

VETERINARY SURGEONS ACT 1987

No. 104 of 1987

TABLE OF PROVISIONS

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.

PART II

THE VETERINARY BOARD OF TASMANIA

4. Constitution of Veterinary Board of Tasmania.
5. Functions and powers of the Board.
6. Annual report.
7. Registrar and other staff.
8. Protection for members of the Board, &c.
9. Administration.
10. Powers of inspectors.

PART III

RESTRICTIONS ON ENGAGING IN THE PRACTICE OF VETERINARY SURGERY

11. Practice by unregistered persons.

12. Prohibition of certain descriptions.
13. Exemptions from operation of section 11.

PART IV

REGISTRATION OF VETERINARY SURGEONS AND VETERINARY SPECIALISTS

14. Veterinary register.
15. Entitlement to registration as veterinary surgeon.
16. Entitlement to registration as veterinary specialist.
17. Entitlement to registration of persons registered outside State for specific period or purpose.
18. Application for registration.
19. Provisional registration.
20. Temporary registration.
21. Certificate of registration.
22. Registration fee.
23. Cancellation of registration.
24. Death of registered veterinary surgeon, &c.

PART V

BODIES CORPORATE PROVIDING
VETERINARY SERVICES*Division 1—Approvals in respect of
veterinary services companies and
related matters*

25. Obligation on veterinary services company to obtain approval of Board.
26. Applications for grant of approvals by Board.
27. Grant of approvals.
28. Effect of approval.
29. List of approved veterinary services companies.
30. Evidentiary provision with respect to the list.
31. Renewal of approvals.
32. Surrender of approval.

Division 2—Miscellaneous

33. Restrictions on provision of veterinary services by approved veterinary services companies.
34. Records to be kept by veterinary services companies.
35. Board may require veterinary services companies to provide information from records kept under section 34.
36. Alteration to memorandum or articles of association of veterinary services company.
37. Restrictions on the production, &c., to the National Companies and Securities Commission of case histories, &c.
38. Power of Board to establish committees with respect to veterinary services companies.

39. Liability of registered veterinary surgeons for veterinary services performed on behalf of veterinary services companies.
40. Offences by veterinary services companies.

PART VI

DISCIPLINARY PROCEEDINGS

41. Interpretation of Part VI.
42. Complaints against registered persons.
43. Complaints against persons formerly registered under this Act.
44. Inquiries relating to complaints.
45. Procedure at inquiries.
46. Determination of Board.
47. Surrender of certificates.
48. Informal proceedings.
49. Disciplinary powers of Board in respect of approved veterinary services companies.
50. Procedure on exercising disciplinary powers under section 49.
51. Effect of removal from the list.
52. Restoration to the list.

PART VII

APPEALS

53. Appeals.
54. Hearing and determination of appeal under section 53.

PART VIII

MISCELLANEOUS

55. Evidentiary certificates.
56. Service of documents.
57. Fees.
58. False and misleading statements.
59. Entitlement to sue for fees.

60. Regulations.

SCHEDULE 2

61. Transitional and savings provisions.

PROVISIONS WITH RESPECT TO MEETINGS OF THE BOARD

62. Repeal.

SCHEDULE 1

SCHEDULE 3

PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE BOARD

TRANSITIONAL AND SAVINGS PROVISIONS



VETERINARY SURGEONS ACT 1987

No. 104 of 1987

AN ACT to provide for the registration of veterinary surgeons, the regulation of the practice of veterinary surgery, and incidental matters, and to repeal the Veterinary Act 1918.

[Royal Assent 23 December 1987]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Veterinary Surgeons Act* Short title. 1987.

2—(1) This section and section 1 shall commence on the Commencement. day on which this Act receives the Royal assent.

(2) Except as provided in subsection (1), this Act shall commence on a day to be fixed by proclamation.

3—(1) In this Act, unless the contrary intention appears— Interpretation.
 “Agency”, “Head of Agency”, and “employee” have the meanings assigned to those terms by the *Tasmanian State Service Act 1984*;

“approval” means an approval granted under section 27;

“approved” means approved by the Board;

- “approved veterinary services company” means a veterinary services company that holds an approval granted and in force under Part V;
- “Board” means the Veterinary Board of Tasmania constituted under section 4;
- “chairman” means the Chairman of the Board;
- “functions” includes duties;
- “inspector” means a person empowered by the Board under section 10 (1);
- “list” means the list of veterinary services companies required to be kept under section 29;
- “member” means a member of the Board;
- “records” includes books, accounts, minutes, registers, deeds, writings, or documents or any other sources of information compiled, recorded, or stored in written form or on micro-film, or by electronic process, or in any other manner or by any other means;
- “register” means the register kept under section 14;
- “Registrar” means the person appointed and holding office under section 7 as the Registrar of the Board;
- “registered veterinary specialist” means a person registered as a veterinary specialist pursuant to Part IV;
- “registered veterinary surgeon” means a person registered as a veterinary surgeon pursuant to Part IV;
- “relevant fee” in relation to any matter means a fee prescribed by the regulations relating to that matter;
- “repealed Act” means the *Veterinary Act 1918*;
- “the regulations” means regulations made and in force under this Act;
- “veterinary establishment” means any establishment, vehicle, or place in which veterinary services are carried out;
- “veterinary services” means services which form part of the practice of veterinary surgery, and includes attendance, rendering advice, diagnosis or treatment of disease or injury, provision of veterinary certificates, and prescribing medicines for veterinary purposes, but does not include any prescribed services;
- “veterinary services company” means a body corporate the sole object of which is the provision of veterinary services;

“veterinary student” means a person who has commenced a course of veterinary studies at an approved institution on a full time basis;

“veterinary surgery” means the art and science of veterinary surgery and medicine.

(2) Unless the contrary intention appears—

(a) a reference in this Act to a person being registered is a reference to a person who is registered under this Act and includes a reference to a person temporarily or provisionally so registered and a person registered under section 17, and a reference to registration has a corresponding meaning; and

(b) a reference in this Act to practising veterinary surgery includes the running, operating, or administering by a veterinary surgeon of a veterinary establishment.

(3) Nothing in this Act shall be construed as permitting any person to contravene any provisions of any law or enactment relating to cruelty to animals.

PART II

THE VETERINARY BOARD OF TASMANIA

4—(1) The Veterinary Board constituted under the repealed Act is abolished and there is constituted by this Act a Board to be known as the Veterinary Board of Tasmania. Constitution of Veterinary Board of Tasmania.

(2) The Board—

(a) is a body corporate, with perpetual succession;

(b) shall have a seal;

(c) may sue and be sued in its corporate name;

(d) may do and be subject to all other things that corporations may do and be subject to and that are necessary for or incidental to the purpose for which it was constituted; and

(e) has the functions imposed, and the powers conferred, on it by or under this or any other Act.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and, unless the contrary is established, shall presume that it was duly affixed.

(4) The Board shall consist of 5 persons appointed by the Minister by instrument in writing of whom—

(a) one shall be an officer of the Department of Agriculture who is a registered veterinary surgeon and who is nominated by the Director of Agriculture;

(b) one shall be a person nominated by the Minister; and

(c) 3 shall be persons appointed from a panel of 5 registered veterinary surgeons nominated by the Australian Veterinary Association (Tasmanian Division).

(5) For the purposes of subsection (4) (a), the Director of Agriculture may, if he is a registered veterinary surgeon, nominate himself.

(6) If the association referred to in paragraph (c) of subsection (4) fails to make a nomination as required by that paragraph within 30 days after it is requested by the Minister to do so, the Minister may appoint 3 registered veterinary surgeons as members of the Board.

(7) If the association referred to in paragraph (c) of subsection (4) changes its name to another name or ceases to exist under the name referred to in that paragraph, the Governor may, by order, amend that paragraph by substituting for the name of that association—

(a) that other name; or

(b) the name of some other association or organization that he is satisfied represents substantially the same interests as those represented by that association.

(8) Schedule 1 has effect with respect to the membership of the Board.

(9) Schedule 2 has effect with respect to the meetings of the Board.

Functions and powers of the Board.

5—(1) In addition to the functions conferred or imposed on it by any other provision of this Act, the Board has the following functions:—

(a) to maintain and review standards for registration of veterinary surgeons, veterinary specialists, and veterinary services companies;

- (b) to ensure that registered veterinary surgeons and registered veterinary specialists provide veterinary services in a competent manner;
- (c) to approve degrees, diplomas, qualifications, and training as qualifications for persons seeking to become registered;
- (d) to approve courses for the training of persons seeking to become registered;
- (e) to arrange, where it thinks necessary and in such manner as it thinks appropriate, for the examination of persons seeking to become registered;
- (f) to arrange, where it thinks necessary, for the inspection of veterinary establishments;
- (g) to hear and determine any inquiry under Part VI.

