

Authorised Version No. 033
Veterinary Practice Act 1997
No. 58 of 1997

Authorised Version incorporating amendments as at
1 July 2015

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Veterinary Practice Act 1997

No. 58 of 1997

Authorised Version incorporating amendments as at
1 July 2015

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

- (a) to protect the public by providing for the registration of veterinary practitioners and investigations into the professional conduct and fitness to practise of registered veterinary practitioners; and
- (b) to establish the Veterinary Practitioners Registration Board of Victoria and the Veterinary Practitioners Registration Board Fund; and
- (c) to repeal the **Veterinary Surgeons Act 1958**; and
- (d) to make consequential amendments to other Acts; and
- (e) to provide for other related matters.

2 Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

(3) If a provision referred to in subsection (2) does not come into operation before 1 December 1998, it comes into operation on that day.

3 Definitions

In this Act—

* * * * * S. 3 def. of *Administrative Appeals Tribunal* repealed by No. 101/1998 s. 34(a).

* * * * * S. 3 def. of *alcoholic* repealed by No. 43/2010 s. 49(1)(a) (as amended by No. 29/2011 s. 3(Sch. 1 item 86.2)).

* * * * * S. 3 def. of *Australian legal practitioner* inserted by No. 71/2014 s. 24, repealed by No. 71/2014 s. 38.

Board means the Veterinary Practitioners Registration Board of Victoria established under Part 6;

* * * * * S. 3 def. of *drug-dependent person* repealed by No. 43/2010 s. 49(1)(a) (as amended by No. 29/2011 s. 3(Sch. 1 item 86.2)).

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Fund means the Veterinary Practitioners Registration Board Fund established under Part 7;

S. 3 def. of *interstate right to practise* inserted by No. 35/2009 s. 109(1).

interstate right to practise means a right to carry on or engage in veterinary practice in another State or a Territory, being the equivalent of general registration under section 6;

S. 3 def. of *interstate veterinary registration authority* inserted by No. 35/2009 s. 109(1).

interstate veterinary registration authority means a person or body conferred with the function or power under a law of another State or a Territory to confer or grant a right to carry on or engage in veterinary practice in that State or Territory, being the equivalent of registration as a veterinary practitioner under this Act;

S. 3 def. of *lawyer* amended by No. 17/2014 s. 160(Sch. 2 item 102).

lawyer means an Australian lawyer;

S. 3 def. of *principal place of residence* inserted by No. 71/2014 s. 24.

principal place of residence includes sole place of residence;

register means the register of veterinary practitioners kept under Part 2;

S. 3 def. of *registered medical practitioner* amended by No. 97/2005 s. 182(Sch. 4 item 53.1), substituted by No. 13/2010 s. 51(Sch. item 58.1).

registered medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

registered veterinary practitioner means—

- (a) a person registered under Part 2 (whether or not the registration of that person is general or specific); or
- (b) a person deemed to be registered by operation of section 3A;

S. 3 def. of *registered veterinary practitioner* substituted by No. 35/2009 s. 109(2).

Secretary means the person who is, for the time being, the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Environment and Primary Industries;

S. 3 def. of *Secretary* inserted by No. 103/2003 s. 45(a), amended by Nos 108/2004 s. 117(1) (Sch. 3 item 214.1), 70/2013 s. 4(Sch. 2 item 54).

severe substance dependence has the same meaning as in section 5 of the **Severe Substance Dependence Treatment Act 2010**;

S. 3 def. of *severe substance dependence* inserted by No. 43/2010 s. 49(1)(b) (as amended by No. 29/2011 s. 3(Sch. 1 item 86.2)).

unprofessional conduct means all or any of the following—

- (a) professional conduct which is of a lesser standard than that which the public might reasonably expect of a registered veterinary practitioner;
- (b) professional conduct which is of a lesser standard than that which might reasonably be expected of a veterinary practitioner by his or her peers;
- (c) professional misconduct;

S. 3 def. of *unprofessional conduct* amended by No. 103/2003 s. 45(b).

- (d) infamous conduct in a professional respect;
- (e) providing veterinary services of a kind that are excessive, unnecessary or not reasonably required for an animal's well-being;
- (f) a finding of guilt of—
 - (i) an indictable offence in Victoria, or an equivalent offence in another jurisdiction;
 - (ii) an offence which, in the opinion of the Board, makes the veterinary practitioner unfit to be a registered veterinary practitioner;
 - (iii) an offence under this Act or the regulations;
 - (iv) an offence as a veterinary practitioner under any other Act or regulations;
- (g) influencing or attempting to influence the conduct of a veterinary practice in such a way that an animal's well-being may be compromised;
- (h) the contravention of or failure to comply with a condition, limitation or restriction on the registration of a veterinary practitioner imposed by or under this Act;

veterinary practice means the practise of veterinary surgery and veterinary medicine.

3A Deemed general registration

- (1) For the purposes of this Act, a person who holds an interstate right to practise is deemed to be registered under this Act as a veterinary practitioner with general registration.
- (2) The general registration referred to in subsection (1) is subject to conditions, limitations or restrictions that are the same as those that apply to the person's interstate right to practise.

S. 3A
inserted by
No. 35/2009
s. 110.

3B Deemed specialist endorsement

For the purposes of this Act, a veterinary practitioner who holds an interstate right to practise that provides (by endorsement or otherwise) that the practitioner is qualified to practise as a veterinary specialist in a branch of veterinary surgery or medicine is deemed—

- (a) to be a registered veterinary practitioner under this Act with general registration; and
- (b) to have been granted an endorsement under section 8 on that general registration to the effect that the practitioner is qualified to practise as a veterinary specialist in that branch of veterinary surgery or medicine.

S. 3B
inserted by
No. 35/2009
s. 110.

PART 2—REGISTRATION

Division 1—Procedure for obtaining registration

4 Application for registration

S. 4(1)
substituted by
Nos 35/2009
s. 111, 71/2014
s. 25.

- (1) Subject to subsection (1A), only the following persons may apply for registration as a veterinary practitioner under this Part—
- (a) in the case of an application for general registration under section 6—
 - (i) a natural person whose principal place of residence is in Victoria;
 - (ii) a natural person whose principal place of residence will be in Victoria while practising as a veterinary practitioner;
 - (b) in the case of an application for specific registration under section 7 or non-practising registration under section 7A, a natural person.

S. 4(1A)
inserted by
No. 35/2009
s. 111 (as
amended by
No. 48/2010
s. 47).

- (1A) A veterinary practitioner—
- (a) who is a registered veterinary practitioner by the operation of section 3A; and
 - (b) whose principal place of residence will be in Victoria after the expiry of the practitioner's current annual registration period for the practitioner's interstate right to practise; and
 - (c) who intends to carry on veterinary practice after expiry of that registration period—
- must apply for registration in Victoria before the expiry of that registration period.

(1B) A veterinary practitioner who—

- (a) is a registered veterinary practitioner by the operation of section 3A; and
- (b) is not required to apply for registration under Part 2—

S. 4(1B)
inserted by
No. 35/2009
s. 111 (as
amended by
No. 48/2010
s. 47).

is not required to pay a fee for registration in Victoria.

(2) An application must—

- (a) be in writing; and
- (b) contain the prescribed information; and
- (c) be accompanied by evidence of the qualifications which the applicant claims entitle him or her to the type of registration applied for; and
- (d) be accompanied by the fee determined by the Board.

(3) The Board—

- (a) may require the applicant to provide further information or material in respect of the application; and
- (b) may require that the information in the application be verified by a declaration under section 107 of the **Evidence (Miscellaneous Provisions) Act 1958**; and
- (c) may require proof of identity of the person making the application.

S. 4(3)(b)
amended by
No. 69/2009
s. 54(Sch. Pt 2
item 54).

5 Qualifications for general registration

- (1) A person is qualified for general registration as a veterinary practitioner if that person—

- (a) has been awarded a degree in veterinary science or medicine accredited by the Board that is from a tertiary institution recognised by the Board; or
 - (b) in the opinion of the Board, has a qualification that is substantially equivalent or is based on similar competencies to a degree in veterinary science or medicine accredited by the Board; or
 - (c) has passed a qualifying examination conducted by or on behalf of the Board; or
 - (d) has a qualification that is recognised in another State or Territory of the Commonwealth for the purposes of undertaking work of a similar nature to that which a person holding a qualification to which paragraph (a), (b) or (c) applies is qualified to undertake.
- (2) Despite subsection (1), if the Board is satisfied that an applicant would not be able to provide the standard of veterinary services ordinarily required in Victoria because the applicant has not practised as a veterinary practitioner within the 3 years preceding the application it may refuse to grant general registration unless the applicant undertakes further training approved by the Board.

6 General registration

- (1) The Board must grant general registration as a veterinary practitioner to an applicant if—
- (a) the applicant is qualified for registration under section 5; and
 - (ab) the Board is satisfied that the applicant's principal place of residence is in Victoria or will be in Victoria while the applicant practises as a veterinary practitioner; and

S. 6(1)(ab)
inserted by
No. 35/2009
s. 112(1).

- (b) there are no grounds under subsection (2) under which the Board may refuse to grant registration to the applicant; and
 - (c) the circumstances are such that section 7 does not apply; and
 - (d) the applicant has paid the fee determined by the Board under section 4(2)(d).
- (1A) For the purposes of subsection (1)(ab), the Board must have regard to—
- (a) whether the applicant's residence in Victoria is the applicant's sole residence; and
 - (b) every place of residence of the applicant in Australia.
- (1B) Without limiting this Part, the Board must refuse to grant registration as a veterinary practitioner to an applicant if it is satisfied that—
- (a) the applicant has applied for and been refused an interstate right to practise; and
 - (b) the basis on which the applicant was refused that right has not changed as at the time of the applicant's application under this Act.
- (1C) Without limiting this Part, the Board must also refuse to grant general registration to an applicant who, under a law of another State or a Territory, has been disqualified from applying, or is not entitled to apply, for a right to carry on or engage in veterinary practice in that State or Territory, being the equivalent of registration as a veterinary practitioner under this Act.
- (2) The Board may refuse to grant registration to an applicant on any one or more of the following grounds—

