

Queensland



ANNO TRICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE



No. 6 of 1986

An Act to amend the Veterinary Surgeons Act 1936-1973
in certain particulars

[ASSENTED TO 6TH MARCH, 1986]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title. This Act may be cited as the *Veterinary Surgeons Act Amendment Act 1986*.

2. Commencement. (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a day appointed by Proclamation.

3. Principal Act and citation as amended. (1) In this Act the *Veterinary Surgeons Act 1936-1973* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Veterinary Surgeons Act 1936-1986*.

4. Amendment of s. 2. Parts of Act. Section 2 of the Principal Act is amended by—

(a) inserting immediately beneath the expression "PART II—THE BOARD;" the expression "PART IIA—THE TRIBUNAL;";

(b) omitting the word "REGISTER" and substituting the word "REGISTERS";

(c) inserting after the word "SURGEONS" the words "AND VETERINARY SPECIALISTS".

5. Amendment of s. 3. Meaning of terms. Section 3 of the Principal Act is amended by—

(a) omitting the definition "Health Acts";

(b) omitting the definition "Pharmaceutical chemist";

(c) in the definition "Practice" omitting the word "occasion;" and substituting the following word and paragraph:—

"occasion:

For the purpose of this definition, a person who accepts a gift for having done or performed any act, procedure, matter or thing that forms part of veterinary surgery is deemed to have done or performed the act, procedure, matter or thing for reward;";

(d) omitting the definitions "Register" and "Registrar" and substituting the following definitions:—

"Register of Veterinary Specialists"—The Register of Veterinary Specialists, Queensland;

"Register of Veterinary Surgeons"—The Register of Veterinary Surgeons, Queensland;

"Registrar"—The Registrar of the Board: the term includes a person appointed pursuant to this Act to be the deputy

registrar and any person who for the time being performs the duties of the registrar or deputy registrar;”;

(e) inserting after the definition “This Act” the following definition:—

“ “Tribunal”—The Veterinary Tribunal of Queensland constituted under this Act;”;

(f) omitting the definition “Veterinary medicine” and substituting the following definitions:—

“ “Veterinary premises”—Premises at which veterinary surgery is practised: the term includes a veterinary centre, veterinary clinic and veterinary hospital;

“Veterinary specialist”—A veterinary surgeon registered under this Act as a veterinary specialist with respect to a veterinary specialty and whose name remains upon the Register of Veterinary Specialists with respect to such veterinary specialty;

“Veterinary specialty”—A branch of veterinary surgery prescribed under this Act to be a veterinary specialty;”;

(g) in the definition “Veterinary surgeon”, omitting the word “register” and substituting the words “Register of Veterinary Surgeons”;

(h) in the definition “Veterinary surgery”—

(i) omitting in paragraph (d) the word “animals;” and substituting the word “animals.”;

(ii) omitting paragraph (e).

6. Amendment of s. 4. Constitution and composition of Board, appointment and tenure of office of members. Section 4 of the Principal Act is amended by omitting subsection (6).

7. Amendment of s. 5. Section 5 of the Principal Act is amended by, in the second paragraph of subsection (3), inserting after the word “Association” the word “Limited”.

8. Amendment of s. 7. Disqualifications from membership of Board. Section 7 of the Principal Act is amended by, in paragraph (a), omitting the expression “*The Mental Health Acts 1962 to 1964*” and substituting the expression “*the Mental Health Services Act 1974-1984*”.

9. Amendment of s. 13. Appointment of deputy member. Section 13 of the Principal Act is amended by, in subsection (1), inserting after the word “Association” the word “Limited”.

10. Repeal of and new s. 14. Registrar and other officers. The Principal Act is amended by repealing section 14 and substituting the following section:—

“**14. Officers.** (1) The Governor in Council shall appoint a registrar of the Board and a deputy registrar of the Board.

The appointments shall be made under and in accordance with the *Public Service Act 1922-1978* and each person so appointed shall hold his appointment subject to that Act.

A person appointed as registrar or deputy registrar may hold that office in conjunction with any other office held by him in the Public Service of Queensland.

(2) The Board may appoint such other officers as the Board thinks necessary to give effect to this Act.

Subject to any applicable award of an industrial court, tribunal or authority or any industrial agreement, persons appointed pursuant to this subsection shall be paid such remuneration and shall be employed under such conditions as are fixed by the Board.”.