(2) The Board may do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions under this Act.

(3) The generality of subsection (2) shall not be taken to be limited by any other provisions of this Act conferring a power on the Board.

6—(1) Within 3 months after the end of each financial year, the Board shall submit to the Minister a report of its operations during that financial year. Annual report.

(2) The Minister shall cause a copy of any report submitted to him under subsection (1) to be laid on the table of each House of Parliament within the first 14 sitting days after it is received by him.

7—(1) The Board may—

- (a) appoint a Registrar of the Board and such other persons as it considers necessary for the purposes of this Act; or
- (b) with the approval of the Head of Agency appoint an employee employed in that Agency to be Registrar of the Board, and that employee may hold office as Registrar of the Board in conjunction with his position in the State Service; or
- (c) make arrangements with the Head of an Agency for such employees employed in that Agency as may be considered necessary to be made available, and such employees may, in conjunction with their positions in the State Service, serve the Board in any capacity.

Registrar and other staff.

(2) The Board shall pay to the Public Account such sum as may be determined by the Treasurer for the service of an employee appointed under subsection (1) (b) or made available under subsection (1) (c), and the Treasurer may reimburse that sum to the Agency in which the employee is employed.

(3) Where the Board appoints any person under subsection (1) (a) it shall pay, out of funds at its disposal, that person such remunerations and allowances as it determines.

Protection for
members of the
Board, &c.

8—Where the Board, a member of the Board, the Registrar, or any person for the time being appointed under section 7 does, or omits to do, any act or thing in good faith in the administration or execution, or purported administration or execution of this Act, or in the exercise or performance or purported exercise or performance of any of its or his powers, functions, or duties under this Act, it or he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission.

Administration.

9—All expenses incurred in the administration of this Act shall be paid out of money to be provided by Parliament for that purpose.

Powers of
inspectors.

10—(1) For the purposes of this section, the Board may empower a person to act as an inspector in order to exercise the powers conferred by subsection (2).

(2) Subject to subsection (5), for the purpose of—

(a) ascertaining whether a person is contravening or has contravened section 11 or 12;

(b) ascertaining whether a person registered under this Act or a person exempted under section 13 has failed to comply with, or contravened, or is failing to comply with, or is contravening, any provision of this Act, or any condition, limitation, or restriction imposed by the Board subject to which he may practise veterinary surgery;

(c) ascertaining whether a person registered under this Act or a person exempted under section 13 is no longer fit to practise veterinary surgery; or

(d) investigating a complaint made under section 42 or 43,

an inspector may, at any reasonable time—

- (e) enter and remain in any premises or vehicles, which he has reasonable grounds to believe are used by that person for the purposes of, or in connection with, the practice of veterinary surgery or the performance of any act of veterinary surgery;
- (f) inspect those premises or vehicles, and any records on or in those premises or vehicles;
- (g) open and inspect containers or packages which he has reasonable grounds to believe are used by that person for the purpose of, or in connection with, the practice of veterinary surgery or the performance of any act of veterinary surgery;
- (h) make such inquiries of that person or any other person on or in those premises or vehicles as he considers to be necessary for the purposes of this Act; and
- (i) require a person registered or claiming to be registered under this Act to produce the certificate of registration issued under section 21.

(3) A person who obstructs, hinders, threatens, or assaults an inspector in the exercise of his powers under subsection (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 50 penalty units.

(4) The Board shall issue to an inspector a certificate of his authority to exercise the powers conferred by subsection (2).

(5) An inspector is not empowered to exercise any powers conferred by subsection (2) unless he has previously produced a certificate issued under subsection (4).

PART III

RESTRICTIONS ON ENGAGING IN THE PRACTICE OF VETERINARY SURGERY

11—(1) A person shall not engage in the practice of veterinary surgery or render a veterinary service unless that person is a registered veterinary surgeon. Practice by unregistered persons.

(2) Subsection (1) does not apply to—

- (a) a person who administers anaesthetic under the direct instruction and supervision of a registered veterinary surgeon;

- (b) a person who provides a veterinary service in an emergency, where a registered veterinary surgeon is not reasonably or readily available; or
- (c) a veterinary student acting under the direct supervision and instruction of a registered veterinary surgeon;
- (d) any other prescribed case.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 50 penalty units.

Prohibition of certain descriptions.

12—(1) A person who is not a registered veterinary surgeon or veterinary specialist shall not—

- (a) use the description of a veterinary surgeon or veterinary specialist; or
- (b) do anything, or cause or permit anything to be done, that is likely to cause another person reasonably to believe that he is a veterinary surgeon or veterinary specialist.

(2) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a penalty not exceeding 10 penalty units.

Exemptions from operation of section 11.

13—(1) An individual person may apply to the Board to be exempted from the operation of section 11 (1) in relation to a specific veterinary service.

(2) An application under subsection (1) shall—

- (a) be in writing;
- (b) state the specific veterinary service in respect of which exemption is required; and
- (c) be accompanied by the relevant fee.

(3) On receipt of an application for exemption under this section, the Board may—

- (a) require the applicant to furnish further information;
- (b) grant the exemption for such period as it may determine;
- (c) grant the exemption subject to such terms and conditions as it thinks fit; or
- (d) refuse to grant the exemption.

(4) Where a person is aggrieved—

- (a) by the refusal of the Board to grant an exemption;

(b) by any terms or conditions imposed under subsection (3) (c); or

(c) by the period of the exemption,

that person may appeal in writing to the Minister.

(5) On receipt of an appeal made under subsection 4 (a), the Minister may—

(a) confirm the refusal to grant an exemption; or

(b) order the Board to grant the exemption, subject to such terms and conditions as the Minister may determine.

(6) On receipt of an appeal made under subsection (4) (b), the Minister may—

(a) confirm any or all of the terms or conditions imposed by the Board;

(b) vary any or all of such terms or conditions; or

(c) revoke any or all of such terms or conditions;

(7) On receipt of an appeal made under subsection (4) (c), the Minister may—

(a) confirm the period of exemption determined by the Board; or

(b) vary the period of such an exemption.

(8) Where a person is granted an exemption under this section—

(a) that person is subject to the provisions of Part VI as if he were a registered veterinary surgeon; and

(b) a reference in that Part to the suspension or cancellation of registration shall be read as a reference to a suspension or cancellation of that exemption.

PART IV

REGISTRATION OF VETERINARY SURGEONS AND VETERINARY SPECIALISTS

14—(1) The Board shall keep a register, to be called the Veterinary register. Veterinary Register of Tasmania.

(2) The register shall consist of the following parts:—

(a) Part I—Veterinary Surgeons;

(b) Part II—Veterinary Specialists.

(3) Subject to section 19 (4), on payment of the relevant fee the Board shall register a person by entering in the register in the appropriate part the prescribed details.

(4) Where it appears to the Board that—

(a) an entry in the register is incorrect;

(b) an entry that ought to have been made in the register has not been made; or

(c) an entry that ought not to have been made in the register has been made,

the Board shall take the necessary steps to rectify the register.

(5) A registered veterinary surgeon or a registered veterinary specialist may apply to the Board to amend an entry in the register relating to him.

(6) The Board may, if it considers it appropriate, cause a copy of the register, so far as it relates to persons who are registered veterinary surgeons or registered veterinary specialists at that time, to be published in the *Gazette*.

(7) The register shall be made available at all reasonable times for inspection by any person at the office of the Board.

Entitlement to
registration as
veterinary
surgeon.

15—(1) Subject to this section, a person is entitled to be registered as a veterinary surgeon if—

(a) he has attained the age of 18 years;

(b) he is qualified to be registered as a veterinary surgeon;
and

(c) he satisfies the Board of his identity and that he is a fit and proper person to practise as a veterinary surgeon in this State.

(2) For the purposes of subsection (1) (b), a person is qualified to be registered as a veterinary surgeon if—

(a) he has completed a regular graded course of veterinary study of at least 4 years' duration at an approved institution, and, if required by the Board to do so, has passed such examinations as the Board may determine; or

(b) he is registered as a veterinary surgeon under a law in force in any other State or Territory of the Commonwealth.

