterinary hospital has been issued to the person by the Director-General and the licence is in force; and
 - (b) the veterinary hospital is managed by a superintendent who has been nominated in accordance with section 54.

Penalty: \$2,000.

Classes of licences

47. The regulations may prescribe different classes of licences for different classes of veterinary hospitals.

Application for licence

48. An application for a licence for a veterinary hospital shall—
- (a) be made to the Director-General;
 - (b) be in the form approved by the Director-General;
 - (c) specify the class of licence applied for;
 - (d) be accompanied by such documents as the Director-General may require; and
 - (e) be accompanied by the licence fee prescribed in respect of the class of licence applied for.

Issue or refusal of licence

49. (1) The Director-General may issue or refuse to issue a licence for a veterinary hospital to an applicant for the licence.

(2) The Director-General shall not issue a licence for a veterinary hospital unless—

- (a) the applicant is a registered veterinary surgeon or a person who, in the opinion of the Director-General, has the necessary qualifications and experience to conduct a veterinary hospital; and

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(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 licence is made.

(3) Where the Director-General refuses to issue a licence 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, the Director-General may, if satisfied that that place conforms to the minimum standard prescribed for a veterinary hospital of some other class, issue a licence for a veterinary hospital of that other class.

(4) Where the Director-General refuses to issue to an applicant a licence for a veterinary hospital of any class, the Director-General shall serve on the person notice in writing of the refusal and of the reasons for that refusal.

(5) Where the Director-General issues a licence of a different class to that applied for, the Director-General shall refund to the applicant any amount by which the licence fee for the licence applied for exceeds the licence fee for the licence issued.

Duration of licence

50. A licence for a veterinary hospital shall, subject to this Act, continue in force until it is cancelled.

Annual licence fee

51. (1) A licensee shall, on or before 31 March in each year, pay to the Director-General the prescribed annual licence fee in respect of the class of licence issued to the licensee.

(2) The regulations may prescribe different annual licence fees for different classes of licences.

(3) An annual licence fee is payable under this section notwithstanding that the licence is suspended.

Suspension or cancellation of licence

52. (1) The Director-General may suspend a licence for a period not exceeding 12 months or may cancel a licence if—

- (a) the annual licence fee is not paid in accordance with section 51 (1);

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- (b) the licensee or the superintendent is convicted of an offence under this Act or the regulations;
- (c) the licensee or the superintendent is, as a consequence of a complaint under Division 3 of Part 4, suspended from practice as a veterinary surgeon or is no longer registered as a veterinary surgeon;
- (d) the place in respect of which the licence 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) the licensee or superintendent advertises the veterinary hospital otherwise than in accordance with any regulations regulating the advertising of a veterinary hospital; or
- (h) in the case of the cancellation of a licence—the licensee so requests.

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

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

- (a) the Director-General 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,

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as the case may require, 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, the Director-General may suspend or cancel the licence; and

- (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 licence, the Director-General 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 licence (except at the request of the licensee) shall not take effect until the expiry of the period within which an appeal against the suspension or cancellation may be made, or where such an appeal is made, until the appeal is determined or withdrawn.

(6) Where a licence is cancelled at the request of the licensee, the Director-General may refund to the licensee part of the annual licence fee last paid by the licensee.

Appeal

53. (1) Where the Director-General—

- (a) refuses to issue a licence to an applicant;
- (b) issues to an applicant a licence of a class other than the class applied for;
- (c) suspends a licence; or
- (d) cancels a licence, except at the request of the licensee,

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

(2) The period within which an appeal may be made is 21 days after notice of the decision of the Director-General is given to the applicant or licensee.

(3) An appeal shall be by way of a new hearing and fresh evidence, or evidence in addition to or in substitution for the evidence on which the decision of the Director-General was made, may be given on the appeal.

(4) In addition to any other functions and discretions that the District Court has apart from this subsection, the District Court shall, for the purposes of hearing or disposing of an appeal, have all the functions and discretions that the Director-General had in respect of the matter the subject of the appeal.

(5) The District Court, in deciding an appeal, may—

- (a) confirm the decision of the Director-General; or
- (b) disallow that decision and make such order as the District Court considers appropriate.

(6) The decision of the District Court in respect of an appeal shall be deemed to be the final decision of the Director-General and shall be given effect to accordingly.