S. 6(1A)
inserted by
No. 35/2009
s. 112(2).

S. 6(1B)
inserted by
No. 35/2009
s. 112(2).

S. 6(1C)
inserted by
No. 35/2009
s. 112(2).

S. 6(2)(b)
amended by
No. 43/2010
s. 49(2) (as
amended by
No. 29/2011
s. 3(Sch. 1
item 86.3)).

- (a) that the character of the applicant is such that it would not be in the public interest to allow the applicant to practise as a registered veterinary practitioner;
- (b) that the applicant is unfit to practise as a registered veterinary practitioner because he or she has a severe substance dependence;
- (c) that the applicant has been found guilty of an indictable offence in Victoria or an equivalent offence in another jurisdiction within a period of 10 years preceding the application;
- (d) that the applicant has been found guilty of an offence where the ability of the applicant to practise is likely to be affected because of the finding of guilt or where it is not in the public interest to allow the applicant to practise because of the finding of guilt;
- (e) that the applicant has previously been registered under this Act or the **Veterinary Surgeons Act 1958** and during the course of that registration has had proceedings under Part 3 or similar proceedings under the **Veterinary Surgeons Act 1958** brought against him or her and those proceedings have never been finalised;
- (f) that, in the opinion of the Board, the applicant is unfit to be registered because he or she has a physical or mental impairment which significantly impairs his or her ability to practise as a registered veterinary practitioner;

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- (fa) that the applicant's competency in speaking and communicating in English is not sufficient for that person to practise as a registered veterinary practitioner; **S. 6(2)(fa) inserted by No. 103/2003 s. 46.**
- (fb) that, in the case of an applicant in respect of whom a determination of a panel has been made under section 45(2A)(a)(i), that the applicant has not undergone the counselling as specified in the determination of the panel; **S. 6(2)(fb) inserted by No. 103/2003 s. 46.**
- (fc) that, in the case of an applicant in respect of whom a determination of a panel has been made under section 45(2A)(a)(ii), that the applicant has not undertaken further education in accordance with the determination of the panel; **S. 6(2)(fc) inserted by No. 103/2003 s. 46.**
- (fd) that, in the case of an applicant in respect of whom a determination of a panel has been made under section 45(2A)(d), that the period for which the applicant is not entitled to re-apply for registration has not expired; **S. 6(2)(fd) inserted by No. 103/2003 s. 46.**
- (g) that the applicant has previously held a right to practise as a veterinary practitioner outside Victoria, being the equivalent of registration as a veterinary practitioner under this Act, and that right has been cancelled or suspended and not restored because of conduct which, if committed within Victoria, would entitle the Board to suspend or cancel registration.
- (3) A grant of registration under this section is subject to any conditions, limitations or restrictions that the Board thinks fit.

- (4) The Board may, upon application by the registered veterinary practitioner, amend, vary or revoke any condition, limitation or restriction imposed under subsection (3).

7 Specific registration

- (1) The Board may grant or refuse to grant specific registration as a veterinary practitioner to an applicant if the applicant holds qualifications in veterinary practice which do not qualify that applicant for general registration—
- (a) to enable that applicant to undertake supervised study or training or a course approved by the Board at a tertiary institution; or
 - (b) to enable that applicant to fill a veterinary teaching or research position at a tertiary institution approved by the Board; or
 - (c) to enable that applicant to undergo training, under the direct supervision of a registered veterinary practitioner, to acquire the competencies required to be registered under section 6; or
 - (d) if the Board is of the opinion that, in order to meet an identified need for a veterinary practitioner, it is necessary for a person having qualifications in the nature of the applicant's to provide veterinary services; or
 - (e) to enable an applicant from another country to practise in Victoria if that applicant has exchanged practice with a registered veterinary practitioner for a limited period with the prior permission of the Board.

- (2) A grant of specific registration under this section is subject to any conditions, limitations or restrictions imposed by the Board including the period of registration which must not exceed 12 months.
- (3) The Board may of its own motion, or upon application by the veterinary practitioner granted specific registration, amend, vary or revoke any condition, limitation or restriction imposed under subsection (2).

7A Non-practising registration

S. 7A
inserted by
No. 103/2003
s. 47.

- (1) The Board may grant or refuse to grant registration as a non-practising veterinary practitioner to an applicant if the applicant—
 - (a) is qualified for general registration; and
 - (b) the applicant has satisfied the Board that he or she does not intend to practice as a veterinary practitioner for the period of the registration.
- (2) A grant of non-practising registration under this section is subject to any conditions, limitations or restrictions imposed by the Board on the registration.
- (3) The Board may, of its own motion, or on the application by a veterinary practitioner granted registration as a non-practising veterinary practitioner, amend, vary or revoke any condition, limitation or restriction imposed under subsection (2).

8 Endorsement of registration as a specialist practitioner

- (1) If the Board is satisfied that a veterinary practitioner has—
 - (a) been granted general registration under section 6; and

- (b) has satisfactorily completed a post-graduate qualification in a branch of veterinary surgery or medicine recognised by the Board; and
- (c) has practised in, or is currently practising in, that branch of veterinary surgery or medicine—

the Board may grant or refuse to grant an endorsement of the general registration of the veterinary practitioner to the effect that the veterinary practitioner is qualified to practise as a veterinary specialist in the branch of veterinary surgery or medicine that is specified by the Board in the endorsement.

- (2) An applicant for general registration or a registered veterinary practitioner may apply to the Board for an endorsement as a specialist practitioner under this section.
- (3) An application must be—
 - (a) in writing in a form approved by the Board and accompanied by evidence of the qualifications and experience that the applicant claims qualify him or her for the endorsement as a specialist practitioner; and
 - (b) accompanied by the fee determined by the Board.

- (3A) The Board may refuse to grant an endorsement of the general registration of the veterinary practitioner on the ground that, in the case of an applicant in respect of whom a determination of a panel has been made under section 45(2A)(e), the period for which the applicant is not entitled to re-apply for the endorsement has not expired.

S. 8(3A)
inserted by
No. 103/2003
s. 48,
amended by
No. 48/2010
s. 50.

(4) The Board—

- (a) may require the applicant to provide further information or material in respect of the application; and
- (b) may require that information in the application be verified by a declaration under section 107 of the **Evidence (Miscellaneous Provisions) Act 1958**.

S. 8(4)(b)
amended by
No. 69/2009
s. 54(Sch. Pt 2
item 54).

(5) The Board may have regard to the advice of any person or persons about the applicant's training, qualifications, experience or expertise in the branch of veterinary practice in which the applicant is seeking specialist registration.

(6) The Board must ensure that, if any branch of veterinary surgery or medicine is recognised by the Board for the purposes of endorsement of registration as a specialist practitioner under this section, the endorsement is notified in a relevant publication circulating among veterinary practitioners generally.

S. 8(6)
amended by
No. 71/2014
s. 26.

9 Entitlement of applicant to make submissions

If the Board is proposing to refuse an application for registration or endorsement of registration or to impose conditions, limitations or restrictions on the registration of an applicant, the Board must not do so until—

- (a) it has given the applicant notice of this proposal; and
- (b) it has given the applicant an opportunity to make submissions to the Board about the proposal.

10 Notification of outcome of application

(1) Upon determining an application for registration or endorsement of registration under this Part, the Board must notify the applicant as to whether or

not registration or endorsement of registration has been granted to the applicant.

- (2) A notice under subsection (1) must include the following information—
- (a) if the registration has been granted—
 - (i) the type of registration granted; and
 - (ii) whether or not any conditions, limitations or restrictions have been imposed on the registration and, if so, the reasons for imposing the conditions, limitations or restrictions; or
 - (b) if the endorsement of registration has been granted, the branch of veterinary surgery or medicine that the veterinary practitioner is authorised to practise in as a veterinary specialist; or
 - (c) if the registration or endorsement of registration has not been granted—
 - (i) the reasons why it has not been granted; and
 - (ii) a statement that the applicant has a right to obtain a review of the decision not to grant registration or endorsement of registration.

11 Duration and renewal of registration

- (1) The registration of a veterinary practitioner which is not specific or renewal of such registration continues in force until the end of the financial year in which the registration was granted or renewed.

S. 11(1)
amended by
No. 71/2014
s. 27(1).

Note to
S. 11(1)
inserted by
No. 71/2014
s. 27(2).

Note

A financial year is the period of twelve months ending at midnight on 30 June: see s. 44(6)(d) of the **Interpretation of Legislation Act 1984**.

- (2) The endorsement of the registration of a veterinary practitioner as a specialist practitioner continues in force for the period that the registration is in force.
- (3) This section does not apply to the registration of a veterinary practitioner who is a registered veterinary practitioner by operation of section 3A.

S. 11(3)
inserted by
No. 35/2009
s. 113.

12 Application for renewal of and refusal to renew registration

- (1) An application for renewal of registration granted under this Part which is not specific—
 - (a) must be made to the Board before the existing registration expires; and
 - (b) must be accompanied by the fee determined by the Board.
- (2) If a person does not apply for renewal of registration before the end of the existing registration period, the Board may renew that person's registration if application is made within one month after the end of the registration period and the applicant pays an additional renewal fee determined by the Board which must not be more than 50% of the original fee.
- (3) If a person's registration has expired without being renewed that person is deemed to be registered for a period of one month after that expiry, and if, at the end of that period of one month, that person has not renewed his or her registration, the Board must remove that person's name from the register.
- (4) If the Board is satisfied that an applicant would not be able to provide the standard of veterinary services ordinarily required in Victoria because the applicant has not practised as a veterinary practitioner within the 5 years preceding the application it may refuse to renew the registration

S. 12(1)
amended by
No. 35/2009
s. 114 (as
amended by
No. 48/2010
s. 48).

S. 12(2)
amended by
No. 71/2014
s. 28(a).

S. 12(3)
amended by
No. 71/2014
s. 28(b).

unless the applicant undertakes further training approved by the Board.

- (5) The Board may refuse to renew the registration of an applicant on any ground on which the Board might refuse to grant registration.

13 Restoration of name to the register

If a person whose name has been removed from the register under section 12(3)—

- (a) applies to the Board within 2 years from the date of that removal to have his or her name restored to the register; and
- (b) pays to the Board the fee fixed by the Board for that purpose within that period—

the Board may restore that person's name to the register.

14 Effect of suspension of registration

For the purposes of this Act, a veterinary practitioner whose registration is suspended is deemed to be not registered for the period of that suspension.

15 Registration obtained by fraud

- (1) If the Board believes that the registration or endorsement of registration granted under this Part of a veterinary practitioner has been obtained by fraud or misrepresentation or that the qualifications upon which the veterinary practitioner relied for registration or endorsement of registration have been withdrawn the Board must conduct a hearing into the matter.
- (2) The Board must give notice of the time and place of the hearing to the veterinary practitioner.

S. 15(1)
amended by
No. 35/2009
s. 115.

- (3) The provisions applying to the conduct of a formal hearing under Part 3 apply to a hearing under this section as if a hearing under this section were a formal hearing.
- (4) If, at the end of the hearing, the Board determines that the registration or endorsement of registration of the veterinary practitioner has been obtained by fraud or misrepresentation or that the qualifications upon which the veterinary practitioner has relied for registration have been withdrawn, the Board must cancel the registration of the veterinary practitioner.