(3) For the purposes of this section, the Board may regard a person as not being a fit and proper person to practise as a veterinary surgeon in this State if it is satisfied that—

- (a) an application by that person for registration, or for a licence to practise, as a veterinary surgeon has, in accordance with a law in force in another State or a Territory of the Commonwealth or in a place outside the Commonwealth (being a law regulating the practice of veterinary surgery) been refused;
- (b) the registration or licence of that person is suspended or has been cancelled or otherwise terminated in accordance with such a law;
- (c) the person has been convicted in this State or elsewhere of—
 - (i) any crime, or offence that if it had been committed in this State would have been a crime;
 - (ii) an offence under a law prohibiting or regulating the possession, sale, use, supply, or other dealing in, any poison, drug, or similar substance; or
 - (iii) an offence under this Act which, in the opinion of the Board, indicates the person is not a fit and proper person to practise as a veterinary surgeon; or
- (d) the person has become liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act.

16—(1) Subject to this section, a person is entitled to be registered as a veterinary specialist if—

Entitlement to registration as veterinary specialist.

- (a) he is registered as a veterinary surgeon under section 18; and
- (b) he satisfies the Board that he possesses adequate qualifications and experience with respect to a prescribed speciality.

(2) For the purposes of determining whether a person possesses adequate qualifications and experience with respect to a prescribed speciality, the Board may co-opt not more than 2 persons each registered as a veterinary specialist in that prescribed speciality under a law in force in this State or another State or in a Territory of the Commonwealth to advise the Board.

Entitlement to registration of persons registered outside State for specific period or purpose.

17—(1) A person who is registered as a veterinary surgeon or veterinary specialist under a law in force in another State or in a Territory of the Commonwealth may apply to the Board to be registered as a veterinary surgeon or veterinary specialist under this Act for a period not exceeding 3 months or for a purpose specified in the application.

(2) An application under subsection (1) shall—

- (a) be in writing;
- (b) contain the prescribed particulars; and
- (c) be accompanied by the prescribed documents.

(3) On receipt of an application under subsection (1), the Board may—

- (a) require the applicant to provide further information within such period as the Board may specify;
- (b) refuse the application; or
- (c) grant the application—
 - (i) for such period not exceeding 3 months;
 - (ii) for such purpose; and
 - (iii) subject to such conditions, as it may determine.

(4) Where the Board grants an application for registration under this section, the registration continues in operation until—

- (a) the expiration of the period referred to in subsection (3) (c) (i); or
- (b) the purpose referred to in subsection (3) (c) (ii) has been achieved or altered.

(5) Where the Board grants an application for registration under this section, the person so registered shall pay such fee as the Board may determine.

Application for registration.

18—(1) A person who claims to be entitled to registration may apply to the Board to be registered.

(2) An application under subsection (1) shall—

- (a) be in writing;
- (b) contain the prescribed particulars; and
- (c) be accompanied by the prescribed documents and the relevant fee.

(3) On receipt of an application under this section, the Board—

(a) where it is satisfied that the applicant is entitled to registration, shall register that applicant; or

(b) where it is not so satisfied—

(i) may require the applicant to provide further information within such period as the Board may specify; or

(ii) may refuse to register that applicant.

(4) On receipt of further information provided by an applicant pursuant to subsection (3) (b) (i), the Board may register or refuse to register that applicant.

(5) Where further information required from an applicant under paragraph (b) (i) of subsection (3) is not provided within the period referred to in that paragraph, the Board may refuse to register that applicant.

(6) Where, pursuant to subsections (3) (b) (ii), (4), and (5), the Board refuses to register an applicant, it shall—

(a) by notice in writing served on the applicant, notify the refusal and specify the reasons for that refusal; and

(b) refund to the applicant the amount of the fee paid under subsection (2) (c).

(7) Any registration under this section may be subject to such conditions as may be prescribed.

19—(1) The Board may provisionally register a person as Provisional registration.
a veterinary surgeon—

(a) if it is satisfied that the person has completed the course referred to in section 15 (2) (a) and such examinations as the Board may determine but has not yet been admitted to a degree or diploma in veterinary surgery or been granted a certificate of completion of such courses or examinations;

(b) if it is satisfied that if the person had been so admitted or had been granted such a certificate he would be entitled to be registered as a veterinary surgeon; and

(c) upon the payment of the relevant fee.

(2) Where the Board has provisionally registered a person under subsection (1), that provisional registration continues in operation until—

(a) 6 months after the next meeting of the university or institution referred to in that subsection at which degrees, diplomas, or, as the case may be, certificates, in veterinary surgery are conferred; or

(b) that person becomes registered as a veterinary surgeon under this Act,

whichever occurs first.

(3) Notwithstanding subsection (2), the Board may, at any time and without affecting the subsequent right of a person to apply for registration as a veterinary surgeon, cancel the provisional registration of that person.

(4) Where a person who is provisionally registered under this section becomes registered as a veterinary surgeon, the amount of the fee paid by him in respect of provisional registration shall be deducted from the relevant fee to be paid by him in respect of full registration for the first year of that full registration.

(5) The provisional registration of an applicant referred to in subsection (1) may be made subject to such conditions, limitations, and restrictions as the Board determines when considering the application.

(6) Subject to such conditions, limitations, and restrictions as may be imposed under subsection (5), provisional registration under this section has the same effect as if it were registration under section 18 and the provisions of this Act apply accordingly.

(7) A person who is provisionally registered under this section and performs any act or does any thing in carrying on the practice of veterinary surgery in contravention of a condition, limitation, or restriction to which his provisional registration is subject is guilty of an offence and is liable on summary conviction to a penalty not exceeding 10 penalty units.

20—Where the Board is not immediately able to consider an application under section 17 or 18, 2 members of the Board or one member and the Registrar may register the applicant temporarily or provisionally register him temporarily as a veterinary surgeon until the application can be considered by the Board—

Temporary registration.

(a) if they are reasonably satisfied that the Board would have registered the applicant under section 17 or 18 or provisionally registered the applicant under section 19 if the application were then considered by the Board; and

(b) upon payment of the relevant fee.

21—On the registration of a person under section 17, 18, 19, or 20, the Registrar shall issue to that person a certificate to the effect that the person is registered for a specific period or for a specific purpose, registered, provisionally registered, registered temporarily, or provisionally registered temporarily, as a veterinary surgeon or veterinary specialist.

Certificate of registration.

22—(1) A person registered under this Act shall, on or before 1st March in each year, pay to the Board a relevant fee in respect of the year commencing on 1st January last occurring.

Registration fee.

(2) Where a person referred to in subsection (1) fails to pay the relevant fee as required by that subsection, the Board shall serve on that person a notice specifying a day on or before which that fee is to be paid.

(3) Where a person on whom a notice is served in accordance with subsection (2) fails to pay the relevant fee on or before the day specified in the notice, the Board may cancel his registration.

23—(1) Where—

(a) the Board becomes aware that a registered veterinary surgeon or registered veterinary specialist has died; or

(b) a registered veterinary surgeon or a registered veterinary specialist requests that his registration be cancelled,

Cancellation of registration.

the Board shall cancel the registration of that person.

(2) A request referred to in subsection (1) (b) shall be in writing and shall be accompanied by the certificate of registration issued under section 21.

(3) Where the Board cancels the registration of a person pursuant to subsection (1), it shall remove the entry in the register in respect of that registration.

Death of registered veterinary surgeon, etc.

24—Where a person registered as a veterinary surgeon or veterinary specialist dies, the personal representative of that person may, by virtue of the appointment as a personal representative, continue the practice of veterinary surgery or the rendering of veterinary services at that veterinary establishment under the name of that person where that practice is carried on by a registered veterinary surgeon or a registered veterinary specialist who specializes in the same speciality as the deceased person for a period until—

(a) the expiration of 2 years after the date of the death of that person;

(b) the appointment as a personal representative is terminated; or

(c) the distribution of the estate of the deceased is completed,

whichever occurs first.

PART V

BODIES CORPORATE PROVIDING VETERINARY SERVICES

Division 1—Approvals in respect of veterinary services companies and related matters

Obligation on veterinary services company to obtain approval of Board.

25—(1) A veterinary services company shall not provide any veterinary services unless it is the holder of an approval granted by the Board under section 27 authorizing the company to provide those services.

(2) A veterinary services company which contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 100 penalty units.

Applications for grant of approvals by Board.