Superintendents of veterinary hospitals

54. (1) A licensee of a veterinary hospital may, by instrument in writing in the form approved by the Director-General, nominate himself or herself or another person to be the superintendent of the veterinary hospital as on and from such date as may be specified in the instrument.

(2) A person is not qualified to be nominated as the superintendent of a veterinary hospital—

- (a) unless the person is a registered veterinary surgeon; and
- (b) if the person is the superintendent of another veterinary hospital, except with the permission in writing of the Director-General and subject to such conditions, if any, as the Director-General specifies in that permission.

(3) Within 7 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 to be the superintendent; or

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

as the case may require.

Penalty—subsection (3): \$500.

 PART 7

MISCELLANEOUS

Power of entry and examination

55. (1) An inspector may, for the purpose of ascertaining—

- (a) whether any provision of this Act or the regulations has been or is being contravened; or
- (b) whether the conduct of a registered veterinary surgeon constitutes misconduct in a professional respect,

at any reasonable time enter any premises in which a registered veterinary surgeon is, or any premises in which the inspector 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.

(2) An inspector 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 or from premises entered in accordance with subsection (1) as the inspector considers necessary in connection with the administration of this Act.

(3) An inspector may exercise the powers conferred by this section with the aid of such assistants as the inspector considers necessary.

(4) A person shall not, without reasonable excuse—

- (a) obstruct or hinder an inspector in the exercise of the inspector's powers under this section; or

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- (b) being the occupier of the premises—refuse to assist the inspector in exercising those powers.

Penalty: \$2,000.

(5) This section does not authorise an inspector to enter that part of any premises being used for residential purposes without the consent of the occupier of that part of the premises.

(6) In this section—

“inspector” means a person appointed in writing by the Director-General as an inspector for the purposes of this Act.

Power to examine on oath

56. (1) The President of the Board or any other member authorised by the Board may, for the purpose of the exercise of the Board’s functions, examine any person on oath or take a statutory declaration from any person.

(2) The chairperson of the Investigating Committee may, for the purpose of an investigation of a complaint under Part 4, examine any person on oath or take a statutory declaration from any person.

Power to summon witnesses

57. (1) The President of the Board or any other member authorised by the Board may, by notice in writing, summon any person to attend at the place and time specified in the notice—

- (a) for the purpose of giving evidence before the Board; or
- (b) for the purpose of providing any document,

with respect to any matter within the jurisdiction of the Board.

(2) The chairperson of the Investigating Committee may, by notice in writing, summon any person to attend at the time and place specified in the notice—

- (a) for the purpose of giving evidence before the Investigating Committee; or
- (b) for the purpose of providing any document,

with respect to any investigation of a complaint by that Committee.

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(3) A person who is duly summoned shall not, without reasonable cause—

- (a) fail or neglect to attend after reasonable expenses have been paid or tendered to the person;
- (b) refuse to be sworn or to make a statutory declaration; or
- (c) refuse to answer any lawful question.

Penalty—subsection (3): \$2,000.

False or misleading statements

58. (1) A person shall not, in or in connection with an application—

- (a) for registration, or restoration of registration, as a veterinary surgeon or as a specialist;
- (b) for an approval under section 45; or
- (c) for a licence for a veterinary hospital,

or in respect of any other matter before the Board, make a statement which the person knows to be false or misleading in a material particular.

(2) A person shall not, in respect of any matter before the Investigating Committee or the Disciplinary Tribunal, make a statement which the person knows to be false or misleading in a material particular.

(3) This section does not apply to evidence given on oath or a statement verified by statutory declaration.

(4) In this section, “statement” means a verbal or written statement.

Penalty: \$2,000 or 12 months’ imprisonment, or both.

Document under hand of Registrar to be prima facie evidence

59. A document purporting to be a certificate under the hand of the Registrar and stating any one or more of the following matters:

- (a) that any person was or was not on any date or during any period mentioned in the certificate registered as a veterinary surgeon or as a specialist under this Act;
- (b) that on any date or during any period mentioned in the certificate the registration of any person was suspended;

- (c) that any person was or was not on any date or during any period mentioned in the certificate a person in respect of whom an approval was in force under section 45,

shall in all courts and before all persons and bodies authorised by law to receive evidence be prima facie evidence of the facts stated.