Division 2—The Register

16 The Register

- (1) The Board must cause to be kept a register of all veterinary practitioners to whom the Board has granted registration under this Act.
- (1A) Despite anything to the contrary in this Act, the Board is not required to keep on the register any information relating to a veterinary practitioner who is a registered veterinary practitioner by operation of section 3A.
- (2) The register is to be called the Register of Veterinary Practitioners.
- (3) The following particulars must be included on the register against the name of the veterinary practitioner to whom they apply—
 - (a) the postal address of the practitioner;
 - (aa) the address of the premises where the practitioner carries on veterinary practice;

S. 16(1A)
inserted by
No. 35/2009
s. 116(1).

S. 16(3)(a)
substituted by
No. 103/2003
s. 49.

S. 16(3)(aa)
inserted by
No. 103/2003
s. 49.

- (b) particulars of the type of registration of the practitioner;
 - (c) any endorsement of the practitioner's registration as a specialist practitioner;
 - (d) any current suspension of the registration of the veterinary practitioner;
 - (e) any current condition, limitation or restriction imposed on the registration of the veterinary practitioner;
 - (f) the prescribed information.
- (4) The register may be inspected at the office of the Board by any person during ordinary office hours without charge.
- (5) A person may obtain a copy of or an extract from the register on payment of the fee determined by the Board.
- (6) A registered veterinary practitioner's private address must not appear on that part of the register which is open to the public for inspection, unless the veterinary practitioner so authorises.
- (7) The Board may give register particulars to an interstate veterinary registration authority for the purposes of enabling that authority to administer or execute the law under which that authority confers or grants a right to carry on or engage in veterinary practice.
- (8) In subsection (7)—
- register particulars* means the particulars included in the register against the name of a veterinary practitioner in accordance with subsection (3).

S. 16(7)
inserted by
No. 35/2009
s. 116(2).

S. 16(8)
inserted by
No. 35/2009
s. 116(2).

17 Certificates

(1) Upon—

- (a) granting registration to a person under this Part; or
- (b) endorsing the registration of a practitioner as a specialist practitioner; or
- (c) renewing the registration of a person under this Part—

the Board must issue a certificate of registration to that person.

(2) The following particulars must be included on a certificate of registration—

- (a) any endorsement as a specialist practitioner; and
- (b) any condition, limitation or restriction imposed on the registration of the veterinary practitioner; and
- (c) the prescribed information.

(3) If a veterinary practitioner's registration or endorsement of registration under this Part has been suspended or cancelled, that veterinary practitioner must return his or her certificate of registration to the Board.

Penalty: 20 penalty units.

18 Use of certificate as evidence

A certificate purporting to be signed by the President or any 2 members of the Board to the effect that—

- (a) a veterinary practitioner is or is not or was or was not, at any specified date, registered; or

- (b) the veterinary practitioner's registration is or is not or was or was not, at any specified date, endorsed under section 8; or
- (c) that any disciplinary or other action is or is not or was or was not, at any specified date, being taken against that veterinary practitioner—

is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in it.

S. 19
amended by
Nos 48/2010
s. 51, 35/2009
s. 117, 71/2014
s. 29.

19 Requirement to notify the Board of change of address

A registered veterinary practitioner granted registration under this Part must notify the Board of any change of any address of the veterinary practitioner which appears on the register within 28 days after that change.

Penalty: 10 penalty units.

**PART 3—INVESTIGATIONS INTO REGISTERED
VETERINARY PRACTITIONERS**

**Division 1—Preliminary investigations into professional
conduct**

**20 Complaints about the conduct of registered
veterinary practitioners**

S. 20
substituted by
Nos 103/2003
s. 50, 35/2009
s. 118 (as
amended by
No. 48/2010
s. 49).

- (1) A person may make a complaint to the Board about the professional conduct of a person who is, or was at the time the conduct took place, a registered veterinary practitioner in Victoria.
- (2) For the purposes of subsection (1), professional conduct involving the treatment or diagnosis of an animal situated outside Victoria by the registered veterinary practitioner while in Victoria is taken to be professional conduct in Victoria.

Example

A registered veterinary practitioner who is in Victoria and who, by audio-visual link, makes a diagnosis in relation to an animal in New South Wales is to be taken to be engaging in professional conduct in Victoria.

- (3) Subsection (2) does not limit what may constitute professional conduct in Victoria.

**21 When complaints about professional conduct are to
be investigated by the Board**

S. 21(1)
amended by
Nos 103/2003
s. 51, 48/2010
s. 52.

- (1) The Board must investigate a complaint concerning the professional conduct of the practitioner about whom the complaint has been made unless the Board has determined the complaint to be lacking in substance or vexatious.
- (2) In order to determine whether or not it is necessary to conduct a formal or informal hearing into a complaint, the Board must conduct a preliminary investigation into the complaint.

- (3) The Board may, in writing, delegate to—
- (a) an officer of the Board; or
 - (b) a lawyer or investigator retained by the Board; or
 - (c) a sub-committee of the Board consisting of not more than 3 members of the Board named in the delegation—

its power to conduct a preliminary investigation into a complaint, other than its power to make determinations upon a preliminary investigation.

- (4) The Board must ensure that any person who provides information to the Board during the course of an investigation is made aware that the investigation is being conducted.

22 Outcome of preliminary investigation

S. 22(1)
amended by
No. 48/2010
s. 53.

- (1) Upon completing a preliminary investigation, the person or persons conducting the investigation may make any one or more of the following recommendations—

- (a) that the investigation into the matter should not proceed further; or
- (b) that an informal or formal hearing should be held into the matter; or

S. 22(1)(b)
amended by
No. 103/2003
s. 52(a).

- (c) that a preliminary investigation be commenced under section 25.

S. 22(1)(c)
inserted by
No. 103/2003
s. 52(b).

- (2) The Board must determine whether or not to act on the recommendations of the person or persons conducting the preliminary investigation.

23 Power of Board to institute a hearing into professional conduct

S. 23
substituted by
No. 103/2003
s. 53.

The Board may, of its own motion, determine to conduct a formal or informal hearing into the professional conduct of a person who is or was, at the time the conduct took place, a registered veterinary practitioner, without conducting a preliminary investigation.

24 Suspension of registration upon commencement of investigation

- (1) The Board, upon making a determination—
- (a) to conduct a preliminary investigation into a complaint made to the Board about the professional conduct of a registered veterinary practitioner; or
 - (b) to conduct a formal or informal hearing into the professional conduct of a registered veterinary practitioner without preliminary investigation—

may suspend the registration of the veterinary practitioner until any investigation and any hearing into the matter is completed if the Board is of the opinion that it is necessary to do so because there is a serious risk that the health and safety of the public or the health and welfare of animals will be endangered.

- (2) If the Board has suspended the registration of a veterinary practitioner under subsection (1), it must—
- (a) immediately notify the veterinary practitioner of that suspension and the reasons for the suspension; and
 - (b) ensure that the matter is investigated as soon as possible after that suspension.

Division 2—Preliminary investigation into the health of registered veterinary practitioners

25 Commencement of preliminary investigation

S. 25
amended by
No. 103/2003
s. 54.

If the Board believes the ability of a registered veterinary practitioner to practise veterinary medicine or surgery may be affected because—

- (a) of the physical or mental health of the veterinary practitioner; or
- (b) the veterinary practitioner has an incapacity; or
- (c) the veterinary practitioner has a severe substance dependence—

S. 25(c)
amended by
No. 43/2010
s. 49(2) (as
amended by
No. 29/2011
s. 3(Sch. 1
item 86.3)).

the Board may appoint one of its members or a registered medical practitioner to conduct a preliminary investigation into the matter.

26 Notification to veterinary practitioner

- (1) The member of the Board appointed to investigate the matter must give notice of the preliminary investigation to the veterinary practitioner.
- (2) A notice under subsection (1) must—
 - (a) be in writing; and
 - (b) be sent by registered post as soon as possible after the Board's decision has been made; and
 - (c) advise the veterinary practitioner of the nature of the matter to be investigated; and
 - (d) ask the veterinary practitioner to advise the Board as to whether or not he or she will agree to undergo a medical examination within 28 days after receiving the notice; and

- (e) advise the veterinary practitioner of the procedures that can be taken under this Part.

27 Examination as to health of practitioner

S. 27
(Heading)
inserted by
No. 103/2003
s. 55(1).

- (1) If the veterinary practitioner agrees to undergo a medical examination within 28 days, the veterinary practitioner must be examined by a registered practitioner who is agreed upon by the Board and the veterinary practitioner.

S. 27(1)
amended by
No. 103/2003
s. 55(2).

- (2) If the Board and the veterinary practitioner are unable to agree upon a registered practitioner to conduct the examination, the Minister must appoint a registered practitioner to perform the examination.

S. 27(2)
amended by
No. 103/2003
s. 55(3).

- (3) The Board must pay for the examination.

- (4) A person appointed to conduct the preliminary investigation under section 25 must not perform a medical examination under this section.

S. 27(4)
inserted by
No. 103/2003
s. 55(4).

- (5) In this section, *registered practitioner* means—

S. 27(5)
inserted by
No. 103/2003
s. 55(4),
substituted by
No. 97/2005
s. 182(Sch. 4
item 53.2).

- (a) a registered medical practitioner; or

- (b) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student); or

S. 27(5)(b)
substituted by
No. 13/2010
s. 51(Sch.
item 58.2).

- (c) a person registered under the Health Practitioner Regulation National Law to practise in the physiotherapy profession (other than as a student); or

S. 27(5)(c)
substituted by
No. 13/2010
s. 51(Sch.
item 58.2).

S. 27(5)(d)
substituted by
No. 13/2010
s. 51(Sch.
item 58.2).

(d) a person registered under the Health Practitioner Regulation National Law to practise in the osteopathy profession (other than as a student); or

S. 27(5)(e)
substituted by
No. 13/2010
s. 51(Sch.
item 58.2).

(e) a person registered under the Health Practitioner Regulation National Law to practise in the chiropractic profession (other than as a student).

28 Report of examination

S. 28(1)
amended by
No. 103/2003
s. 56(1).

- (1) The examining medical practitioner must give a report of his or her examination to the person appointed to investigate the matter and, not more than 7 days later, to the veterinary practitioner being investigated.
- (2) The person appointed to investigate the matter must discuss the report with the veterinary practitioner and, in the case of an adverse finding in the report, the possible ways of dealing with that finding.
- (3) After discussing the report with the veterinary practitioner, the person appointed to investigate the matter must report to the Board.