26—(1) An application for the grant of an approval by the Board shall—

(a) be in writing in a manner approved by the Board;

(b) be made on behalf of the applicant by a person who is concerned in the management of the applicant;

(c) specify—

- (i) the name of the applicant;
- (ii) the registered office of the applicant within Tasmania;
- (iii) the place or places where the applicant proposes to carry on business; and
- (iv) the names and addresses of the members and officers of the applicant;

(d) contain such particulars relating to the provision by the applicant of veterinary services as the Board may require; and

(e) be accompanied by—

- (i) a copy of the memorandum and articles of association of the applicant certified by the secretary or an executive officer of the applicant to be a true copy of those memorandum and articles;
- (ii) any other document prescribed in the regulations; and
- (iii) the relevant fee.

(2) If the Board is not satisfied as to the particulars provided in an application under this section, the Board may serve on the applicant an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, with a statement in writing by a person who is concerned in the management of the applicant containing such further particulars in relation to the application as the Board specifies.

(3) Where, as a result of not being satisfied as to the particulars provided in an application under this section, the Board serves an instrument under subsection (2) requiring the applicant to provide it with a statement of further particulars in respect of the application, the Board may decline to consider the application until the applicant has provided it with such a statement and, where any such statement is so provided, the Board may refuse to grant the approval applied for until it is satisfied as to the particulars contained in the statement.

27—(1) Where an application is made under section 26 for the grant of the Board's approval, the Board shall, if—

Grant of approvals.

(a) the application is in accordance with that section and is accompanied by a copy of the documents and the fee referred to in subsection (1) (e) of that section;

(b) the applicant has complied with any requirement under subsection (2) of that section made in respect of the application; and

(c) the memorandum and articles of association of the veterinary services company to which the application relates comply with the prescribed requirements,

grant an approval to the company authorizing it to provide veterinary services.

(2) For the purposes of subsection (1) (c), the memorandum of a veterinary services company to which an application under section 26 relates shall be deemed to comply with the prescribed requirements if the memorandum—

(a) provides that the sole object of the company is the provision of veterinary services by the company;

(b) provides that the company shall have the power to do all such acts or things as may be required or necessary to be done by a body corporate incorporated with the sole object of providing veterinary services; and

(c) includes provisions that are otherwise appropriate to a body corporate formed for the purpose of providing veterinary services.

(3) For the purposes of subsection (1) (c), the articles of association of a veterinary services company to which an application under section 26 relates shall be deemed to comply with the prescribed requirements if the articles—

(a) provide—

(i) that, in the case of a company with more than 2 members, every member of the company shall be a registered veterinary surgeon;

(ii) that, in the case of a company with only 2 members, one at least shall be a registered veterinary surgeon;

(iii) that, in the case of a company with only 2 members one of whom is not a registered veterinary surgeon—

(A) the member of the company who is a registered veterinary surgeon shall take and hold at least 2 shares in the capital of the company;

(B) the member of the company who is not a registered veterinary surgeon shall take not more than one share in that capital, being a share in respect of which there is no right to vote at a general meeting of members of the company, and which shall be held in trust by him for the member of the company who is a registered veterinary surgeon; and

(C) the member of the company who is not a registered veterinary surgeon cannot be the chairman of the company;

(iv) that every director of the company shall be a registered veterinary surgeon, except in the case of a company with only 2 members, one of whom is a registered veterinary surgeon;

(v) in the case of a company with more than 2 members, for the transmission of the shares of a deceased member of the company to a registered veterinary surgeon;

(vi) in the case of a company with only 2 members, for the transmission of the share or shares of a deceased member of the company in such a way that paragraph (a) (ii) and (iii) are complied with; and

(vii) that the total voting rights exercisable at a meeting of the members of the company shall be held by registered veterinary surgeons who are directors or members of the company; and

(b) include provisions that are otherwise appropriate to a body corporate formed for the purpose of providing veterinary services.

- (4) An approval under this section by the Board shall be—
- (a) in writing; and
 - (b) sent by the Board to the veterinary services company by which the application for the approval was made.

- (5) Where, on an application under section 26, the Board refuses to grant an approval to the applicant, the Board—
- (a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and
 - (b) shall refund to the applicant the amount of the fee paid under section 26 (1) (e) (iii), unless the applicant agrees in writing to the amount of the fee being held in credit for it.

Effect of approval.

- 28**—An approval granted to a veterinary services company—
- (a) authorizes the company to provide veterinary services; and
 - (b) is in force on and from the date specified in the approval as the date for the approval to come into force for a period of 3 years from that date, unless the approval ceases to be in force earlier,
- and such an approval may, in accordance with section 31, be renewed for successive periods of 3 years.

List of approved veterinary services companies.

- 29**—(1) The Board shall keep a list of veterinary services companies in respect of which it has granted approvals.
- (2) The list shall be in the form prescribed in the regulations or in such other form as the Board determines.
- (3) Where the Board grants an approval, the Board shall cause to be entered in the list—
- (a) the name of the veterinary services company to which the approval relates; and
 - (b) particulars of the following matters:—
 - (i) the registered office of the company within Tasmania;
 - (ii) the place or places where the company proposes to carry on business;
 - (iii) the names and addresses of the members and officers of the company;
 - (iv) such other matters (if any) as the Board considers appropriate or as may be prescribed in the regulations for the purposes of this subsection.

(4) In addition to the particulars referred to in subsection (3) (b), the Board shall cause to be entered in the list particulars of the cancellation of an approval under section 49 (1) (c) and of the date of the cancellation.

(5) The Board may from time to time cause to be made in the list such alterations as it considers to be necessary.

(6) The Board may, if it considers it appropriate, cause a copy of the list at that time to be published in the *Gazette*.

(7) The list shall be made available at all reasonable times for inspection by any person at the office of the Board.

30—Where the list is published in the *Gazette*, the production of a copy of the *Gazette* purporting to contain a copy of the list is evidence in any proceedings of the existence of the approvals of the veterinary services companies indicated in the list and that no other such approvals exist and shall, unless the contrary is established, be evidence of those matters. Evidentiary provision with respect to the list.

31—(1) Subject to this section, a veterinary services company which holds an approval may, at any time before the expiry of the approval, apply to the Board for the renewal of the approval for a further period of 3 years. Renewal of approvals.

(2) An application by a veterinary services company under this section shall—

- (a) be in writing in a manner approved by the Board;
- (b) be made on behalf of the applicant by a person who is concerned in the management of the applicant;
- (c) specify—
 - (i) the name of the applicant;
 - (ii) the registered office of the applicant within Tasmania;
 - (iii) the place or places where the applicant carries on business; and
 - (iv) the names and addresses of the members and officers of the applicant;
- (d) contain such particulars relating to the provision by the applicant of veterinary services as the Board may require; and
- (e) be accompanied by the relevant fee.

(3) If the Board is not satisfied as to the particulars provided in an application under this section, the Board may serve on the applicant an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, with a statement in writing by a person who is concerned in the management of the applicant, containing such further particulars in relation to the application as the Board specifies.

(4) Where the Board serves an instrument under subsection (3) requiring the applicant to provide it with a statement of further particulars in respect of the application, the Board may decline to consider the application until the applicant has provided it with such a statement.

(5) Where a statement required under subsection (3) is provided in respect of an application for the renewal of an approval, the Board may refuse to renew the approval, and the requirement shall be deemed not to have been complied with until the Board is satisfied as to the particulars contained in the statement.

(6) Subject to subsection (7), where an application is made under subsection (1) for the renewal of an approval, the Board shall, if—

(a) the application is in accordance with this section and is accompanied by the fee referred to in subsection (2) (e); and

(b) the applicant has complied with any requirement under subsection (3) made in respect of the application,

renew the approval applied for, unless the application is withdrawn.

(7) The Board may refuse to renew the approval applied for if the applicant has contravened section 36.

(8) Subject to this Act, where an application for the renewal of an approval is made before the date on which the approval would, but for this subsection, have ceased to be in force (which date is, in this subsection, referred to as “the date of expiry”) and—

(a) the approval is renewed before the date of expiry, on the renewal of that approval, the approval shall be in force for a period of 3 years commencing on the date of expiry; or

(b) the approval is not renewed before the date of expiry and the application is not withdrawn before the date of expiry—

(i) the approval shall be deemed to continue to be in force on and from the date of expiry until the approval is renewed, the application is withdrawn, or the renewal is refused, whichever occurs first; and

(ii) on the renewal of the approval, the approval shall be in force for the remaining portion of the period of 3 years commencing on the date of expiry, and the renewal shall be expressed to have taken effect on and from that date.

(9) The renewal of an approval shall be—

(a) in writing; and

(b) sent by the Board to the veterinary services company by which the application for the renewal was made.