Prima facie evidence of entry in register may be given in all courts

60. (1) Prima facie evidence of any entry in a register under this Act may be given in all courts and before all persons and bodies authorised by law to receive evidence—

- (a) by production of a document purporting to be a true copy of such entry and purporting to be certified as such by the Registrar; or
- (b) by production of a copy of that register purporting to be printed by the Government Printer which is for the time being the latest copy so printed.

(2) An entry in a register under this Act shall be prima facie evidence in all courts and before all persons and bodies authorised by law to receive evidence of the truth of all matters contained in it.

Certificate of Director-General to be prima facie evidence

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

- (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 licence had been issued in respect of a veterinary hospital specified in the certificate;
- (c) a person specified in the certificate was or was not a person nominated as a superintendent in accordance with section 54; or
- (d) a person specified in the certificate was or was not duly appointed as an inspector under section 55,

shall be prima facie evidence of the facts stated in the certificate.

Proof of certain matters not required

62. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- (a) the constitution of the Board, the Investigating Committee or the Disciplinary Tribunal;
- (b) any resolution or determination of the Board, the Investigating Committee or the Disciplinary Tribunal;
- (c) the appointment of, or the holding of office by, any member of the Board, the Investigating Committee or the Disciplinary Tribunal; or
- (d) the presence or nature of a quorum at any meeting of the Board, the Investigating Committee or the Disciplinary Tribunal.

Service of notices, etc.

63. Any notice or other instrument issued, made or given for the purposes of this Act or the regulations may be served—

- (a) by delivering it personally to the person to whom it is addressed;
- (b) by delivering it to the last known place of residence or business of the person to whom it is addressed and by leaving it there with some person apparently of or above the age of 14 years for the person to whom it is addressed; or
- (c) by post addressed to the last known place of residence or business of the person.

Service of documents on Board, Committee or Tribunal

64. (1) A document may be served on the Board, the Investigating Committee or the Disciplinary Tribunal by leaving it at, or by sending it by post to—

- (a) the office of the Board, that Committee or that Tribunal; or
- (b) if the Board, that Committee or that Tribunal has more than one office—any one of its offices.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board, the Investigating Committee or the Disciplinary Tribunal in a manner not provided for by subsection (1).

Authentication of certain documents

65. Every summons, process, demand, order, notice, statement, direction or other document requiring authentication—

- (a) by the Board may be sufficiently authenticated without the seal of the Board if signed by the President of the Board or by any member of the staff of the Board authorised to do so by the President;
- (b) by the Investigating Committee may be sufficiently authenticated if signed by the chairperson of that Committee; or
- (c) by the Disciplinary Tribunal may be sufficiently authenticated if signed by the chairperson or deputy chairperson of that Tribunal.

Recovery of charges, fines, etc.

66. (1) Any charge, fee or money due to the Board or the Director-General under this Act may be recovered by the Board or the Director-General as a debt in a court of competent jurisdiction.

(2) Any costs or fine payable by order of the Investigating Committee or the Disciplinary Tribunal under Part 4 may be recovered by the Registrar as a debt in a court of competent jurisdiction.

Fees, etc., payable to Treasury

67. The fees and other money payable under this Act shall be paid into the Treasury and carried to the Consolidated Fund.

Liability of members, etc.

68. No matter or thing done by the Board, the Investigating Committee or the Disciplinary Tribunal, any member of the Board, of that Committee or of that Tribunal, the Director-General or any person acting under the direction of the Board, that Committee, that Tribunal or the Director-General shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject a member of the Board, a member of that Committee, a member of that Tribunal, the Director-General or a person so acting personally to any action, liability, claim or demand.

Offences by corporations

69. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision unless the person satisfies the court that—

- (a) the corporation contravened the provision without the knowledge of the person;
- (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Proceedings for offences

70. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Regulations

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

- (a) regulating the proceedings of the Board;
- (b) regulating the duties of the staff of the Board;
- (c) regulating the keeping of the register of veterinary surgeons and the register of specialists;

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- (d) 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;
- (e) regulating or prohibiting the employment of unregistered persons in the practice of veterinary science;
- (f) prescribing fees payable under this Act;
- (g) regulating the manner in which and the extent to which a veterinary surgeon is authorised to advertise;
- (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 and 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 for animals;
 - (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) the methods to be used to ensure cleanliness of a veterinary hospital;

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- (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 the veterinary hospital;
- (m) prescribing any continuous period during which the superintendent of a veterinary hospital may be absent from the veterinary hospital before the licensee is required to nominate another superintendent; and
- (n) regulating the manner and extent to which a veterinary hospital may be advertised.