S. 28(4)
amended by
No. 103/2003
s. 56(2).

- (4) Despite subsection (1), if the report contains information of a medical or psychiatric nature concerning the veterinary practitioner, and it appears to the person appointed to conduct the investigation that the disclosure of that information to the veterinary practitioner might be prejudicial to the physical or mental health or well being of the veterinary practitioner, the investigator may decide not to give that information to the veterinary practitioner but to give it instead to another veterinary practitioner or another registered medical practitioner nominated by that veterinary practitioner.

- (5) Before acting under subsection (4), the investigator must report to the Board and, if the investigator is not a veterinary practitioner and the Board is of the opinion that it is necessary for the investigation of the matter to be continued by a veterinary practitioner, the Board may appoint a veterinary practitioner to continue the investigation.

29 Outcome of preliminary investigation

- (1) If, after considering the reports given under section 28, the Board decides that further action should be taken, the Board must ask the veterinary practitioner whether or not he or she is prepared to agree to—
- (a) alter the way in which he or she practises veterinary surgery or medicine; or
 - (b) the imposition of conditions, limitations or restrictions on his or her registration; or
 - (c) the alteration or cancellation of any endorsement of registration as a specialist veterinary practitioner under section 8; or
 - (d) the suspension of his or her registration for the period of time specified by the Board.
- (2) The Board may take any action that is necessary to implement an agreement under subsection (1).

30 Referral to formal hearing

If a registered veterinary practitioner who is the subject of a preliminary investigation under this Division—

- (a) does not agree to undergo a medical examination or does not abide by an agreement to undergo a medical examination; or

- (b) does not reach an agreement with the Board under section 29 or does not abide by an agreement reached with the Board under section 29—

the Board may refer the matter to a formal hearing.

31 Request for conditions, limitations or restrictions

- (1) A registered veterinary practitioner who believes that his or her ability to practise veterinary surgery or medicine is affected because—
- (a) of his or her physical or mental health; or
 - (b) he or she has an incapacity; or
 - (c) he or she has a severe substance dependence—

S. 31(1)(c)
amended by
No. 43/2010
s. 49(2) (as
amended by
No. 29/2011
s. 3(Sch. 1
item 86.3)).

may ask the Board to impose a condition, limitation or restriction on his or her practice.

- (2) If the Board and the veterinary practitioner agree upon the condition, limitation or restriction to be imposed, the Board may impose it.
- (3) If the veterinary practitioner and the Board do not agree upon the condition, limitation or restriction to be imposed, the Board must refer the matter to a preliminary investigation.

S. 32
amended by
No. 103/2003
s. 57,
repealed by
No. 42/2005
s. 53(3).

* * * * *

33 Immediate suspension of registration

- (1) If the Board has referred a matter to a formal hearing under this Division, the Board may suspend the registration of the veterinary practitioner until the hearing is completed, if the Board is of the opinion that the ability of the veterinary practitioner to practise veterinary surgery and medicine is affected to such an extent that to allow the veterinary practitioner to continue to practise would pose a serious risk that the health and safety of the public or the health and welfare of animals will be endangered.
- (2) If the Board has suspended the registration of a veterinary practitioner under subsection (1), it must—
 - (a) immediately notify the veterinary practitioner of that suspension and the reasons for the suspension; and
 - (b) ensure that the matter is investigated as soon as possible after that suspension.

Division 3—Formal and informal hearings

34 Establishment and notification of an informal hearing

If the Board has determined under section 22 or 23 that an informal hearing be held into the professional conduct of a person who is, or was at the time the conduct took place, a registered veterinary practitioner, the Board must—

- (a) appoint a panel to hold the hearing; and
- (b) fix a time and place for the hearing to be held; and
- (c) by registered post, serve a notice, which complies with section 36, on the person who is the subject of the hearing; and

S. 34
amended by
No. 103/2003
s. 58(a).

S. 34(c)
substituted by
No. 103/2003
s. 58(b).

- (d) serve notice on any complainant by registered post under section 52(4)(a) and (b).

35 Constitution of a panel for an informal hearing

- (1) A panel appointed under section 34 is to consist of not more than 3 persons—
 - (a) who are to be members of the Board; and
 - (b) of whom, at least 1 is not to be a registered veterinary practitioner.

S. 35(2)
substituted by
No. 103/2003
s. 59(1).

- (2) If—
 - (a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or
 - (b) the Board is of the opinion that a person with special expertise is required for the hearing—

the President or (if the President is unable to act) the Deputy President of the Board may appoint persons who are not members of the Board but who are approved by the Governor in Council under subsection (4) to fill the vacant positions on the panel.

S. 35(2A)
inserted by
No. 103/2003
s. 59(1).

- (2A) Despite subsection (2), at least one member of a panel must be a member of the Board.

- (3) A person who has undertaken a preliminary investigation of the matter is not entitled to be a member of the panel.

S. 35(4)
inserted by
No. 103/2003
s. 59(2).

- (4) The Governor in Council, on the recommendation of the Minister, may approve persons who are not members of the Board to be eligible to be appointed to a panel under subsection (2).

36 Notice of an informal hearing

A notice of an informal hearing under section 34 must—

- (a) state the nature of the hearing and the allegations made against the person who is the subject of the hearing; and S. 36(a)
amended by
No. 103/2003
s. 67(Sch).
- (b) give the time and place of the hearing; and
- (c) state that the person who is the subject of the hearing may choose to have the matter determined by a formal hearing and state the differences between a formal and informal hearing; and S. 36(c)
amended by
No. 103/2003
s. 67(Sch).
- (d) state that the person who is the subject of the hearing is entitled to be present and to make submissions and to be accompanied by another person but is not entitled to be represented, that the hearing is not open to the public and list the possible findings the panel can make or orders the panel can give. S. 36(d)
amended by
Nos 103/2003
s. 67(Sch.),
71/2014 s. 30.

37 Conduct of an informal hearing

At an informal hearing—

- (a) the panel must hear and determine the matter before it; and
- (b) the person who is the subject of the hearing is entitled to be present, to make submissions and to be accompanied by another person but is not entitled to be represented; and S. 37(b)
amended by
No. 103/2003
s. 67(Sch).
- (c) the proceedings of the hearing must not be open to the public.

38 Findings and determinations of an informal hearing

- (1) After considering all the submissions made to the hearing the panel may find either—

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No. 58 of 1997

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S. 38(1)(a)
amended by
No. 103/2003
s. 60(1).

(a) that the person who is the subject of the hearing has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or

S. 38(1)(b)
amended by
No. 103/2003
s. 60(1).

(b) that the person who is the subject of the hearing has not engaged in unprofessional conduct.

S. 38(2)
amended by
No. 103/2003
s. 60(2)(a).

(2) If, in the case of a registered veterinary practitioner, the panel finds that the veterinary practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make one or more of the following determinations—

(a) that the veterinary practitioner undergo counselling;

S. 38(2)(aa)
inserted by
No. 103/2003
s. 60(2)(b).

(aa) that the veterinary practitioner undertake further education of the kind stated in the determination and to complete it within the period specified in the determination;

(b) that the veterinary practitioner be cautioned;

(c) that the veterinary practitioner be reprimanded.

S. 38(3)
inserted by
No. 103/2003
s. 60(3).

(3) If, in the case of a person who has ceased to be a registered veterinary practitioner, the panel finds that the person, whether by act or omission engaged in unprofessional conduct which is not of a serious nature, the panel may make one or more of the following determinations—

(a) that the person is not entitled to re-apply for registration unless the person—

(i) has undergone counselling; or

(ii) has undertaken further education of the kind stated in the determination and completed it within the period specified in the determination;

- (b) that the person be cautioned;
- (c) that the person be reprimanded.

39 Change of informal hearing to formal hearing during course of hearing

If, before the end of the hearing—

- (a) the person who is the subject of the hearing fails to attend the hearing without good cause; or
- (b) the person who is the subject of the hearing requests that a formal hearing be held; or
- (c) the panel is of the opinion that a formal hearing should be held—

S. 39(a)
amended by
No. 103/2003
s. 67(Sch.).

S. 39(b)
amended by
No. 103/2003
s. 67(Sch.).

the panel must abandon the informal hearing and refer the matter to a formal hearing.

40 Request for formal hearing upon completion of informal hearing

S. 40
amended by
No. 103/2003
s. 67(Sch.).

Upon the completion of an informal hearing, the person who was the subject of the hearing may request that a formal hearing be held to review any findings and determinations of the informal hearing.

41 Establishment and notification of formal hearing

If—

- (a) the Board has determined that a formal hearing be held under section 22 or 23 or has referred a matter to a formal hearing under section 30; or
- (b) a person has requested a formal hearing under section 40; or

S. 41(b)
amended by
No. 103/2003
s. 67(Sch.).

(c) a panel has referred a matter to a formal hearing under section 39—

the Board must—

- (d) appoint a panel to hold the hearing; and
- (e) fix a time and place for the hearing to be conducted; and
- (f) serve a notice on the person who is the subject of the hearing by registered post which complies with section 43; and
- (g) serve a notice on any complainant by registered post under section 52(4)(a) and (b).

S. 41(f)
amended by
No. 103/2003
s. 67(Sch.).

42 Constitution of a hearing panel for a formal hearing

- (1) A panel appointed under section 41 must consist of not less than 3 persons—
 - (a) who are to be members of the Board; and
 - (b) of whom 1 is to be a lawyer and at least 1 is to be a registered veterinary practitioner.
- (2) If—
 - (a) the Board is unable to appoint a panel because there are not enough members available to sit on it; or
 - (b) the Board is of the opinion that a person with special expertise is required for the hearing—

S. 42(2)
substituted by
No. 103/2003
s. 61(1).

the President or (if the President is unable to act) the Deputy President of the Board may appoint persons who are not members of the Board but who are approved by the Governor in Council under subsection (4) to fill the vacant positions on the panel.

- (2A) Despite subsection (2), at least one member of a panel must be a member of the Board. **S. 42(2A) inserted by No. 103/2003 s. 61(1).**
- (3) The following people are not entitled to be members of a panel for a formal hearing—
- (a) a person who has undertaken a preliminary investigation of the matter which is the subject of the hearing;
 - (b) a person who has been a member of a panel which held an informal hearing into the matter.
- (4) The Governor in Council, on the recommendation of the Minister, may approve persons who are not members of the Board to be eligible to be appointed to a panel under subsection (2). **S. 42(4) inserted by No. 103/2003 s. 61(2).**

43 Notice of a formal hearing

A notice of a formal hearing under section 41 must—

- (a) state the nature of the hearing and the allegations made against the person who is the subject of the hearing; and **S. 43(a) amended by No. 103/2003 s. 67(Sch).**
- (b) give the time and place of the hearing; and
- (c) state that there is a right to make submissions and to be represented by an Australian legal practitioner, that the hearing is open to the public, list the possible findings the panel can make and state that there is a right to apply for review of the panel's findings. **S. 43(c) amended by No. 71/2014 s. 31.**

S. 43A
inserted by
No. 103/2003
s. 62.

43A Preliminary conferences

- (1) The Board may, at any time before a formal hearing, require the person who is the subject of the hearing to attend one or more preliminary conferences with a person appointed by the Board.
- (2) The Board must not appoint a person who is a member of the Board or a hearing panel to conduct a preliminary conference.
- (3) The functions of a preliminary conference are to—
 - (a) identify and clarify the nature of the issues in dispute in the matter;
 - (b) identify the issues to be considered or determined by the panel;
 - (c) allow guidance to be given concerning the conduct of the matter.
- (4) The Board must give notice of the preliminary conference to the person who is the subject of the hearing.
- (5) A preliminary conference must be held in private unless the person presiding directs otherwise.
- (6) Except as provided for in this section, the procedure for a preliminary conference is at the discretion of the person presiding.