(10) Where, on an application under subsection (1) for the renewal of an approval, the Board refuses to renew the approval, the Board—

(a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and

(b) shall refund to the applicant the amount of the fee paid under subsection (2) (e), unless the applicant agrees in writing to the amount of the fee being held in credit for it.

32—The holder of an approval may, at any time, by notice in writing to the Board, inform the Board that it wishes to surrender the approval, and on receipt by the Board of the notice and the approval, the approval shall cease to be in force. Surrender of approval.

Division 2—Miscellaneous

33—(1) An approved veterinary services company shall not provide a veterinary service for a person or cause or permit a veterinary service to be so provided unless the provision of that service is performed on its behalf by a registered veterinary surgeon. Restrictions on provision of veterinary services by approved veterinary services companies.

(2) A veterinary services company which contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 50 penalty units.

Records to be kept by veterinary services companies.

34—(1) A veterinary services company shall—

(a) keep in a form and manner approved by the Board a record of—

- (i) the name and address of each person for whom it provides a veterinary service;
- (ii) the nature of the service provided for that person;
- (iii) the date on which that service is provided;
- (iv) the identity of each registered veterinary practitioner who performed that service; and
- (v) such other matters (if any) as the Board considers appropriate or as may be prescribed in the regulations for the purposes of this subsection; and

(b) preserve such a record for a period of 7 years.

(2) A veterinary services company shall—

(a) notify the Registrar in writing of the address of the place in Tasmania at which the records which it is required to keep under subsection (1) are kept or proposed to be kept—

- (i) if the company is providing veterinary services at the commencement of this Part—within 2 months after that commencement; or
- (ii) if it is not providing those services at the commencement of this Part—within 2 months after it commences to provide those services; and

(b) if the place at which the records are kept is subsequently changed to another place in Tasmania—notify the Board in writing of the address of the new place at which the records are kept within 14 days after the change takes place.

(3) A veterinary services company which fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 20 penalty units.

(4) This section does not apply so as to require the preservation of records—

(a) in respect of which the Board has notified a veterinary services company that preservation is not required; or

(b) of a veterinary services company which has gone into liquidation and which has been finally dissolved.

35—(1) Subject to subsection (2), the Board may serve on a veterinary services company an instrument in writing requiring it to provide the Board, within such period as is specified in the instrument or such further period as the Board may allow, a statement in writing by a person who is concerned in the management of the company containing particulars of the information in the records kept by the company under section 34, being a statement relating to such period as is specified in the instrument.

Board may require veterinary services companies to provide information from records kept under section 34.

(2) Except with the consent of a client or a person authorized by a client, information contained in a statement provided by a veterinary services company pursuant to an instrument under subsection (1) shall not include any clinical details of the symptoms, signs, diagnosis, or treatment of the patient.

(3) Where a veterinary services company on which an instrument is served under subsection (1) fails to—

(a) provide the Board with a statement as required by the instrument; or

(b) provide the Board with such a statement within such period as is specified in the instrument or such further period as the Board may allow,

the company is guilty of an offence and is liable on summary conviction to a penalty not exceeding 20 penalty units.

(4) A person who, in a statement provided by a veterinary services company pursuant to an instrument under subsection (1), makes a representation which is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding 10 penalty units.

(5) It is a defence to a charge under subsection (4) if it is proved that, at the time when the representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

36—(1) A veterinary services company shall not make an alteration to its memorandum or articles of association unless the proposed alteration has been submitted to, and approved by, the Board.

Alteration to memorandum or articles of association of veterinary services company.

(2) An alteration to the memorandum or articles of association of a veterinary services company made in contravention of subsection (1) has no force or effect.

Restrictions on the production, &c., to the National Companies and Securities Commission of case histories, &c.

37—(1) Notwithstanding anything in the *Companies (Tasmania) Code*, any other Code, or any enactment, the Commission or a member of the staff of the Commission is not entitled to require a veterinary services company to produce for the purposes of the inspection by it or him, to inspect, or take possession of—

(a) the case history or similar veterinary record of a patient for whom the company has provided a veterinary service (not being a record to which paragraph (b) applies); or

(b) any records kept by the company under section 34, unless the Supreme Court has made an order authorizing the Commission or that member to do so.

(2) The Supreme Court may, on the application of the Commission, make an order authorizing the Commission or a member of the staff of the Commission to do all or any of the acts mentioned in subsection (1).

(3) On the making of an order under subsection (2), the Supreme Court may make such orders, including an order relating to the payment of costs, as it thinks fit.

(4) In this section—

“Commission” means the National Companies and Securities Commission established by the Commission Act;

“Commission Act” means the *National Companies and Securities Commission Act 1979* of the Commonwealth;

“member of the staff of the Commission” means—

(a) an employee of the Commission;

(b) a person whose services are available to the Commission by virtue of arrangements made under section 24 (1) or (2) of the Commission Act; or

(c) a person engaged under section 25 (1) of the Commission Act.

Power of Board to establish committees with respect to veterinary services companies.

38—(1) The Board may, by instrument in writing, establish committees each of which comprises 2 members of the Board.

(2) The Board may delegate to a committee established under subsection (1) the exercise or performance of such of the powers and functions of the Board under this Part relating to veterinary services companies as are specified in the instrument establishing the committee.

(3) The instrument establishing a committee under subsection (1) may contain such conditions or limitations as to the exercise or performance of any of the powers or functions delegated to the committee, or as to time or circumstance, as are specified in the resolution.

(4) Notwithstanding the establishment of a committee under subsection (1) to exercise or perform any of the powers and functions of the Board referred to in subsection (2), the Board may continue to exercise or perform any of those powers and functions.

(5) Any act or thing done by or to a committee established under subsection (1) while acting in the exercise or performance of the powers and functions delegated to it in the instrument establishing the committee shall have the same force and effect as if the act or thing had been done by or to the Board and shall be deemed to have been done by or to the Board.

39—(1) Notwithstanding any law to the contrary, where a registered veterinary surgeon performs a veterinary service on behalf of a veterinary services company for a person, that veterinary surgeon is personally liable to that person in respect of the performance of that veterinary service or any matter or thing arising out of the performance of that veterinary service, whether the contract for the carrying out of that veterinary service was entered into between that veterinary surgeon and that person or not.

Liability of registered veterinary surgeons for veterinary services performed on behalf of veterinary services companies.

(2) Where more than one registered veterinary surgeon performs a veterinary service on behalf of a veterinary services company for a person, those veterinary surgeons are jointly and severally personally liable to that person as provided in subsection (1).

(3) Where one or more registered veterinary surgeons are, pursuant to subsection (1) or (2), personally liable to a person in respect of the performance of a veterinary service on behalf of a veterinary services company or any matter or thing arising out of the performance of such a veterinary service, nothing in either of those subsections prevents that person from bringing an action in respect of the performance of that veterinary service or that matter or thing against the veterinary services company in addition to, or instead of, bringing the action against one or more of those veterinary surgeons.

Offences by
veterinary
services
companies.

40—(1) Where an offence against this Act is committed by a veterinary services company, every person concerned in the management of the company shall be deemed also to have committed the offence and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(2) A person referred to in subsection (1) may be convicted of an offence under that subsection whether or not the veterinary services company is charged with or convicted of the offence.

PART VI

DISCIPLINARY PROCEEDINGS

Interpretation of
Part VI.

41—(1) In this Part—

“defendant” means a person upon whom a notice is served under section 44;

“inquiry” means an inquiry under this Part;

“locum tenens” means a registered veterinary surgeon appointed by another registered veterinary surgeon to work with or on behalf of the last-mentioned person.

(2) Without limiting the generality of the meaning of the expression “misconduct in a professional respect” in this Part, a person registered under this Act is guilty of misconduct in a professional respect if—

(a) he contravenes or fails to comply with any provision of the regulations;

(b) where a condition, limitation, or restriction is imposed on him under section 46 (2) (d), he contravenes or fails to comply with that condition, limitation, or restriction;

(c) except where he is acting as a duly appointed *locum tenens*, or as an employee of another registered veterinary surgeon or of a personal representative pursuant to section 24, he practises veterinary surgery under a name other than—

(i) his own name;

- (ii) a business name consisting of his name and the name of any other person in association with whom he so practises, without any addition; or
- (iii) a name approved by the Board;
- (d) he permits the use of his name in connection with the practice of veterinary surgery at premises at which he or his duly appointed *locum tenens* is not in regular attendance during the hours that those premises are open for that practice;
- (e) he causes or permits any person to contravene or fail to comply with a provision of Part III;
- (f) he uses or advertises in any way a qualification or title relating to his competence to practise veterinary surgery that is not shown in the entry relating to him in the register;
- (g) he carries out, or causes or permits his duly appointed *locum tenens* to carry out, any veterinary services at premises, or with equipment, instruments, materials, or drugs, which are unhygienic or otherwise unsuitable for the purpose of carrying out any such services; or
- (h) he is convicted of an offence under any law relating to the welfare of, or the prevention of cruelty to, animals.