(2) A regulation may create an offence punishable by a penalty not exceeding \$1,000.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

Savings, transitional and other provisions

72. Schedule 4 has effect.

Repeals

73. The following Acts are repealed:

Veterinary Surgeons Act 1923 No. 25

Veterinary Surgeons (Amendment) Act 1974 No. 6

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**Veterinary Surgeons (Artificial Breeding of Stock) Amendment Act
1985 No. 197**

SCHEDULE 1

(Sec. 5 (3))

**PROVISIONS RELATING TO THE MEMBERS
AND PROCEDURE OF THE BOARD****Interpretation**

1. In this Schedule—

“member” means member of the Board.

Nomination of members

2. Where, for the purposes of section 5 (2) (a) or (c), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body or organisation entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been duly nominated.

Age of members

3. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

President of the Board

4. (1) The Governor may remove a member from the office of President of the Board.

(2) A person who is a member and President shall be deemed to have vacated office as President if the person—

- (a) is removed from that office by the Governor under subclause (1);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

Acting members and acting President

5. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Governor may, from time to time, appoint a member to act in the office of President of the Board during the illness or absence of the President and the member, while so acting, shall have and may exercise all the functions of the President and shall be deemed to be the President.

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE BOARD—*continued*

(3) The Governor may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause a vacancy in the office of a member or the President of the Board shall be deemed to be an absence from office of the member or President, as the case may be.

Terms of office

6. Subject to this Schedule, a member shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

7. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

8. (1) If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

(2) Where a member referred to in section 5 (2) (a) is appointed to fill a casual vacancy in the office of a member, the panel from which the member is appointed may consist of not less than 3 persons instead of not less than 7 persons.

Casual vacancies

9. (1) A member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) 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;

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE BOARD—*continued*

- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years;
- (h) ceases to be a registered veterinary surgeon; or
- (i) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office.

Effect of certain other Acts

10. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

Quorum

12. The quorum for a meeting of the Board is 4 members.

Presiding member

13. (1) The President of the Board or, in the absence of the President, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

*Veterinary Surgeons 1986*SCHEDULE 1—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
BOARD—*continued***Minutes**

15. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

SCHEDULE 2

(Sec. 24 (4))

PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE
OF THE INVESTIGATING COMMITTEE**Interpretation**

1. (1) In this Schedule—

“chairperson” means the chairperson of the Investigating Committee;

“member” means member of the Investigating Committee.

(2) The chairperson may be referred to as the chairman or chairwoman, as the case requires.

Nomination of members

2. Where, for the purposes of section 24 (3) (c), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Minister may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to be a member.

Age of members

3. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

Acting members

4. (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Minister may remove any person from any office to which the person was appointed under this clause.

(3) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

*Veterinary Surgeons 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
INVESTIGATING COMMITTEE—*continued*

(4) For the purposes of this clause a vacancy in the office of a member shall be deemed to be an absence from office of the member.

Terms of office

5. Subject to this Schedule, a member shall hold office—

- (a) in the case of a member referred to in section 24 (3) (a)–(c)—for such period not exceeding 3 years; or
- (b) in the case of the member referred to in section 24 (3) (d)—for such period not exceeding 1 year,

as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

6. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

7. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancy

8. (1) A member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (c) 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;
- (d) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (e) resigns the office by instrument in writing addressed to the Minister;
- (f) attains the age of 70 years;
- (g) ceases to hold the qualification by virtue of which the member was appointed;
or

*Veterinary Surgeons 1986*SCHEDULE 2—*continued*PROVISIONS RELATING TO THE MEMBERS AND PROCEDURE OF THE
INVESTIGATING COMMITTEE—*continued*

(h) is removed from office by the Minister under subclause (2).

(2) The Minister may remove a member from office.