S. 43B
inserted by
No. 103/2003
s. 62,
amended by
No. 71/2014
s. 32.

43B Requirements as to attendance at preliminary conference

The Board may require a person who is the subject of a formal hearing to attend a preliminary conference either personally or by a representative who is an Australian legal practitioner.

44 Conduct of a formal hearing

At a formal hearing—

- (a) the hearing panel must hear and determine the matter before it; and
- (b) the person who is the subject of the hearing is entitled to be present, to make submissions and to be represented by an Australian legal practitioner; and
- (c) if the hearing arises out of a complaint, the identity of the complainant is not to be published or broadcast and the complainant—
 - (i) in the case of a proceeding which has not been closed under paragraph (d), is entitled to be present; and
 - (ii) if not called as a witness, may make submissions with the permission of the Board; and
- (d) the proceedings are to be open to the public unless the panel determines that the proceedings should be closed because the hearing is taking evidence of intimate, personal or financial matters and, if the panel has determined that the proceedings are closed, the panel may determine that the identity of any witness giving evidence in the proceedings is not to be published or broadcast.

S. 44(b)
amended by
Nos 103/2003
s. 67(Sch.),
71/2014 s. 33.

45 Findings and determinations of a formal hearing into conduct

- (1) After considering all the submissions made to a formal hearing under section 44 into the professional conduct of a person the panel may find that—

S. 45(1)
amended by
No. 103/2003
s. 63(1)(a)(b).

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No. 58 of 1997

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S. 45(1)(a)
amended by
No. 103/2003
s. 63(1)(c).

(a) the person has, whether by act or omission, engaged in unprofessional conduct of a serious nature; or

S. 45(1)(b)
amended by
No. 103/2003
s. 63(1)(c).

(b) the person has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature; or

S. 45(1)(c)
amended by
No. 103/2003
s. 63(1)(c).

(c) the person has not engaged in unprofessional conduct.

S. 45(2)
amended by
No. 103/2003
s. 63(2).

- (2) If, in the case of a registered veterinary practitioner, the panel finds that the veterinary practitioner has, whether by act or omission, engaged in unprofessional conduct of a serious nature, the panel may make one or more of the following determinations—
- (a) require the veterinary practitioner to undergo counselling;
 - (b) caution the veterinary practitioner;
 - (c) reprimand the veterinary practitioner;
 - (d) require the veterinary practitioner to give any written undertaking about his or her conduct as a veterinary practitioner that the Board considers appropriate;
 - (e) require the veterinary practitioner to undertake further education or training of the kind stated in the determination, or to successfully complete an examination or assessment conducted by or on behalf of the Board, within the period specified in the determination;
 - (f) impose conditions, limitations or restrictions on the registration of the veterinary practitioner;

- (g) impose a fine on the veterinary practitioner of not more than \$2000;
- (h) require the veterinary practitioner to pay the reasonable costs of, and incidental to, the hearing;
- (i) alter or cancel any endorsement under section 8 of the registration of the veterinary practitioner as a veterinary specialist;
- (j) suspend the registration of the veterinary practitioner for the period specified in the determination;
- (k) cancel the registration of the veterinary practitioner.

(2A) If, in the case of a person who has ceased to be a registered veterinary practitioner, the panel finds that the person, whether by act or omission engaged in unprofessional conduct of a serious nature, the panel may make one or more of the following determinations—

**S. 45(2A)
inserted by
No. 103/2003
s. 63(3).**

- (a) that the person is not entitled to re-apply for registration unless the person—
 - (i) has undergone counselling; or
 - (ii) has undertaken further education of the kind stated in the determination and completed it within the period specified in the determination;
- (b) that the person be cautioned;
- (c) that the person be reprimanded;
- (d) that the person is not entitled to re-apply for registration for the period specified by the panel in the determination;

- (e) that the person is not entitled to apply for endorsement of registration as a specialist practitioner for the period specified by the panel in the determination.
- (3) If the panel finds under subsection (1)(b) that the veterinary practitioner has, whether by act or omission, engaged in unprofessional conduct which is not of a serious nature, the panel may make any determination which a panel at an informal hearing is able to make upon making such a finding.
- (4) The panel must not impose a fine where the conduct which is the subject of the finding has resulted in a fine being imposed by another tribunal or court of law.
- (5) If the panel has made a determination under subsection (2)(a), (d) or (e) and the veterinary practitioner has not complied with the determination within the time specified in the determination, the Board may suspend the veterinary practitioner's registration until the determination is complied with.

46 Findings and determinations of a formal hearing into ability to practise

S. 46(1)
amended by
No. 103/2003
s. 64(1)(a)(b).

- (1) After considering all the submissions made to a formal hearing under section 44 into the ability to practise of a person, the panel may find that—

S. 46(1)(a)
amended by
No. 103/2003
s. 64(1)(c).

- (a) the ability of the person to practise is affected because—

S. 46(1)(a)(i)
amended by
No. 103/2003
s. 64(1)(c).

- (i) of the physical or mental health of the person; or

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|---|---|
| (ii) the person has an incapacity; or | S. 46(1)(a)(ii)
amended by
No. 103/2003
s. 64(1)(c). |
| (iii) the person has a severe substance
dependence; or | S. 46(1)(a)(iii)
amended by
Nos 103/2003
s. 64(1)(c),
43/2010
s. 49(2) (as
amended by
No. 29/2011
s. 3(Sch. 1
item 86.3)). |
| (b) the ability of the person is not affected. | S. 46(1)(b)
amended by
No. 103/2003
s. 64(1)(c). |
| (2) If, in the case of a registered veterinary
practitioner, the panel makes a finding under
subsection (1)(a), the panel may make one or
more of the following determinations— | S. 46(2)
amended by
No. 103/2003
s. 64(2). |
| (a) to impose conditions, limitations or
restrictions on the registration of the
veterinary practitioner; | |
| (b) to suspend the registration of the veterinary
practitioner for the period and subject to the
conditions, limitations and restrictions, if
any, specified in the determination. | |
| (3) If, in the case of a person who has ceased to be a
registered veterinary practitioner, the panel makes
a finding under subsection (1)(a), the panel may
make the determination that, if the person
re-applies for registration, the condition, limitation
or restriction specified in the determination be
imposed on the registration of the person. | S. 46(3)
inserted by
No. 103/2003
s. 64(3). |

Pt 3 Div. 4
(Heading)
amended by
No. 42/2005
s. 53(2).

Division 4—General provisions relating to investigations

47 Procedure at formal and informal hearings

At a formal or informal hearing—

- (a) subject to this Part, the procedure of a panel is in its discretion; and
- (b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and
- (c) a panel is not bound by rules of evidence but may inform itself in any way it thinks fit, including by reference to any guidelines issued under section 62(1)(e) as to appropriate standards of veterinary practice and veterinary facilities; and
- (d) a panel is bound by the rules of natural justice.

S. 47(c)
amended by
No. 71/2014
s. 34.

48 Powers of panel conducting a formal hearing

Sections 14, 15, 16 and 21A of the **Evidence (Miscellaneous Provisions) Act 1958**, as in force immediately before their repeal, apply to a panel in the conduct of a formal hearing as if it were a Board or the Chairman of a Board appointed by the Governor in Council.

S. 48
amended by
Nos 69/2009
s. 54(Sch. Pt 2
item 54),
67/2014
s. 147(Sch. 2
item 39).

49 Determinations

- (1) A determination made by a panel on a hearing comes into operation on its making or at any later time stated in the determination.
- (2) A determination of a panel is to have effect as if it were a determination of the Board.

- (3) If a fine is imposed by a panel it may be recovered by the Board as a debt due to the Board.

50 Removal of suspension, condition, limitation or restriction

- (1) If the Board has suspended the registration of a veterinary practitioner until the completion of a hearing and, at the completion of the hearing, the panel determines that the suspension should be removed, the Board must remove the suspension.
- (2) If a condition, limitation or restriction has been imposed on the registration of a veterinary practitioner and, at the completion of a hearing, the panel determines that the condition, limitation or restriction should be removed, the Board must remove that condition, limitation or restriction.

50A Agreements to amend, vary or revoke conditions or revoke suspensions

S. 50A
inserted by
No. 42/2005
s. 53(1).

- (1) The Board may, if the registered veterinary practitioner so agrees—
- (a) amend, vary or revoke any condition imposed on the veterinary practitioner's registration by the Board without conducting an informal or formal hearing; or
 - (b) revoke a suspension of the veterinary practitioner's registration and impose a condition on the registration; or
 - (c) revoke a suspension of the veterinary practitioner's registration if the veterinary practitioner satisfies the Board that his or her ability to practise as a veterinary practitioner is no longer affected.
- (2) If the Board and the registered veterinary practitioner fail to agree under subsection (1), the Board may refer the matter to a formal hearing.

51 Reasons for determinations of panel or Board

S. 51(1)
amended by
No. 103/2003
s. 67(Sch.).

- (1) A panel must give reasons for a determination made under this Part to the person who was the subject of the determination within 28 days after the making of the determination.
- (2) A person affected by a determination of a panel may apply to the panel for the reasons for that determination.
- (3) An application under subsection (2) must be made within 45 days after the making of the determination and reasons must be given to the applicant within 45 days of receiving the application.

52 Notifications

S. 52(1)
amended by
No. 103/2003
s. 65(c).

- (1) If a determination has been made by a panel—
 - (a) imposing conditions, limitations or restrictions on the registration of a veterinary practitioner; or
 - (b) suspending the registration of a veterinary practitioner; or
 - (c) cancelling the registration of a veterinary practitioner; or
 - (d) cancelling or altering the endorsement of the registration of the veterinary practitioner as a specialist veterinary practitioner;
- (da) that a person is not entitled to re-apply for general registration as a veterinary practitioner for a specified period;
- (db) that a person is not entitled to re-apply for endorsement as a specialist practitioner for a specified period—

S. 52(1)(d)
amended by
No. 103/2003
s. 65(a).

S. 52(1)(da)
inserted by
No. 103/2003
s. 65(b).

S. 52(1)(db)
inserted by
No. 103/2003
s. 65(b).

the Board must give notice of the determination—

- (e) in the Government Gazette; and
- (f) to every interstate veterinary registration authority and the veterinary registration authority in New Zealand; and
- (g) if the veterinary practitioner is an employee, to his or her employer; and
- (h) if the Board has received a request for information about the person in respect of whom the determination has been made from a veterinary registration authority outside Australia, that authority.