11. Amendment of s. 15. Funds of Board. Section 15 of the Principal Act is amended by, in subsection (2), inserting after the words “under this Act,” the words “the costs of the Tribunal”.

12. New Part IIA. The Principal Act is amended by inserting the following heading and sections after section 15:—

“PART IIA—THE TRIBUNAL

15A. Constitution of Tribunal. There shall be constituted a Tribunal to be called the “Veterinary Tribunal of Queensland” which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed on the Tribunal by or under this Act.

15B. Members of Tribunal. (1) The Tribunal shall consist of 3 members each of whom shall be appointed by the Governor in Council by notification published in the Gazette of whom—

- (a) one shall be a barrister, solicitor, stipendiary magistrate or a person who has been a stipendiary magistrate, nominated by the Minister;
- (b) one shall be a veterinary surgeon nominated by the Minister; and
- (c) one shall be a veterinary surgeon who is a member of the Queensland Division of the Australian Veterinary Association Limited and is nominated by that Division.

(2) If the Queensland Division of the Australian Veterinary Association Limited fails or refuses to nominate a veterinary surgeon who is a member of that Division to be a member of the Tribunal within 7 days after a date fixed by the Minister in that behalf the Governor in Council may appoint any veterinary surgeon who is a member of that Division as a member of the Tribunal and where he does so the veterinary surgeon so appointed shall be deemed to have been nominated by the Queensland Division of the Australian Veterinary Association Limited.

(3) The person appointed pursuant to subsection (1) (a) shall be the chairman of the Tribunal.

(4) The persons appointed as members of the Tribunal shall hold office at the pleasure of the Governor in Council.

(5) A member of the Tribunal may hold his appointment in conjunction with any position he holds in the Public Service of Queensland.”.

13. New ss. 15C and 15D. The Principal Act is amended by inserting the following sections after section 15B as inserted by this Act:—

“**15C. Vacating office.** (1) A member of the Tribunal shall be deemed to have vacated his office if he—

- (a) dies;
- (b) becomes a patient within the meaning of the *Mental Health Services Act 1974-1984*;
- (c) becomes bankrupt or compounds with his creditors;
- (d) is convicted in Queensland of an indictable offence or elsewhere than in Queensland of an offence which if committed in Queensland would be an indictable offence;
- (e) resigns his office by notice under his hand given to the Minister;
- (f) where he was appointed pursuant to paragraph (a) of section 15B (1)—ceases to be qualified for appointment in terms of that paragraph;
- (g) where he was appointed pursuant to paragraph (b) of section 15B (1)—ceases to be a veterinary surgeon;
- (h) where he was appointed pursuant to paragraph (c) of section 15B (1)—ceases to be a veterinary surgeon or a member of the Queensland Division of the Australian Veterinary Association Limited; or
- (i) is removed from office by the Governor in Council.

(2) When a vacancy arises in the office of a member of the Tribunal the Governor in Council may, by notification published in the Gazette, appoint a person qualified to hold the office vacated and, in the case of a vacancy occurring in the office of the member appointed pursuant to paragraph (c) of section 15B (1), nominated by the Queensland Division of the Australian Veterinary Association Limited, as a member.

(3) Where a vacancy occurs in the office of the member appointed pursuant to paragraph (c) of section 15B (1), subsection (2) of that section shall apply to and in respect of the filling of that vacancy.

(4) Where pursuant to this section a person is appointed to fill a vacancy in the office of a member who was the chairman of the Tribunal that person shall, by virtue of his appointment, be the chairman of the Tribunal.

15D. Acting members of Tribunal. (1) The Governor in Council may appoint a person who is not a member to act as a member of the Tribunal where a member is unable or unwilling to act and whilst so acting he shall be deemed to be a member of the Tribunal and may exercise the powers and authorities and shall perform the functions and duties of the member in whose place he is acting.

(2) A person appointed to act in the place of a member—

- (a) appointed pursuant to paragraph (a) of section 15B (1) shall be a barrister, solicitor, stipendiary magistrate or a person who has been a stipendiary magistrate nominated for that purpose by the Minister;
- (b) appointed pursuant to paragraph (b) of section 15B (1) shall be a veterinary surgeon nominated for that purpose by the Minister;
- (c) appointed pursuant to paragraph (c) of section 15B (1) shall be a veterinary surgeon who is a member of the Queensland Division of the Australian Veterinary Association Limited and is nominated by that Division.