Effect of certain other Acts

9. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

General procedure

10. The procedure for the calling of meetings of the Investigating Committee and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Investigating Committee.

Quorum

11. The quorum for a meeting of the Investigating Committee is 3 members, including the chairperson.

Presiding member

12. The chairperson shall preside at a meeting of the Investigating Committee.

SCHEDULE 3

(Sec. 25 (8))

PROVISIONS RELATING TO THE MEMBERS OF
THE DISCIPLINARY TRIBUNAL**Terms of office of chairperson and deputy chairperson**

1. Subject to this Schedule, the chairperson and deputy chairperson of the Disciplinary Tribunal shall each hold office for such period (not exceeding 7 years) as may be specified in the instrument of appointment of the chairperson or deputy chairperson, but are eligible (if otherwise qualified) for re-appointment.

*Veterinary Surgeons 1986*SCHEDULE 3—*continued*PROVISIONS RELATING TO THE MEMBERS OF THE DISCIPLINARY
TRIBUNAL—*continued***Remuneration**

2. A member of the Disciplinary Tribunal is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Acting chairperson or deputy chairperson

3. Where, in the opinion of the Governor, the chairperson or deputy chairperson is unable for any cause to act in respect of any matter, the Governor may appoint a Judge of the District Court to act in the place of the chairperson or deputy chairperson and that Judge, while so acting, shall have and may exercise all the functions conferred or imposed by this Act upon the chairperson or deputy chairperson, as the case may be, in respect of that matter.

Vacation of office

4. A person holding office as the chairperson or deputy chairperson, or acting chairperson or deputy chairperson, shall vacate that office—

- (a) if the person ceases to be a Judge of the District Court; or
- (b) if the person resigns the office by instrument in writing addressed to the Minister.

References to chairperson or deputy chairperson

5. The chairperson or deputy chairperson may be referred to as the chairman or chairwoman, or the deputy chairman or deputy chairwoman, as the case requires.

SCHEDULE 4

(Sec. 72)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Interpretation

1. In this Schedule—

“former Act” means the Veterinary Surgeons Act 1923.

Board

2. (1) In this clause—

“former Board” means the body corporate constituted by section 4 of the former Act.

(2) The Board is a continuation of, and the same legal entity as, the former Board.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued*

(3) A person who was, immediately before the commencement of this Act, a member of the former Board, shall be deemed to have been appointed as a member of the Board for the balance of the term for which the person was appointed under the former Act.

(4) A person who was, immediately before the commencement of this Act, the President of the former Board shall be deemed to have been appointed as the President of the Board for the balance of the term for which the person was appointed under the former Act.

Investigating Committee

3. The persons holding office as members of the Investigating Committee under section 19C of the former Act immediately before the commencement of this Act—

- (a) shall cease to hold office as such on that commencement; and
- (b) are not entitled to any compensation for ceasing to hold office.

Disciplinary Tribunal

4. The person holding office as chairman of the Disciplinary Tribunal under section 19E of the former Act, immediately before the commencement of this Act, shall be deemed to have been appointed under section 25 as the chairperson of the Disciplinary Tribunal for the balance of the term for which the person was appointed under section 19E of the former Act.

Registrar and other staff

5. The Registrar of the Board, an inspector or any other person holding office under section 8 of the former Act immediately before the commencement of this Act shall be deemed to be employed under section 7.

Register of veterinary surgeons

6. (1) The register kept under section 9 of the former Act immediately before the commencement of this Act shall be deemed to be the division of veterinary surgeons registered under section 12 (full registration) for the purposes of this Act.

(2) A person who is, immediately before the commencement of this Act, registered as a veterinary surgeon under the former Act shall be deemed to be registered as a veterinary surgeon under section 12 (full registration).

Application for registrations under former Act, etc.

7. (1) An application for registration or provisional registration as a veterinary surgeon pending under the former Act at the commencement of this Act shall be deemed to be an application under this Act for registration or provisional registration under section 12 (full registration).

(2) The entitlement to registration or provisional registration of—

- (a) any such applicant; or

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued*

- (b) an applicant who holds a certificate of provisional registration under the former Act immediately before the commencement of this Act and who applies after that commencement for registration under section 12,

shall be determined in accordance with the relevant provisions of the former Act instead of this Act.