S. 52(1)(f)
amended by
No. 35/2009
s. 119(1).

(1A) If a determination has been made by a panel—

- (a) requiring a veterinary practitioner to undergo counselling; or
- (b) cautioning a veterinary practitioner; or
- (c) reprimanding a veterinary practitioner; or
- (d) requiring a veterinary practitioner to give any written undertaking about his or her conduct as a veterinary practitioner that the Board considers appropriate; or
- (e) requiring a veterinary practitioner to undertake further education or training of the kind stated in the determination, or to successfully complete an examination or assessment conducted by or on behalf of the Board, within the period specified in the determination; or
- (f) imposing a fine on a veterinary practitioner of not more than \$2000; or

S. 52(1A)
inserted by
No. 35/2009
s. 119(2).

(g) requiring a veterinary practitioner to pay the reasonable costs of, and incidental to, the hearing—

the Board must give notice of the determination to every interstate veterinary registration authority.

S. 52(2)
amended by
No. 35/2009
s. 119(3).

(2) Notice under subsection (1) or (1A) must be given as soon as practicable after the determination has been made.

(3) No action for defamation lies against the Board or its members for giving a notice under this section.

(4) If a complaint has been made to the Board, the Board must notify the complainant—

(a) of whether or not a formal or informal hearing is to be conducted into the matter and, if so, of the time and place of the hearing and, in the case of a formal hearing, of the fact that the complainant's identity is not to be published or broadcast; and

(b) in the case of a formal or informal hearing, of whether or not the complainant has any right to make submissions at the hearing; and

(c) of the findings and determinations of any hearing arising from that complaint and the reasons for those findings and determinations, within 28 days of their having been made.

53 Offence to disclose information identifying complainant

A person must not publish or broadcast or cause to be published or broadcast any report of a formal hearing under this Part which contains information which would enable—

- (a) the complainant to be identified; or
- (b) if the panel has made a determination prohibiting the publication or broadcast of the identity of a witness, that witness to be identified—

unless the complainant or witness has, before publication or broadcast, consented to this.

Penalty: in the case of a natural person, 60 penalty units and, in the case of a body corporate, 100 penalty units.

54 Terms and conditions of appointment of panel members

- (1) A member of a panel, whether appointed by the Board or the Governor in Council, is appointed on the terms and conditions determined by the Board for that member.
- (2) A member of a panel, other than a member who is an employee of the public service within the meaning of the **Public Administration Act 2004**, is entitled to receive the fees that are fixed from time to time by the Governor in Council for members of panels.
- (3) A member of a panel is entitled to receive the allowances that are fixed from time to time by the Governor in Council.
- (4) In fixing fees under subsection (2), the Governor in Council may fix different fees for different classes of cases.

S. 54(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 214.2).

* * * * *

S. 54(5)
repealed by
No. 46/1998
s. 7(Sch. 1).

Pt 4 (Heading)
amended by
No. 101/1998
s. 34(b).

**PART 4—REVIEW BY VICTORIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL**

**55 Review by Victorian Civil and Administrative
Tribunal**

S. 55(1)
amended by
No. 52/1998
s. 311(Sch. 1
item 100.1(a)).

- (1) A person may apply to the Victorian Civil and Administrative Tribunal for review of—
- (a) a decision to refuse a person's application for registration or endorsement of registration or renewal of the registration or endorsement; or
 - (b) a decision to impose conditions, limitations or restrictions on a person's registration; or
 - (c) a decision of the Board to suspend the registration of a person, if the Board has not instituted an investigation into the professional conduct or ability to practise of that person within a reasonable time of having suspended that registration; or
 - (d) a finding or determination made at a formal hearing under Part 3.

S. 55(2)
amended by
No. 52/1998
s. 311(Sch. 1
item 100.1(b)).

- (2) The application must be made within 28 days after the date on which the Board gives notice of the decision, finding or determination to the person concerned.

S. 55(3)
substituted by
No. 52/1998
s. 311(Sch. 1
item 100.2).

- (3) If a finding has been made at a formal hearing under Part 3 but no final determination has been made at that hearing, an application for review under this section can only be made with the leave of the Tribunal.

56 Notification

If a decision or determination has been reviewed by the Victorian Civil and Administrative Tribunal, the Board must notify any person who was notified of the original decision or determination of any change to that decision or determination by the Tribunal.

S. 56
amended by
No. 52/1998
s. 311(Sch. 1
item 100.3(a)
(b)).

PART 5—OFFENCES

57 Claims by persons as to registration

- (1) A person who is not a registered veterinary practitioner must not—
- (a) take or use the title of registered veterinary practitioner or any other title calculated to induce a belief that the person is registered under this Act; or
 - (b) claim to be registered under this Act or hold himself or herself out as being registered under this Act; or
 - (c) claim to be qualified to practise as a veterinary practitioner; or
 - (d) carry out any act that is required to be carried out by a registered veterinary practitioner by or under an Act.

Penalty: 100 penalty units.

- (2) A registered veterinary practitioner whose registration is specific must not—
- (a) take or use any title calculated to induce a belief that the veterinary practitioner's registration is not specific; or
 - (b) claim to have, or hold himself or herself out as having, general registration.

Penalty: 60 penalty units.

- (3) A registered veterinary practitioner whose registration is subject to a condition, limitation or restriction must not—
- (a) take or use any title calculated to induce a belief that the veterinary practitioner's registration is not subject to a condition, limitation or restriction; or

- (b) claim to have or hold himself or herself out as having a registration which is not subject to any condition, limitation or restriction.

Penalty: 60 penalty units.

(4) A person must not—

- (a) take or use the title of registered veterinary specialist or any other title calculated to induce a belief that the person is registered under this Act with an endorsement that the person is a veterinary specialist; or
- (b) claim to be registered under this Act with an endorsement that the person is a veterinary specialist or hold himself or herself out as being registered under this Act with an endorsement that the person is a veterinary specialist; or
- (c) claim to be qualified to practise as a veterinary specialist—

unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist.

Penalty: 60 penalty units.

(5) A person must not—

- (a) take or use the title of registered veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine or any other title calculated to induce a belief that the person is registered under this Act with an endorsement that the person is a veterinary specialist with respect to that branch; or

- (b) claim to be registered under this Act with an endorsement that the person is a veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine or hold himself or herself out as being registered under this Act with an endorsement that the person is a veterinary specialist with respect to that branch; or
- (c) claim to be qualified to practise as a veterinary specialist with respect to a particular branch of veterinary surgery or veterinary medicine—

unless the person is a registered veterinary practitioner whose registration is endorsed that the person is a veterinary specialist with respect to that branch.

Penalty: 60 penalty units.

- (6) A person must not hold out another person as being registered under this Act, if the person knows or ought reasonably to know that the other person is not so registered.

Penalty: 100 penalty units.

58 Fraud, forgery etc.

A person must not—

- (a) fraudulently or by false representation or declaration (either orally or in writing) obtain registration under this Act; or
- (b) fraudulently or by false representation (either orally or in writing) procure any person to be registered under this Act; or
- (c) forge, counterfeit or alter any certificate of registration under this Act or any degree, diploma or other evidence of qualifications for registration under this Act; or

(d) aid in the commission of an offence under paragraph (a), (b) or (c).

Penalty: 100 penalty units.

58A Offence to direct or incite unprofessional conduct

S. 58A
inserted by
No. 103/2003
s. 66.

(1) A person who employs a registered veterinary practitioner must not direct or incite the practitioner to do anything, in the course of veterinary practice, that would constitute unprofessional conduct.

Penalty: For a natural person, 200 penalty units for a first offence or 400 penalty units for a second or subsequent offence.

For a body corporate, 400 penalty units for a first offence or 800 penalty units for a second or subsequent offence.

(2) If a court convicts or finds a person guilty of an offence against this section, the Clerk or other proper officer of the court must notify the Secretary, in writing, of the conviction or finding.

59 Advertising

(1) A person must not advertise a veterinary practice or veterinary services in a manner which—

(a) is or is intended to be false, misleading or deceptive; or

(b) offers a discount, gift or other inducement to attract persons to a veterinary practitioner or veterinary practice unless the advertisement also sets out the terms and conditions of that offer; or

* * * * *

S. 59(1)(c)
repealed by
No. 71/2014
s. 35.

(d) unfavourably contrasts veterinary services provided by a veterinary practitioner or veterinary practice with services provided by another veterinary practitioner or veterinary practice.

Penalty: For a natural person, 50 penalty units.

For a body corporate, 100 penalty units.

- (2) If a body corporate contravenes subsection (1), any person who is concerned in or takes part in the management of that body corporate who was, in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence also commits an offence under subsection (1) and is liable for the penalty applicable to a natural person for that offence.
- (3) A person who, in good faith, publishes or prints an advertisement which contravenes subsection (1) on behalf of another person is not guilty of an offence under that subsection.

60 Exemptions

Nothing in section 57 applies to a person practising veterinary surgery or medicine under the supervision of a registered veterinary practitioner in the course of undergoing a course of study or training approved by the Board that is conducted by or at the premises of—

- (a) the School of Veterinary Science of The University of Melbourne;
- (b) any university, school or other institution or organisation conducting a course of study or training in veterinary science, surgery or medicine.

PART 6—ADMINISTRATION

61 Establishment of Board

- (1) There is established a Board to be called the Veterinary Practitioners Registration Board of Victoria.
- (2) The Board—
 - (a) is a body corporate with perpetual succession; and
 - (b) has a common seal; and
 - (c) may sue and be sued in its corporate name; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all acts and things that a body corporate may, by law, do and suffer.
- (3) The common seal must be kept as directed by the Board and must not be used except as authorised by the Board.
- (4) All courts must take judicial notice of the seal of the Board on a document and, until the contrary is proved, must presume that the document was properly sealed.