(3) If the Queensland Division of the Australian Veterinary Association Limited fails or refuses to nominate a veterinary surgeon who is a member of that Division to be an acting member of the Tribunal within 7 days after a date fixed by the Minister in that behalf, the Governor in Council may appoint any veterinary surgeon who is a member of that Division as an acting member of the Tribunal and where he does so the veterinary surgeon so appointed shall be deemed to have been nominated by the Queensland Division of the Australian Veterinary Association Limited.

(4) The appointment of a person as an acting member shall terminate—

- (a) in the case of an appointment expressed to be for the purpose of any proceeding, upon that proceeding being determined by the Tribunal;
- (b) in the case of an appointment expressed to be for a period, upon the expiration of that period; or
- (c) upon its being revoked by the Governor in Council.

(5) An appointment made pursuant to this section shall be made by notification published in the Gazette.”

14. New ss. 15E, 15F and 15G. The Principal Act is amended by inserting the following sections after section 15D as inserted by this Act:—

“15E. Jurisdiction and decisions of Tribunal. (1) The Tribunal shall have jurisdiction to hear and determine—

- (a) any charge alleging misconduct in a professional respect brought by the Board against any veterinary surgeon;
 - (b) any application made pursuant to section 22C;
 - (c) show cause proceedings brought pursuant to section 22D.
- (2) The decision of the chairman of the Tribunal on a question of law shall be taken to be the Tribunal's decision.

(3) Subject to subsection (2), save where the Tribunal is unanimous the decision of the majority of its members shall be taken to be the Tribunal's decision.

(4) In any proceedings before it the Tribunal may make such order as to the costs of the proceedings as it thinks fit.

15F. Proceedings of Tribunal. (1) The Tribunal shall meet as often as is necessary for the purpose of exercising its jurisdiction under this Act at such times and places as it thinks fit and shall conduct its business in such manner as may be prescribed or, where or to the extent not prescribed, as it determines from time to time.

(2) Proceedings before the Tribunal shall if so required by the Board or the veterinary surgeon concerned take place in public otherwise such proceedings shall take place in private.

(3) In proceedings before the Tribunal—

- (a) a barrister or solicitor or a member or officer of the Board may appear for the purpose of adducing evidence or assisting the Tribunal;
- (b) a person against whom a charge is brought or in respect of whom an application is made pursuant to section 22C or who has been called upon to show cause pursuant to section 22D may be represented by a barrister or solicitor or a person nominated by him as his agent.

(4) For the purpose of exercising its jurisdiction under this Act the Tribunal may receive and admit in evidence the transcript of proceedings of any court having jurisdiction in the State where, in the opinion of the Tribunal, the transcript is relevant to the matter before it.

(5) The Tribunal may proceed to hear and determine proceedings instituted pursuant to this Act in the absence of the person in respect of whom the proceedings are brought where the Tribunal is satisfied that the person has been given notice of the time and place at which the proceedings are to be heard and, where the same have been adjourned or further adjourned, of the time and place to which they have been adjourned.

15G. Registrar of Tribunal. The registrar of the Board shall, by virtue of his office, be the registrar of the Tribunal.”.

15. Amendment of heading. The Principal Act is amended by, in the heading appearing immediately above section 16, omitting the word "REGISTER" and substituting the word "REGISTERS".

16. Amendment of s. 16. Keeping register. Section 16 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section omitting the word "register" and substituting the word "registers";

(b) omitting subsections (1) and (2) and substituting the following subsections:—

"(1) The registrar shall make and keep in the forms respectively prescribed the following registers:—

(a) the "Register of Veterinary Surgeons, Queensland";
and

(b) the "Register of Veterinary Specialists, Queensland".

Unless the regulations prescribe to the contrary, The Register of Veterinary Surgeons, Queensland existing at the date proclaimed under section 2 (2) of the *Veterinary Surgeons Act Amendment Act 1986* shall be the Register of Veterinary Surgeons, Queensland.

(2) The registrar shall enter in the Register of Veterinary Surgeons, Queensland—

(a) the full names and the addresses of all persons registered as veterinary surgeons under this Act;

(b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred;

(c) in the case of a veterinary surgeon who is also registered as a veterinary specialist, a reference to such registration; and

(d) such other particulars as may be prescribed.