Continuation of provisional certificates of registration

8. A provisional certificate of registration in force under section 15A of the former Act immediately before the commencement of this Act shall be deemed to be a provisional certificate of registration issued under section 17.

Continuation of certificates of registration

9. A certificate of registration issued under section 16 of the former Act and held by a veterinary surgeon immediately before the commencement of this Act shall be deemed to be a certificate of registration issued under section 18.

Continuation of approvals to perform certain acts under supervision

10. An approval in force under section 24A of the former Act immediately before the commencement of this Act shall be deemed to be an approval given under section 45.

Continuation of approval for executor, etc., of the practice of deceased veterinary surgeon

11. An authority in force under section 22 of the former Act immediately before the commencement of this Act shall be deemed to be an authorisation given under section 39 (3).

Failure to pay roll fee under former Act

12. The Board may exercise its powers under section 19 (2) to remove the name of a person from a register for failure to pay a roll fee where that roll fee was due under section 11 of the former Act and has not been paid.

Restoration of name of veterinary surgeon previously removed from register

13. (1) The removal of the name of a veterinary surgeon from the register under section 11 (2) or 18 of the former Act before the commencement of this Act shall, for the purposes of section 19 (3) or 20 (2) and (3), as the case may require, be deemed to be a removal of that name from the register of veterinary surgeons under section 19 (2) or 20 (1).

(2) The provisions of section 35 relating to the restoration of a person's name to a register apply to a person whose name was removed by the Disciplinary Tribunal under section 19H of the former Act or by the Board under section 18A of the former Act in the same way as those provisions apply to a person whose name is removed by the Disciplinary Tribunal under section 32.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Pending complaints against veterinary surgeons**

14. (1) A complaint against a veterinary surgeon made under section 19A of the former Act which has not been finally determined before the commencement of this Act shall be deemed to have been made under section 26.

(2) Any such complaint which is, immediately before the commencement of this Act, being investigated by the Investigating Committee under the former Act may continue to be investigated and determined under this Act by the Investigating Committee constituted under this Act.

(3) Any complaint referred to the Disciplinary Tribunal for inquiry under the former Act before the commencement of this Act and not finally determined by that Tribunal before that commencement may continue to be inquired into and determined under this Act by the Disciplinary Tribunal constituted by this Act.

Continuation of orders of Disciplinary Tribunal

15. (1) A registered veterinary surgeon who is, immediately before the commencement of this Act, suspended from practice by order of the Disciplinary Tribunal under section 19H of the former Act shall be deemed to have been suspended from practice under section 32.

(2) A direction given in an order of the Disciplinary Tribunal under section 19H (3) of the former Act and in force immediately before the commencement of this Act shall be deemed to have been given under section 32 (4).

(3) An order under section 19H (5) of the former Act before the commencement of this Act shall be deemed to have been made under section 32 (6).

(4) An order made by the Disciplinary Tribunal under the former Act which has not taken effect before the commencement of this Act shall take effect on the day determined in accordance with the provisions of section 19H (7) and (8) of the former Act.

Veterinary hospitals

16. (1) A licence for a veterinary hospital in force under Part IVA of the former Act immediately before the commencement of this Act shall be deemed to be a licence for that hospital issued under Part 6.

(2) An application for a licence for a veterinary hospital pending under Part IVA of the former Act at the commencement of this Act shall be deemed to have been made under Part 6.

(3) The nomination or appointment of a superintendent of a veterinary hospital which was notified to the Director-General in accordance with section 24H of the former Act shall be deemed to be the nomination of a superintendent notified in accordance with section 54.

(4) A licence for a veterinary hospital which is immediately before the commencement of this Act suspended under section 24E of the former Act shall be deemed to have been suspended under section 52.

*Veterinary Surgeons 1986*SCHEDULE 4—*continued*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued***Pending appeals, etc.**

17. (1) An appeal under the former Act to a court against a decision of the Board, the Disciplinary Tribunal or the Director-General and pending at the commencement of this Act shall be deemed to be an appeal under the corresponding provision of this Act.

(2) An appeal may be made to a court under this Act against a decision of the Board, the Disciplinary Tribunal or the Director-General notwithstanding that the decision was made under the former Act if the period for making the appeal under the former Act has not expired.

Regulations

18. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