62 Powers, functions and consultation requirements

- (1) The Board has the following functions—
 - (a) to register persons who comply with the requirements of this Act as to registration so that they may hold themselves out as veterinary practitioners and veterinary specialists in Victoria;

S. 62(1)(c)
substituted by
No. 48/2010
s. 54.

- (b) to recognise qualifications and accredit courses of training which provide qualifications for registration as veterinary practitioners and specialists;
 - (c) to establish competency in veterinary practice, whether by conducting or arranging examinations or by other means;
 - (d) to investigate the professional conduct or fitness to practise of registered veterinary practitioners and impose sanctions where necessary;
 - (e) to issue guidelines about appropriate standards of veterinary practice and veterinary facilities;
 - (f) to advise the Minister on any matters relating to its functions;
 - (g) when so requested by the Minister, give to the Minister any information reasonably required by the Minister;
 - (h) any other functions conferred on the Board by this Act.
- (2) The Board has all the powers necessary to enable it to perform its functions.
 - (3) The Board must consult with the Minister and have regard to the Minister's advice in carrying out its functions and exercising its powers.

63 Membership of the Board

- (1) The Board consists of 9 members nominated by the Minister and appointed by the Governor in Council.
- (2) Of the persons appointed to the Board—
 - (a) 4 must be registered veterinary practitioners; and

- (b) one must be a registered veterinary practitioner employed by the Crown and nominated by the Minister; and
 - (c) one must be a registered veterinary practitioner employed by The University of Melbourne nominated by the Minister; and
 - (d) one must be a lawyer; and
 - (e) 2 must be persons who are not veterinary practitioners.
- (3) The Minister must have regard to a person's expertise or experience in one or more of the following in nominating persons for membership of the Board under paragraph (e)—
- (a) finance and business management;
 - (b) legal practice;
 - (c) the use of veterinary services.

64 Terms of office

- (1) A member of the Board holds office for not more than 3 years from the date of his or her appointment.
- (2) A member of the Board is eligible for reappointment.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 64(3)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 214.3),
80/2006
s. 26(Sch.
item 107).

S. 64(4)
inserted by
No. 42/2005
s. 54.

- (4) Despite subsection (1) and anything to the contrary in the member's instrument of appointment, a member may, with the consent of the Minister, continue to hold office at the end of his or her appointment for a period not exceeding 3 months to enable the vacancy in the member's office to be filled.

65 Resignation and removal

- (1) A member of the Board ceases to be a member if he or she is absent, without leave first being granted by the Board, from 3 consecutive meetings of which reasonable notice has been given to that member, either personally or by post.
- (2) A member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (3) The Governor in Council may at any time remove a member of the Board from office.
- (4) If a member of the Board dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, on the recommendation of the Minister, fill the vacant office.
- (5) A member appointed under subsection (4) holds office for the rest of the term of appointment of the member whose place he or she fills.

66 President and Deputy President

- (1) The Governor in Council may appoint members of the Board who are registered veterinary practitioners to be President and Deputy President of the Board.
- (2) A person appointed to an office under subsection (1) holds office for the term specified in his or her instrument of appointment and is eligible for reappointment.

- (3) A person appointed to an office under subsection (1) may resign that office by writing signed by the person and addressed to the Governor in Council.
- (4) The Governor in Council may at any time remove a person appointed under subsection (1) from office.
- (5) A person appointed to an office under subsection (1) ceases to hold that office on ceasing to be a member of the Board.

67 Acting member

- (1) If a member of the Board is unable to perform the duties or functions of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the period of inability.
- (2) The Governor in Council—
 - (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
 - (b) may at any time terminate the appointment.
- (3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

68 Payment of members

- (1) A member or acting member of the Board, other than a member who is an employee of the public service within the meaning of the **Public Administration Act 2004**, is entitled to receive the fees that are fixed from time to time by the Governor in Council for that member.

S. 68(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 214.4).

- (2) Each member or acting member of the Board is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

S. 68(3)
repealed by
No. 46/1998
s. 7(Sch. 1).

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69 Procedure of Board

- (1) The President or, in the absence of the President, the Deputy President must preside at a meeting of the Board at which he or she is present.
- (2) If neither the President nor Deputy President are present at a meeting the members present may elect a member to preside at the meeting.
- (3) The person presiding at a meeting has a deliberative vote and a second or casting vote.
- (4) A quorum of the Board consists of 3 members or acting members of the Board.
- (5) The Board must ensure that minutes of all proceedings at each meeting is recorded.
- (6) Subject to this Act, the Board may regulate its own proceedings.

70 Member's interests

- (1) A member who has a pecuniary or other interest in any matter in which the Board is concerned must—
 - (a) if the member is present at a meeting of the Board at which the matter is to be considered, disclose the nature of the interest immediately before the consideration of that matter; or

(b) if the member is aware that the matter is to be considered at a meeting of the Board at which the member does not intend to be present, disclose the nature of the interest to the President or Deputy President of the Board before the meeting is held.

(2) The member—

(a) may take part in the discussion in the meeting; and

(b) must leave the meeting while any vote is taken on a question relating to the matter.

71 Resolutions without meetings

(1) If—

(a) the Board has taken reasonable steps to give notice to each member setting out the terms of a proposed resolution; and

(b) a majority of the members for the time being sign a document containing a statement that they are in favour of the resolution in the terms set out in the document—

a resolution in those terms is deemed to have been passed at a meeting of the Board held on the day on which the document is signed or, if the members referred to in paragraph (b) do not sign it on the same day, on the day on which the last of those members signs the document.

(2) If a resolution is, under subsection (1), deemed to have been passed at a meeting of the Board, each member must as soon as practicable be advised of the matter and given a copy of the resolution.

(3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, are deemed to constitute one document.

- (4) The majority of members referred to in subsection (1)(b) must not include a member who, because of section 70, is not entitled to vote on the resolution.
- (5) This section does not apply to any resolution of the Board relating to a matter being considered under Part 3.

72 Approved methods of communication for Board

- (1) If not less than two thirds of the members of the Board for the time being holding office so agree, a meeting of the Board may be held by means of a method of communication, or by means of a combination of methods of communication, approved by the President of the Board for the purposes of that meeting.
- (2) For the purposes of this Part, a member of the Board who participates in a meeting held as permitted by subsection (1) is present at the meeting even if he or she is not physically present at the same place as another member participating in the meeting.
- (3) This section—
 - (a) applies to a meeting or a part of a meeting; and
 - (b) does not apply to a meeting conducted for the purposes of Part 3.

73 Effect of vacancy or defect

An act or decision of the Board is not invalid only because—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any of its members; or

S. 73
amended by
No. 11/2002
s. 3(Sch. 1
item 63(a)).

- (c) in the case of an acting member, the occasion for that member so acting had not arisen or had ceased.

S. 73(2)
renumbered
as s. 73(c) by
No. 11/2002
s. 3(Sch. 1
item 63(b)).

74 Immunity

- (1) A member of the Board is not personally liable for anything done or omitted to be done in good faith—
- (a) in the exercise of a power or the discharge of a duty under this Act or the regulations; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under this Act or the regulations.
- (2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of the Board attaches instead to the Board.

75 Staff

The Board must employ a person to be responsible for maintaining the register and may employ any other persons that are necessary for the purposes of administering this Act.

76 Delegation

The Board may, in writing, delegate to—

- (a) a member of the Board; or
- (b) the person responsible for maintaining the register or any other member of the staff of the Board—

its powers and functions under this Act, other than—

- (c) the power to refuse to grant or refuse to renew registration; or

- (d) the power to impose or to amend, vary or revoke conditions, limitations or restrictions on registration; or
- (e) the power to conduct any hearing or to make any determination under Part 2 or Part 3; or
- (f) this power to delegate.

77 Secrecy

- (1) A person who is or has been a member of the Board, or a member of the staff of the Board must not, directly or indirectly, make a record of, disclose or communicate to any person information about the affairs of any person acquired in that capacity unless—
 - (a) it is necessary to do so for the purposes of, or in connection with, the performance of a function or the exercise of a power or duty under this or any other Act; or
 - (b) the person to whom the information relates gives written consent to the making of the record, disclosure or communication.

Penalty: 60 penalty units.

- (2) Subsection (1) does not prevent a person from producing a document or giving evidence to a court or tribunal in the course of criminal proceedings or proceedings under this or any other Act.
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PART 7—REPORTING AND FINANCIAL PROVISIONS

78 Veterinary Practitioners Registration Board Fund

- (1) The Board must establish and keep a Veterinary Practitioners Registration Board Fund.
- (2) All fees, fines and penalties paid or recovered by the Board under this Act must be paid into the Fund.
- (3) The Board must pay any other money received by it into the Fund, including income from the investments of the Fund.
- (4) Out of the Fund, the Board must pay—
 - (a) the expenses incurred by it in carrying out its functions, powers and duties; and
 - (b) any other expenses incurred in the administration of this Act; and
 - (c) any payments to be made to members of the Board under this Act and any payments to be made to other persons under this Act; and
 - (d) any other payments recommended by the Board and approved by the Minister.

79 Investment powers

The Board may invest money credited to the Fund that it does not immediately require—

- (a) in any manner in which money may be invested under the **Trustee Act 1958**; or
- (b) in any other manner that the Minister approves.

**PART 8—ENFORCEMENT AND SUPPLEMENTARY
POWERS**

80 Proceedings for offences

- (1) The person responsible for maintaining the register or any other officer authorised by the Board may take proceedings under this Act in the name of the Board.
- (2) Any prosecution instituted in the name of the Board must, in the absence of evidence to the contrary, be taken to have been instituted by the Board.

81 Identification

- (1) The Board must issue an identification card to each person appointed by the Board to apply for and execute search warrants for the purposes of this Act.
- (2) A person appointed by the Board must, in the course of performing his or her functions under this Act, produce his or her identification card to any person who requests its production.

82 Powers of entry with warrant

- (1) A person appointed for that purpose by the Board may apply to a magistrate for the issue of a search warrant in relation to particular premises if that person believes, on reasonable grounds—
 - (a) that there is or has been a contravention of this Act or the regulations on the premises;
or
 - (b) that entry into or onto the premises is necessary for the purpose of investigating a complaint made under this Act which, if substantiated, may provide grounds for the suspension or cancellation of registration of a registered veterinary practitioner.

- (2) If a magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is on the premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations or of grounds for the suspension or cancellation of the registration of a veterinary practitioner, the magistrate may issue a search warrant authorising any person named in the warrant—
- (a) to enter the premises, or the part of the premises, named or described in the warrant; and
 - (b) to search for and seize a thing named or described in the warrant; and
 - (c) to bring the thing before the Court so that the matter may be dealt with according to law.
- (3) In addition to any other requirement, a search warrant issued for the purposes of this section must state—
- (a) the offence or grounds of suspension or cancellation suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the thing to be searched for; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in a form prescribed under that Act.
- (5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

83 Announcement before entry

- (1) Immediately before executing a search warrant, a person named in the warrant must announce that he or she is authorised by the warrant to enter the premises.
- (2) The person need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure the safety of any person or that the effective execution of the search warrant is not frustrated.