(2A) The registrar shall enter in the Register of Veterinary Specialists, Queensland—

(a) the full names and the addresses of all veterinary surgeons registered as veterinary specialists under this Act;

(b) a description of the qualification in respect of which such registration is granted and the date on which the qualification was conferred;

(c) a reference to the registration of the veterinary specialist concerned as a veterinary surgeon; and

(d) such other particulars as may be prescribed.";

(c) in subsection (3), omitting the words "The register shall be and" and substituting the words "Where a register referred to in

subsection (1) is kept by making entries in a bound or looseleaf book, that register shall”;

(d) in subsection (4)—

(i) inserting after the word “registered” (first occurring) the words “as a veterinary surgeon or a veterinary specialist”;

(ii) inserting after the word “registered” (third occurring) the words “as a veterinary surgeon or, as the case may be, a veterinary specialist”;

(iii) omitting the words “not registered” (second occurring) and substituting the words “not so registered”;

(e) omitting subsection (5) and substituting the following subsection:—

“(5) The registrar shall in the month of January in each year transmit a copy of the Register of Veterinary Surgeons and of the Register of Veterinary Specialists, each certified by him to be correct up to 31 December of the year next preceding, to the Minister who shall thereupon cause the same to be published in the Gazette as “The Roll of Veterinary Surgeons of Queensland for the year (insert number of year)” or, as the case may be, “The Roll of Veterinary Specialists of Queensland for the year (insert number of year)”.”;

(f) in subsection (6), inserting after the word “Queensland” the words “or, as the case may be, the Roll of Veterinary Specialists of Queensland”.

17. Amendment of s. 17. Roll fee. Section 17 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “, on or before the thirty-first day of January in each year,”;

(ii) inserting after the words “roll fee” the words “and every veterinary surgeon who is a veterinary specialist shall pay to the registrar such additional annual roll fee as is prescribed”;

(iii) adding at the end thereof the following paragraph:—

“Such annual roll fee (including in the case of a veterinary specialist the additional annual roll fee prescribed) shall be paid to the registrar by the veterinary surgeon concerned before 31 January in each year.”;

(b) omitting subsection (2) and substituting the following subsections:—

“(2) If a veterinary surgeon does not pay the prescribed annual roll fee before the time prescribed by subsection (1), the Board may remove his name from the Register of Veterinary Surgeons.

(2A) If a veterinary specialist does not pay the prescribed additional annual roll fee before the time prescribed by subsection (1), the Board may remove his name from the Register of Veterinary Specialists.”;

(c) in subsection (3)—

(i) omitting the words “registered veterinary surgeon is removed from the register” and substituting the words “person is removed from a register”;

(ii) omitting the words “to the register on payment of the prescribed fee” and substituting the words “to that register on receiving all arrears and on payment of such restoration fees as are prescribed”.

18. Amendment of heading. The Principal Act is amended by, in the heading appearing immediately above section 18, inserting after the word “SURGEONS” the words “AND VETERINARY SPECIALISTS”.

19. Amendment of s. 18. Qualifications for registration. Section 18 of the Principal Act is amended by—

(a) omitting the note appearing in and at the beginning of the section and substituting the note “Registration of veterinary surgeons.”;

(b) in subsection (1)—

(i) omitting paragraph (b);

(ii) redesignating paragraph (c) as paragraph (b) and in subparagraph (ii) of that paragraph omitting the expression “or (b)”;

(c) inserting the following subsections after subsection (1):—

“(1A) The Board may deem a person to be the holder of a qualification referred to in subparagraph (i) or (ii) of paragraph (a) or (b) of subsection (1) if the person satisfies the Board that he is entitled to that qualification and that the same will be conferred upon him in due course according to the practice of the university, college or other body in question.

(1B) An Order in Council made pursuant to subsection (1) (b) may adopt, wholly or in part, by way of reference any list of universities, colleges, veterinary schools or other bodies published by the body known as the World Health Organization.”;

(d) in subsection (2), omitting the expression “paragraphs (b) and (c)” and substituting the expression “paragraph (b)”;

(e) in subsection (3), omitting the expression “*The Mental Health Acts 1962 to 1964*” and substituting the expression “*the Mental Health Services Act 1974-1984*”.

20. Amendment of s. 18A. Performance of certain acts by approved persons. Section 18A of the Principal Act is amended by, in subsection (1), omitting the expression “or (c) of section 18” and substituting the expression “of section 18 (1)”.