(3) The regulations may prescribe conduct other than that referred to in subsection (2) as misconduct in a professional respect.

42—(1) A complaint may be made to the Board by any person against a registered veterinary surgeon or registered veterinary specialist on any ground specified in section 46 (1). Complaints against registered persons.

(2) A complaint under subsection (1) shall—

- (a) be in writing;
- (b) contain particulars with respect to the matter complained of; and
- (c) identify the person against whom the complaint is made and the person making the complaint.

43—(1) A complaint may be made to the Board by any person that a person formerly registered under this Act had, during the period of 3 years immediately preceding the making of the complaint, as a person so registered been guilty of misconduct in a professional respect. Complaints against persons formerly registered under this Act.

(2) A complaint made under subsection (1) shall be made in the same manner as that provided for a complaint under section 42.

Inquiries relating to complaints.

44—(1) The Board shall, if it is of the opinion that as a result of a complaint under section 42 or 43, or as a result of its own investigation, a registered person or a person formerly so registered should be required to show cause why he should not be dealt with under this Part, serve on the person complained against a notice in accordance with subsection (2).

(2) A notice served under subsection (1) shall—

(a) notify the defendant that the Board will hold an inquiry in accordance with section 45 into a matter in respect of which he is required to show cause why the matter should not be dealt with under this Part;

(b) give particulars of the matter; and

(c) subject to subsection (3), specify the time and place for the holding of the inquiry.

(3) The time specified under subsection (2) (c) shall not, without the consent of the defendant, be less than 14 days after the date on which the relevant notice is served.

(4) At the time and place specified in a notice served under this section, or such later time and at such place as may be fixed by the Board and notified by notice in writing served on the defendant, the Board shall hold an inquiry into the matter in respect of which the defendant is required to show cause.

(5) An inquiry may be held in the absence of the defendant if the Board is satisfied that the defendant was served in accordance with this section with a notice of the time and place of the inquiry.

(6) Where the Board is satisfied that a complaint made under sections 42 or 43 is frivolous or vexatious, it shall dismiss the complaint forthwith.

Procedure at inquiries.

45—(1) The Board may, by notice in writing served on any person, summon that person to give evidence at an inquiry held under this Part or to produce documents or records in his possession or under his control at the inquiry.

(2) Any person who, without reasonable excuse, fails to comply with a summons served on him under subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

(3) For the purposes of hearing and determining an inquiry before it, the Board may take evidence on oath or affirmation and, for those purposes, the chairman of the Board may administer an oath or affirmation.

(4) Any person who, without reasonable excuse, refuses to answer any questions put to him by the Board in the course of an inquiry held under this Part is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units.

(5) The Board may join any person as a party to proceedings in an inquiry held by the Board.

(6) A party to proceedings in an inquiry held by the Board is, at that inquiry, entitled to tender evidence to the Board and to examine any other person who tenders evidence in that inquiry.

(7) A party to proceedings in an inquiry held by the Board is entitled to be represented by a barrister or a legal practitioner or by any other advocate or agent.

(8) A party to proceedings in an inquiry before the Board is entitled to summon, at his own expense, any witness provided that the summoning of such a witness shall not, in the opinion of the Board, cause an unreasonable delay in those proceedings.

(9) In an inquiry held by the Board—

- (a) the procedure of the Board is, subject to this Part, within the discretion of the Board;
- (b) the Board shall observe the rules of natural justice;
- (c) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matter before the Board permits;
- (d) the Board may admit any relevant evidence notwithstanding that the evidence would not be admissible in a court of law;
- (e) the Board may inform itself on any matter as it thinks fit.

(10) The Board may appoint a barrister or legal practitioner to assist it in any proceedings in an inquiry under this Part.

(11) The Board may adjourn its proceedings from time to time or from place to place and may determine an inquiry notwithstanding that a party to the proceedings has failed to appear before the Board at the time and place fixed for the hearing.

(12) A decision of a majority of the members of the Board shall be a decision of the Board.

(13) The Board may make such order as to costs as it thinks necessary.

(14) The Board shall give its decision in respect of an inquiry in such manner as it may determine.

(15) The Registrar shall cause a copy of the Board's decision in respect of an inquiry to be served on each of the parties to the proceedings within 7 days of its determination of the inquiry.

Determination of Board.

46—(1) Where, after holding an inquiry, the Board finds that a registered veterinary surgeon or registered veterinary specialist—

- (a) is no longer entitled to be so registered on the ground that—
 - (i) when he applied for registration he made a false or misleading statement; or
 - (ii) he no longer has, or is no longer entitled to have, the diploma, certificate, or other academic qualification by virtue of which he is registered;
- (b) has been convicted in this State of a crime or an offence which is punishable by imprisonment for a term of not less than 6 months or has been convicted elsewhere than in the State of an offence which, if committed in this State, would be a crime or an offence so punishable;
- (c) has been convicted of an offence under the *Poisons Act 1971*;
- (d) is guilty of habitual drunkenness or of addiction to a drug which, in the opinion of the Board, adversely affects his ability to practise;
- (e) has become liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;

- (f) is physically incapable of practising veterinary surgery or rendering certain veterinary services;
- (g) is guilty of misconduct in a professional respect; or
- (h) has had a finding against him made by a disciplinary authority exercising jurisdiction in accordance with a law of another State or a Territory of the Commonwealth, or of a place outside the Commonwealth, being a law relating to the practice of veterinary surgery to the effect that he is guilty of misconduct in relation to the practice by him of veterinary surgery in that other State, or that Territory or place, and that misconduct would, if committed in this State, have justified the Board in making an order in respect of him under this section,

the Board shall make such determination or determinations specified in subsection (2) as it considers appropriate in the circumstances, but, if the Board does not so find, it shall dismiss the complaint.

(2) For the purposes of subsection (1), the following determinations are specified:—

- (a) a determination suspending the registration of a person registered under this Act for a period not exceeding 12 months;
- (b) a determination cancelling the registration of that person;
- (c) a determination imposing a fine not exceeding \$5 000;
- (d) a determination imposing on that person a condition, limitation, or restriction subject to which he may continue to practise veterinary surgery.

(3) Notwithstanding the provisions of subsection (1), where the Board finds that a registered veterinary surgeon or registered veterinary specialist is guilty of misconduct in a professional respect but the Board is not satisfied that he is, by reason of that misconduct, unfit to continue to practise veterinary surgery, the Board may caution or reprimand him.

(4) The Board shall notify its decision under this section in writing to the defendant and, where the Board makes a determination under subsection (1), it shall include in that notification a statement of its reasons for the order.

(5) The suspension or cancellation of the registration of a person under this section shall not take effect—

(a) until the expiration of the period of 14 days after notice of the order of the Board has been served on that person; or

(b) where the person lodges an appeal under section 53 before the expiration of the period referred to in paragraph (a), until the appeal is dealt with or withdrawn.

(6) While the registration of a person is suspended under this section, he shall, for the purposes of Part IV, be deemed not to be registered.

(7) Where the Board cancels the registration of a person under this section, the Board shall remove the entry in the register relating to that person in respect of that registration.

(8) Where the Board cancels the registration of a person under this section, it may fix a time before which that person is not eligible to make application to be registered and, where any such time is fixed, the Board is not obliged to consider any such application before that time.

(9) Where, as a result of a complaint made under section 43, the Board could have made a determination referred to in subsection (2) (b) if the person against whom the complaint was made had, at the time of the hearing, been registered, it may, notwithstanding that that person's registration has been cancelled, fix a time before which that person is not eligible to make an application to be registered again and, where any such time is fixed, the Board is not obliged to consider any application for registration made by that person before that time.

(10) Where a person—

(a) fails to comply with a determination made under subsection (2) (c); or

(b) fails to comply with, or contravenes, a determination made under subsection (2) (d),

the Board may suspend or cancel the registration of that person without holding a further inquiry.