84 Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the person or persons named in the warrant must—

- (a) identify themselves to that person by producing their identification card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

85 Copies or receipts to be given

- (1) If a person seizes—
 - (a) a document, disk or tape or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied—

under a warrant the person, on request by the occupier, must give a copy of the thing or information to the occupier as soon as practicable after the seizure.

- (2) If a person seizes a thing under a warrant and has not provided a copy of the thing under subsection (1) the person must provide a receipt for that thing as soon as practicable after the seizure.

86 Powers of Board in relation to fees

- (1) In the case of any fee which the Board is empowered to fix under this Act—
- (a) the Board must fix the fee for a period of 12 months and may amend or vary the fee at the end of that period; and
 - (b) the Board may fix a different fee for a different case and may allow for the reduction, waiver or refund, in whole or in part, of any fee; and
 - (c) the Board must publish any fee it has fixed in a newspaper circulating generally throughout Victoria.
- (2) In fixing fees under this Act the Board is entitled to ensure that the amount of money collected in fees under this Act is sufficient to cover the cost to the Board of administering this Act.

S. 86(1)(c)
amended by
No. 71/2014
s. 36.

PART 9—GENERAL

87 Supreme Court—limitation of jurisdiction

It is the intention of section 52(3) to alter or vary section 85 of the **Constitution Act 1975**.

88 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) registration, renewal of registration, endorsement of registration and applications for registration, renewal of registration and endorsement of registration;
 - (b) the register, including particulars to be noted on the register and the manner of keeping the register;
 - (c) forms for the purposes of this Act;
 - (d) time limits for the purposes of this Act;
 - (e) penalties, not exceeding 10 penalty units, for breaches of the regulations;
 - (f) generally any matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
 - (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification, or method, formulated, issued, prescribed or published by any person whether—
 - (i) wholly or partially or as amended by the regulations; or

- (ii) as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time; and
 - (d) may leave anything for the approval or satisfaction of a specified person.
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PART 10—SAVINGS, TRANSITIONAL AND AMENDMENTS

Division 1—Savings and transitional

89 Definitions

In this Part—

new Board means the Veterinary Practitioners Registration Board of Victoria established under this Act;

old Act means the **Veterinary Surgeons Act 1958** as in force immediately before its repeal;

old Board means the Veterinary Board of Victoria established under the old Act.

90 Repeal

No. 6410.

The **Veterinary Surgeons Act 1958** is repealed.

91 Board succeeds old Board

- (1) On the commencement of this section—
- (a) the old Board is abolished and its members go out of office; and
 - (b) any rights, assets, liabilities and obligations of the old Board, immediately before its abolition, become rights, assets, liabilities and obligations of the new Board; and
 - (c) the new Board is substituted for the old Board as a party in any proceeding, contract, agreement or arrangement commenced or made by, against or in relation to the old Board; and
 - (d) the new Board may continue and complete any other continuing matter or thing commenced by, against or in relation to the old Board.

- (2) On and from the commencement of this section, the assets that become assets of the new Board under subsection (1)—
- (a) if they are moneys or amounts standing to the credit of any fund or account of the old Board, must be taken to form part of the Veterinary Practitioners Registration Board Fund; and
 - (b) if they are assets in which the funds of the old Board have been invested, must be taken to be investments of the Veterinary Practitioners Registration Board Fund.
- (3) A reference in any Act (other than this Act) or in any subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** to the old Board must, on and after the commencement of this section, be construed as a reference to the new Board established under this Act unless the context otherwise requires.

92 Proceedings before the old Board

- (1) If an investigation or inquiry into the activities or physical or mental health of a registered veterinary surgeon under the old Act has commenced but not been completed before the commencement of Part 3 of this Act—
- (a) that investigation or inquiry may be completed on and after that date; and
 - (b) any appeal or other further proceedings which might have been taken in relation to that investigation or inquiry under the old Act might be taken on and after that date—
- by the old Board as if this Act had not been enacted.

- (2) The new Board must give effect to a decision made on an inquiry, investigation or appeal completed by the old Board as if it were a decision under this Act.

93 Application of this Act to conduct occurring before commencement of this Act

- (1) In the case of activities of a person who is deemed by section 94 to be a registered veterinary practitioner under this Act which occurred before the commencement of Part 3 and in respect of which no proceedings have been commenced under the old Act, this Act applies to the extent that there was power to conduct an inquiry under the old Act into those activities.
- (2) Any determination or outcome of a hearing into those activities must be one which would have been available as a finding or decision in an inquiry by the Board under the old Act.
- (3) This section does not apply to activities which are the subject of proceedings to which section 92 applies.

94 Existing registrations

- (1) A person who was registered as a veterinary surgeon under the old Act immediately before the commencement of Part 2 of this Act is deemed to have general registration under this Act.
- (2) A person who was, immediately before the commencement of this section, registered as a specialist veterinary surgeon under section 24F of the old Act with respect to a special branch of veterinary sciences is deemed to have general registration under this Act with an endorsement of that practitioner's registration under section 8 of this Act to practise as a specialist practitioner in that branch.

- (3) If a person is deemed to be registered under this section, and the registration of that person under the old Act, immediately before the commencement of this Act, was suspended, the registration of that person under this Act is deemed to be suspended for the remainder of the period for which that person's registration would have been suspended under the old Act.
- (4) If a person is deemed to be registered under this section, and the registration of that person under the old Act, immediately before the commencement of this Act, was subject to conditions, limitations or restrictions, the registration of that person under this Act is deemed to be subject to the same conditions, limitations or restrictions as those to which the registration under the old Act was subject.
- (5) The registration of a person who is deemed to be registered under this section expires (unless sooner cancelled) at the end of the period for which the person was registered under the old Act.
- (6) A reference in any Act (other than this Act) or a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** to a veterinary surgeon registered under the old Act who is deemed by subsection (1) to be registered under this Act must, on and after the commencement of this section, be construed as a reference to a veterinary practitioner registered under this Act unless the context otherwise requires.

95 Preparation of annual report

The new Board shall prepare the annual reports that the old Board would have been required to prepare under the **Financial Management Act 1994** in respect of any part of the financial year during which the old Board operated.

Veterinary Practice Act 1997
No. 58 of 1997
Part 10—Savings, transitional and amendments

Division 2—Consequential amendments

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S. 96
repealed by
No. 29/2011
s. 3(Sch. 1
item 102).

**PART 11—SAVINGS AND TRANSITIONAL PROVISIONS
ARISING FROM AMENDING ACTS**

Pt 11
(Heading and
s. 96)
inserted by
No. 71/2014
s. 37.

**96 Transitional provision—Primary Industries
Legislation Amendment Act 2014**

S. 96
inserted by
No. 71/2014
s. 37.

- (1) Despite section 11(1), in the case of the registration of a veterinary practitioner which is not specific which, immediately before the commencement of section 27(1) of the **Primary Industries Legislation Amendment Act 2014**, was due to continue in force until 31 December 2015, the Board may renew the registration for a period of up to 18 months but ending no later than midnight on 30 June 2017.
- (2) Despite section 86(1)(a), in the case of a fee for renewal of registration for the period of 18 months ending at midnight on 30 June 2017, the Board may fix a fee for a period of greater than 12 months.

Veterinary Practice Act 1997
No. 58 of 1997

Sch.
repealed by
No. 29/2011
s. 3(Sch. 1
item 102).

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 22 May 1997

Legislative Council: 8 October 1997

The long title for the Bill for this Act was "A Bill to make further provision for the registration of veterinary practitioners, the investigation into the professional conduct or fitness to practise of registered veterinary practitioners, to establish the Veterinary Practitioners Registration Board of Victoria and the Veterinary Practitioners Registration Board Fund, to repeal the **Veterinary Surgeons Act 1958** and to make consequential amendments to other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 22 May 1997

Legislative Council: 8 October 1997

Absolute majorities:

Legislative Assembly: 18 September 1997

Legislative Council: 14 October 1997

The **Veterinary Practice Act 1997** was assented to on 28 October 1997 and came into operation as follows:

Part 1 (sections 1–3) on 28 October 1997: section 2(1); rest of Act on 17 March 1998: Government Gazette 12 March 1998 page 520.

2 Table of Amendments

This publication incorporates amendments made to the **Veterinary Practice Act 1997** by Acts and subordinate instrument.

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 100) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Licensing and Tribunal (Amendment) Act 1998, No. 101/1998

Assent Date: 1.12.98
Commencement Date: S. 34 on 1.2.99: Government Gazette 24.12.98 p. 3204
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Statute Law (Further Revision) Act 2002, No. 11/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 63) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Animals Legislation (Animal Welfare) Act 2003, No. 103/2003

Assent Date: 9.12.03
Commencement Date: Ss 45–58, 60, 62–67(Sch.) on 10.12.03: s. 2(1); ss 59, 61 on 7.10.04: Government Gazette 30.9.04 p. 2721
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 214) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 112) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

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Health Legislation (Miscellaneous Amendments) Act 2005, No. 42/2005

Assent Date: 2.8.05
Commencement Date: Ss 53, 54 on 3.8.05: s. 2
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 53) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 107) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Primary Industries Legislation Amendment Act 2009, No. 35/2009

(as amended by Nos 36/2009, 48/2010)

Assent Date: 30.6.09
Commencement Date: Ss 109–119 on 31.12.10: s. 2(6)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 2 item 54) on 1.1.10: s. 2(2)
Current State: This information relates only to the provisions amending the **Veterinary Practice Act 1997**

Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 58) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Severe Substance Dependence Treatment Act 2010, No. 43/2010 (as amended by No. 29/2011)

Assent Date: 10.8.10
Commencement Date: S. 49 on 1.3.11: s. 2(2)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Primary Industries Legislation Amendment Act 2010, No. 48/2010

Assent Date: 24.8.10
Commencement Date: Ss 50–54 on 1.10.10: Government Gazette 30.9.10 p. 2286
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Veterinary Practice Act 1997
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Endnotes

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 102) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 54) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Legal Profession Uniform Law Application Act 2014, No. 17/2014

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 102) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Inquiries Act 2014, No. 67/2014

Assent Date: 23.9.14
Commencement Date: S. 147(Sch. 2 item 39) on 15.10.14: Special Gazette (No. 364) 14.10.14 p. 2
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

Primary Industries Legislation Amendment Act 2014, No. 71/2014

Assent Date: 30.9.14
Commencement Date: S. 38 on 1.7.15: s. 2(2); ss 24–37 on 1.7.15: s. 2(3)
Current State: This information relates only to the provision/s amending the **Veterinary Practice Act 1997**

3 Amendments Not in Operation

Not updated for this publication.

4 Explanatory details

No entries at date of publication.