21. Amendment of s. 19. Application for registration. Section 19 of the Principal Act is amended by, in subsection (1), inserting after the word "registration" the words "as a veterinary surgeon or as a veterinary specialist".

22. New ss. 19B, 19C and 19D. The Principal Act is amended by inserting the following sections after section 19A:—

"19B. Registration for limited period. (1) A person may apply to the Board to be registered as a veterinary surgeon for a period not exceeding 30 days.

(2) Where a person has applied to the Board in the prescribed form to be registered as a veterinary surgeon pursuant to subsection (1) and has paid the prescribed fee, the president or, in the absence of the president, a member of the Board authorized generally in that behalf by the Board, upon being satisfied that such person is of good fame and repute and is registered as a veterinary surgeon in a State (other than Queensland) or in a Territory of the Commonwealth, may direct the registrar to register such person as a veterinary surgeon for a period, in no case exceeding 30 days, and the registrar shall comply with that direction.

(3) Where a person is registered pursuant to this section and that person's registration as a veterinary surgeon in a State (other than Queensland) or a Territory of the Commonwealth is cancelled or suspended under the laws of that State or Territory then, on and from the date of that cancellation or suspension, his registration pursuant to this section shall be of no further force or effect and the Board may remove his name from the Register of Veterinary Surgeons.

19C. Registration of veterinary specialists. (1) A veterinary surgeon shall be entitled to be registered as a veterinary specialist if he applies to the Board in the prescribed form, pays the prescribed fee and satisfies the Board that—

- (a) he has gained special skill in the veterinary specialty with respect to which he applies to be registered;
- (b) the special skill was gained in practising veterinary surgery for a period of at least 5 years; and
- (c) he is the holder of a degree, diploma or other qualification recognized by the Governor in Council by Order in Council that relates to that veterinary specialty.

(2) The Board may refer an application made under subsection (1) to the body known as The Advisory Committee on Registration of Veterinary Specialists for the purpose of obtaining its advice in respect of the application.

19D. Veterinary specialties. The Governor in Council may, upon the recommendation of the Board, by Order in Council prescribe the branches of veterinary surgery which are to be

veterinary specialties in respect of which a veterinary surgeon may be registered as a veterinary specialist.”.

23. New s. 21. The Principal Act is amended by inserting the following section after section 20:—

“21. Removal from register and suspension. (1) The Board may remove from the Register of Veterinary Surgeons the name of any person—

- (a) who becomes a patient within the meaning of that term in the *Mental Health Services Act 1974-1984*;
- (b) whose name has been ordered to be so removed by the Tribunal;
- (c) who has had his qualification for registration as a veterinary surgeon withdrawn or cancelled by the university, college or other body by which it was awarded;
- (d) who has requested the Board in writing so to do; or
- (e) who is deceased.

(2) Where the name of a veterinary surgeon who is also a veterinary specialist is removed from the Register of Veterinary Surgeons pursuant to subsection (1) the Board shall also remove the name from the Register of Veterinary Specialists.

(3) The Board may remove from the Register of Veterinary Specialists the name of any person who has had his qualification for registration as a veterinary specialist withdrawn or cancelled by the university, college or other body by which it was awarded.

(4) A suspension of the registration of a veterinary surgeon pursuant to this Act shall—

- (a) while the suspension continues in force, have the same effect as a removal of the name of the suspended person from the Register of Veterinary Surgeons under this Act;
- (b) where he is also a veterinary specialist and while the suspension continues in force, have the same effect as a removal of the name of the suspended person from the Register of Veterinary Specialists under this Act.”.

24. Repeal of and new ss. 22, 22A and 22B. The Principal Act is amended by repealing sections 22, 22A and 22B and substituting the following sections:—

“22. Investigation by Board. (1) The Board may of its own motion or upon the complaint of a person aggrieved cause an investigation to be made of the conduct of a veterinary surgeon.

(2) A person aggrieved by the conduct of a veterinary surgeon who desires to complain of such conduct shall furnish to the Board his complaint in writing.

The Board may require that the writing be in the form of a statutory declaration made pursuant to the *Oaths Act 1867-1981*.