47—(1) A person whose registration is suspended or cancelled as a result of a determination made under section 46 shall, within 14 days after that suspension or cancellation takes effect, surrender any certificate of registration issued to him under section 21 by delivering that certificate to the Board.

Surrender of certificates.

(2) A person who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 2 penalty units.

48—(1) Where the Board is of the opinion that as a result of a complaint made under section 42 (1) or 43 (1) or as a result of its own investigation a person registered or formerly registered is required to show cause as to why he should not be dealt with under the provisions of this Part, but that the matter which gave rise to the complaint or investigation may not be sufficiently serious to warrant the holding of an inquiry, it may serve on that person a notice in writing requiring him to appear before it at a specified date, time, and place for the purpose of enabling him to give an explanation of the matter.

Informal proceedings.

(2) The date specified in a notice referred to in subsection (1) shall not be less than 14 days after the date on which the relevant notice is served.

(3) After hearing an explanation of a matter to which a notice served under subsection (1) relates, the Board—

(a) if it is satisfied that he is guilty of the conduct to which the matter relates and that the matter referred to in subsection (1) is not sufficiently serious to warrant the holding of an inquiry, may caution him; or

(b) if it is not satisfied that he is guilty of such conduct, may dismiss the complaint.

(4) Where, in the course of hearing an explanation of a matter to which a notice served under subsection (1) applies, it becomes apparent to the Board that the matter is sufficiently serious to warrant the holding of an inquiry it may discontinue the hearing and proceed to hold an inquiry.

(5) Where a person fails to comply with a notice served on him in accordance with subsection (1), the Board may proceed to hold an inquiry.

Disciplinary powers of Board in respect of approved veterinary services companies.

49—(1) Where the Board makes a determination under section 46 in relation to a person registered under this Act who is a member or officer of an approved veterinary services company, the Board may—

- (a) order the company to pay a fine of such amount, not exceeding \$5 000, as it thinks proper or order it to pay such a fine and require it to give to the Board an undertaking under this section;
- (b) order that the company give to the Board an undertaking under this section; or
- (c) order the cancellation of any approval held by the company under Part V and the removal of its name from the list.

(2) An undertaking given to the Board under this section is an undertaking—

- (a) to comply, during such period as the Board specifies, with such conditions as it may specify; and
- (b) that a person concerned in the management of the relevant approved veterinary services company will, at any time within that period, appear before the Board when required by it to do so.

(3) A condition referred to in subsection (2) may, without limiting the generality of that subsection, be a condition that the Board considers necessary or desirable to impose, in the public interest, on the relevant veterinary services company.

(4) Where the Board is satisfied that an approved veterinary services company has failed to comply with an undertaking given by it under this section, the Board may—

- (a) exercise in relation to that company any of the powers under this section which it could have exercised if it had not required the company to enter into the undertaking; or
- (b) require the terms of the undertaking to be varied.

(5) Where the Board requires an approved veterinary services company to enter into an undertaking under this section, or requires the terms of such an undertaking to be varied, and, within such time as the Board may allow, that undertaking is not given or so varied, the Board may exercise, in relation to the company, any of the powers under this section it could have exercised if it had not required the undertaking to be entered into or varied.

(6) Where the Board exercises any of its powers under this section in respect of an approved veterinary services company, the Board may, by action in a court of competent jurisdiction, recover from the company, as a debt due to the Board, any legal and other costs and any out-of-pocket expenses incurred by it in the exercise of the power.

50—(1) Where the Board proceeds to determine whether it should exercise any of the powers conferred on it by section 49 in respect of an approved veterinary services company, the following provisions apply:—

Procedure on exercising disciplinary powers under section 49.

- (a) the Board shall, by notice served on the company, require the company to appear before the Board;
- (b) that notice shall state that the Board intends so to proceed and specify the matter in relation to which it so intends to proceed;
- (c) the company may appear before the Board by a member or an officer of the company authorized for that purpose by the company.

(2) A notice under subsection (1) (a) requiring an approved veterinary services company to appear before the Board shall be served at least 14 days before the day on which the company is required by the notice so to appear.

(3) If—

- (a) when served with a notice under subsection (1) (a), an approved veterinary services company fails to appear in accordance with the notice by a person to whom subsection (1) (c) applies; or
- (b) having so appeared, the person appearing on behalf of the company absents himself from the hearing of the matter to which the notice relates,

the Board may proceed as if the person appearing on behalf of the company were present.

(4) For the purposes of any proceedings under this section, the Board shall have and may exercise all the powers referred to in section 45 as if the proceedings were an inquiry under section 44.

(5) Where the Board makes an order under section 49 (1), the Board shall cause a copy of that order to be served on the company.

Effect of removal
from the list.

51—Where the name of a veterinary services company is removed from the list pursuant to section 49 (1) (c), the approval granted to it under Part V that was in force immediately before its name was so removed ceases to have effect, but again has effect if and when its name is restored to the list pursuant to section 52.

Restoration to
the list.

52—(1) Where, under section 49, the Board cancels the approval held by a veterinary services company and removes the name of that company from the list, it may fix a time before which that company is not eligible to make application for approval and, where any such time is fixed, the Board is not obliged to consider any such application before that time.

(2) An application under subsection (1) for approval shall be made on behalf of the applicant by a person who is concerned in the management of the applicant.

(3) Where a veterinary services company makes an application under subsection (1), the Board may require a person who is concerned in the management of the company to attend personally before the Board for the purpose of proving facts on which the application depends.

PART VII

APPEALS

Appeals.

53—(1) A person aggrieved by—

- (a) the refusal of the Board to register that person under section 17, 18, 19, or 20;
- (b) the refusal of the Board to grant an approval to that person under section 27;
- (c) the refusal of the Board to renew an approval under section 31;
- (d) the neglect or delay of the Board to give a decision in respect of an application under section 17, 18, 26, or 31 within 60 days after the date of receipt by the Board—
 - (i) of such an application;

(ii) of any further information required to be provided under section 17 (3) (a) or 18 (3) (b);

(iii) of any further particulars required to be provided under section 26 (2) or section 31 (3);

(e) the cancellation of an entry in the register pursuant to section 22;

(f) by a determination of the Board under section 46, may, within the prescribed period, appeal to a magistrate in the prescribed manner.

(2) A veterinary services company aggrieved by an order of the Board under section 49 may, within the prescribed period, appeal to the Supreme Court.

54—(1) The provisions of section 45 apply to the hearing of an appeal under section 53 as if it were an inquiry under Part VI.

Hearing and determination of appeal under section 53.

(2) On the hearing of an appeal made by a person under section 53 (1), the magistrate, unless he dismisses the appeal, may—

(a) in respect of an appeal under section 53 (1) (a), confirm the refusal to register, or order the Board to grant the registration of, the person;

(b) in respect of an appeal under section 53 (1) (b), confirm the refusal to grant, or order the Board to grant, the approval;

(c) in respect of an appeal under section 53 (1) (c), confirm the refusal to grant, or order the Board to grant, the renewal of the approval;

(d) in respect of an appeal under section 53 (1) (d), order that the Board gives its decision within a specified period;

(e) in respect of an appeal under section 53 (1) (e), confirm the cancellation of the entry in the register or order that the Board revokes the cancellation and that the entry in the register be effective as if the cancellation had not been made; or

(f) in respect of an appeal under section 53 (1) (f), confirm or quash the order of the Board, or substitute for that order any other order that the Board might have made.

(3) On the hearing of an appeal under section 53 (2), the Supreme Court, unless it dismisses the appeal, may, by order, quash or vary the decision to which the appeal relates or make such decision in the case as the Board could have made.

(4) The Board shall make such entries in the register or list as may be necessary to give effect to a decision of the magistrate under subsection (2) or a decision of the Supreme Court under subsection (3).

PART VIII

MISCELLANEOUS

Evidentiary
certificates.

55—A document purporting to be a certificate signed by the Registrar and stating that a person specified in that certificate—

(a) was or was not, on a day or during a period specified in that certificate, registered; or

(b) was, on a day or during a period specified in that certificate, a person whose registration was suspended or cancelled,

is admissible in evidence in any legal proceedings (including proceedings under Part VI) and is evidence of the matters specified in the certificate.

Service of
documents.

56—(1) Where under this Act a document, notice, or other instrument is required or authorized to be served on a person, that document, notice, or instrument may be served—

(a) by delivering it to the person personally;

(b) by sending it by registered post to the person's place of residence or employment; or

(c) in the case of a veterinary services company—

(i) by delivering it to the secretary of the company personally;

(ii) by leaving it at the registered office of the company or at the place or principal place of business of the company in Tasmania with a person apparently employed there, being a person who has, or apparently has, attained the age of 16 years; or

(iii) by sending it by registered post to the registered office of the company or to the place or principal place of business of the company in Tasmania.