(3) Where the Board is of the opinion that there is sufficient evidence available with which to establish a prima facie case of misconduct in a professional respect against a veterinary surgeon it may proceed pursuant to section 22A or cause a charge to be drawn against the veterinary surgeon and refer such charge to the Tribunal for hearing and determination.

Every such charge shall contain or be accompanied by sufficient particulars to inform the Tribunal and the veterinary surgeon against whom it is made of the matter alleged in the charge.

22A. Board may punish. (1) Subject to section 22B, where the Board is of the opinion that a veterinary surgeon has been guilty of misconduct in a professional respect and considers that the misconduct is not of such a nature as to warrant its charging him therewith it may, in lieu of so charging him—

- (a) order him to pay to the Board by way of penalty a specified sum of money in no case exceeding \$500;
- (b) admonish or reprimand him; or
- (c) adjourn the matter of dealing with him pursuant to paragraph (a) or (b) for a period not exceeding 12 months.

(2) An order made pursuant to subsection (1) (a) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if he fails to pay the sum of money to the Board within a specified time and, if the money is not paid within that time, his registration as a veterinary surgeon shall be suspended accordingly.

Suspension pursuant to this subsection shall be in addition to and not in lieu of payment of the sum of money.

(3) Where the Board adjourns a matter for a period pursuant to subsection (1) (c) it shall reconsider the matter at the end of that period and, taking into consideration the conduct, demeanour and behaviour of the veterinary surgeon concerned during that period, proceed pursuant to subsection (1) (a) or (b) or take no further action.

(4) Where the Board deals with a veterinary surgeon pursuant to subsection (1) it may order him to pay to the Board such costs as it thinks fit.

22B. Board to give notice of its intention to proceed pursuant to section 22A. (1) Before dealing with a veterinary surgeon

pursuant to section 22A (1) the Board shall give to him written notice of its intention so to do and shall state in the notice—

- (a) the misconduct in a professional respect of which, in the opinion of the Board, he is guilty;
- (b) that within the time specified in the notice, which time shall not be earlier than 14 days after the date of the notice, he may—
 - (i) make written representations to the Board concerning the alleged misconduct;
 - (ii) request the Board to hear him in relation to the alleged misconduct; or
 - (iii) require the Board to charge him with being guilty of the alleged misconduct.

(2) Where a veterinary surgeon requests the Board to hear him in relation to the alleged misconduct the Board shall advise him of a time and place at which he may appear before the Board and the veterinary surgeon may at that time and place appear before the Board and himself make representations to it concerning the alleged misconduct.

(3) In dealing with a veterinary surgeon pursuant to section 22A (1), the Board shall give due consideration and weight to any representations made by the veterinary surgeon concerned in relation to the alleged misconduct.

(4) Where pursuant to a notice under subsection (1) a veterinary surgeon requires the Board to charge him with being guilty of the alleged misconduct it is not competent to the Board to proceed to deal with him pursuant to section 22A (1)."

25. New ss. 22C and 22D. The Principal Act is amended by inserting the following sections after section 22B as inserted by this Act:—

"22C. Board may apply to Tribunal for an order to remove the name of a veterinary surgeon from the register. (1) Where a veterinary surgeon is convicted in Queensland or elsewhere of an offence, whether indictable or not, which in the opinion of the Board renders him unfit to practise veterinary surgery the Board may apply to the Tribunal for an order that the name of the veterinary surgeon be removed from the Register of Veterinary Surgeons.

(2) An application made pursuant to this section shall contain or be accompanied by sufficient particulars to inform the Tribunal and the veterinary surgeon concerned of the matter alleged in the application.

(3) Where the Tribunal is satisfied that the veterinary surgeon has been convicted of an offence, whether in Queensland or elsewhere and whether indictable or not, of such a nature that it renders him unfit to practise veterinary surgery the Tribunal may order that his name be removed from the Register of Veterinary Surgeons.

(4) In proceedings brought pursuant to this section the Tribunal shall have regard to the facts and circumstances surrounding the commission of the offence of which it is alleged that the veterinary surgeon concerned has been convicted and which are adduced in evidence before it.

22D. Where veterinary surgeon medically unfit. (1) If it comes to the notice of the Board, whether by reason of an investigation conducted by it or otherwise, that a veterinary surgeon may be medically unfit to practise veterinary surgery it may appoint a committee consisting of persons who are registered as medical practitioners under the *Medical Act 1939-1984* (hereinafter in this section referred to as the "committee") to determine whether or not the veterinary surgeon is medically fit to practise veterinary surgery.