(2) A reference in subsection (1) (c) to the registered office of a veterinary services company includes a reference to a registered office that is outside Tasmania.

(3) The provisions of this section are in addition to the provisions of section 528 of the *Companies (Tasmania) Code*.

57—(1) All fees under this Act may be recovered as debts ^{Fees.} due to the Board.

(2) All fees under this Act, except examination fees, shall be paid into the Consolidated Fund.

(3) Examination fees shall be at the disposal of the Board for meeting the expenses of conducting examinations.

58—(1) A person who makes a statement or representation that to his knowledge is false or misleading— ^{False and misleading statements.}

(a) in or in relation to any application under this Act;

(b) in a document or statement provided in support of such an application;

(c) in a complaint or written submission made under Part VI;

(d) in any proceedings under Part VI; or

(e) with respect to the exercise by an inspector of the powers referred to in section 10 (2),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding 50 penalty units.

(2) It is a defence to a charge under subsection (1) if it is proved that, at the time when the statement or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

59—(1) A registered veterinary surgeon, a registered veterinary specialist or, subject to subsection (2), a person exempted under section 13 is entitled to sue in a court of competent jurisdiction for the recovery of his fees or other remuneration for veterinary services performed by him on his own account. ^{Entitlement to sue for fees.}

(2) Subsection (1) does not apply to a person exempted under section 13 if any term or condition of that exemption prohibits him from charging any fee or remuneration for veterinary services performed by him.

(3) An approved veterinary services company is entitled to sue in a court of competent jurisdiction for the recovery of its fees or other remuneration for veterinary services rendered in its name or on its behalf by a registered veterinary surgeon.

Regulations.

60—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1), regulations may be made for or with respect to—

(a) the manner in which applications for registration may be made;

(b) fees payable in respect of examinations arranged by the Board;

(c) the issue and use of certificates of registration;

(d) the kinds of particulars to be entered, and the kinds of entries to be made, in the register or list.

(3) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding 10 penalty units and, in the case of a continuing offence, a further penalty not exceeding 1 penalty unit for each day during which the offence continues.

Transitional and savings provisions.

61—The provisions set out in Schedule 3 have effect with respect to transitional and savings provisions.

Repeal.

62—The *Veterinary Act 1918* is repealed.

SCHEDULE 1

Section 4 (8)

PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE BOARD

1—A person who is of or above the age of 70 years shall not be appointed as a member, or to act in the office of a member under clause 7. Age of members.

2—(1) A member shall, subject to this Act, be appointed for such term, not exceeding 3 years, as is specified in the instrument of his appointment. Terms of office.

(2) A member shall, if otherwise qualified, be eligible for re-appointment for such term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

3—(1) Where, by or under any Act, provision is made requiring the holder of an office specified in that provision to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member, or from accepting and retaining any remuneration payable to a member under clause 4. Provisions relating to members.

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

4—Each 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 him. Remuneration of members.

5—The provisions of the *Tasmanian State Service Act 1984* shall not apply to or in respect of the appointment of a member, and a member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office. Tasmanian State Service Act 1984 not to apply.

6—The members shall elect one of their number to be chairman of the Board for the term of his office as member and another of their number to be deputy chairman of the Board for the term of his office as member. Election of chairman and deputy chairman.

7—(1) The Minister may appoint a person or a registered veterinary surgeon, as the case may require, to act in the office of a member other than the chairman while that member is absent from his office through illness or any other cause. Appointment of substitute to act during absence of member.

(2) A member shall be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 9 or if he is acting in the office of the chairman.

(3) If the chairman is absent from his office through illness or any other cause, the members shall elect one of their number to be chairman during that absence.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

Vacation of
office.

8—(1) The office of a member becomes vacant—

- (a) if he dies during the term of that office;
- (b) when he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Board for his absence from those meetings;
- (d) when he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
- (e) when he is convicted in the State of an offence which is punishable by imprisonment for 6 months or upwards, or if he is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable;
- (f) when he is convicted of an offence against this Act;
- (g) when he is convicted of an offence against the *Poisons Act 1971*;
- (h) when he ceases to be a registered veterinary surgeon;
- (i) when he resigns his office by writing under his hand addressed to the Minister and the Minister accepts the resignation;
- (j) when he is removed from office by the Minister under subclause (2); or
- (k) when he attains the age of 70 years.

(2) The Minister may remove a member from office for misbehaviour or incompetence.

Filling of casual
vacancies.

9—On the occurrence of a vacancy in the office of a member, the Minister may appoint a person or a registered veterinary surgeon, as the case may require, to the vacant office for the balance of his predecessor's term of office.

Validity of
proceeding, &c.

10—(1) No act or proceeding of the Board or of any person acting pursuant to any direction of the Board is invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the office of a member.

(2) All acts and proceedings of the Board or of any person acting pursuant to any direction of the Board are, notwithstanding the subsequent discovery of any defect in the appointment of any member or that any person was disqualified from acting as, or incapable of being, a member, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Board had been fully constituted.

11—In any proceedings by or against the Board, unless evidence is given Presumptions. to the contrary, no proof shall be required of—

- (a) the constitution of the Board;
 - (b) any resolution of the Board;
 - (c) the appointment of any member; or
 - (d) the presence of a quorum at any meeting of the Board.
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SCHEDULE 2

Section 4 (9)

PROVISIONS WITH RESPECT TO MEETINGS OF THE BOARD

Ordinary
meetings of the
Board.

1—(1) At least 2 ordinary meetings of the Board, convened by the Registrar at the request of the chairman, shall be held in each calendar year.

(2) The Registrar shall give all members at least 14 days' notice in writing of an ordinary meeting.

(3) A notice referred to in subclause (2) shall include an agenda of business intended to be dealt with at the meeting.

Special meetings
of the Board.

2—(1) The Registrar shall, at the request of the chairman or of 2 members, convene a special meeting.

(2) The Registrar shall give all members at least 48 hours' notice in writing of a special meeting.

(3) A notice referred to in subclause (2) shall include an agenda of business intended to be dealt with at the meeting.

Procedure at
meetings.

3—(1) Three members shall form a quorum at any duly convened meeting of the Board.

(2) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.

(3) Questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

Chairman.

4—(1) The chairman shall preside at all meetings of the Board at which he is present.

(2) If the chairman is not present at a meeting of the Board, the deputy chairman shall, if he is present, preside at that meeting.

(3) If the chairman and the deputy chairman are not present at a meeting of the Board, a member elected by the members present shall preside at that meeting.

(4) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Minutes.

5—The Board shall cause full and accurate minutes to be kept of its proceedings at meetings.

General
procedure.

6—The procedure for the calling of, and for the conduct of business at, meetings of the Board shall, subject to any procedure that is specified in this Schedule, be as determined by the Board.

SCHEDULE 3

Section 61

TRANSITIONAL AND SAVINGS PROVISIONS

1—In this Schedule, “former Board” means the Veterinary Board constituted under the repealed Act. Interpretation.

2—(1) The Veterinary Register of Tasmania kept under section 14 of the repealed Act shall, on and after the commencement of this Act, be the register for the purposes of this Act. Registration, &c.

(2) A person who, immediately before the commencement of this Act, was registered under section 14 of the repealed Act shall, on and after that commencement, be deemed to be registered under this Act.

(3) A person who, immediately before the commencement of this Act, was entitled to practise as a veterinary surgeon under the repealed Act shall, on and after that commencement, be deemed to be entitled to practise as a veterinary surgeon under this Act.

3—(1) Where an application for registration has been made under the repealed Act but has not been determined by the former Board immediately before the commencement of this Act, the former Board shall determine that application as if this Act had not been enacted. Applications, appeals, and inquiries.

(2) Where an inquiry under the repealed Act has commenced but has not concluded immediately before the commencement of this Act, that inquiry shall be continued and concluded as if this Act had not been enacted.

(3) Where an appeal under section 19 of the repealed Act has been instituted but has not been determined immediately before the commencement of this Act, that appeal shall be continued and determined as if this Act had not been enacted.

4—All acts, matters, and things done, or omitted to be done by, or done or suffered in relation to, the former Board immediately before the commencement of this Act, shall, on and after that commencement, have the same force and effect as if they had been done by, or suffered in relation to, the Board. General savings provisions.