(2) The Board may, by written notice given to him, require the veterinary surgeon to appear before the committee and on being so required he shall report to the committee at a time and place specified in the notice and shall submit himself to examination by the committee and to such tests and other examinations as the committee may require.

(3) Upon completing its examination of the veterinary surgeon and considering the results of the tests and other examinations the committee shall report to the Board on his medical fitness to practise veterinary surgery.

(4) Where the veterinary surgeon fails to report to the committee or fails to submit himself when and as required pursuant to subsection (2), the committee shall report his failure to the Board.

(5) Where the committee's report states that the veterinary surgeon is medically unfit to practise veterinary surgery or failed to report to it or failed to submit himself to a test or examination when and as required pursuant to subsection (2), the Board may by notice in writing given to the veterinary surgeon call upon him to show cause before the Tribunal at a time and place specified in the notice as to why his name should not be removed from the Register of Veterinary Surgeons.

(6) If at the time and place specified in the notice given under subsection (5) or at the time and place to which the proceedings to show cause are adjourned, the veterinary surgeon to whom the notice was given fails to appear or, having appeared, fails to show to the satisfaction of the Tribunal that he is medically fit to practise veterinary surgery, the Tribunal may order that his name be removed from the Register of Veterinary Surgeons."

26. New ss. 22E and 22F. The Principal Act is amended by inserting the following sections after section 22D as inserted by this Act:—

"22E. Orders of Tribunal on charge of misconduct in a professional respect. (1) Where the Tribunal finds a veterinary

surgeon guilty of a charge of misconduct in a professional respect brought pursuant to this Act it may—

- (a) order that his name be removed from the Register of Veterinary Surgeons;
- (b) order that his registration as a veterinary surgeon be suspended for a specified period;
- (c) order that he pay to the Board by way of penalty a specified sum of money in no case exceeding \$2 000; or
- (d) admonish or reprimand him.

(2) An order made pursuant to subsection (1) (c) may contain a direction that the registration of the veterinary surgeon concerned be suspended for a specified period if he fails to pay the sum of money to the Board within a specified time and, if the money is not paid within that time, his registration as a veterinary surgeon shall be suspended accordingly.

Suspension pursuant to this subsection shall be in addition to and not in lieu of payment of the sum of money.

22F. Misconduct in a professional respect. Without limiting the meaning of the term “misconduct in a professional respect” a veterinary surgeon shall be guilty of such misconduct who—

- (a) is habitually drunk or is addicted to any deleterious drug;
- (b) in connexion with the practice of his profession, makes use of any title or description other than a title or description contained in the description of qualifications in respect of which registration has been granted to him or other prescribed title or description;
- (c) conducts any veterinary premises or other place for the practice of veterinary surgery where he himself is not in full-time attendance thereat, unless a veterinary surgeon employed by him is in full-time attendance thereat for the purpose of practice and supervision during the hours at which such premises are open for the practice of veterinary surgery, and the name of such veterinary surgeon employed by him is conspicuously posted up or indicated on the premises by means of a name plate or other device in letters of equal dimensions to those of his name;
- (d) signs or gives in his professional capacity a certificate, notice, report or like document that is false or misleading in a material respect;
- (e) contravenes or fails to comply with, or counsels, procures, aids or abets another person to contravene or fail to comply with, or does or omits to do any act for the purpose of enabling another person to contravene or fail to comply with, any Act or other

- law with respect to dangerous drugs whether or not the contravention or failure to comply is the subject of court proceedings;
- (f) advertises directly or indirectly otherwise than in accordance with the regulations or employs or sanctions the employment of an agent for the purpose of procuring clients;
 - (g) contravenes or fails to comply with section 25 (3), (4), (6), (8) or (8A);
 - (h) practises fraud or deception in the practice of his profession;
 - (i) is negligent or incompetent in the practice of his profession;
 - (j) is convicted of an offence involving cruelty to an animal;
 - (k) fails to keep the premises on which he practises his profession and all equipment contained therein in a clean and sanitary condition; or
 - (l) assaults, resists, obstructs or hinders or threatens or intimidates a member or deputy member of the Board or any officer of the Board, in the exercise of his powers under this Act.”.

27. New ss. 22G and 22H. The Principal Act is amended by inserting the following sections after section 22F as inserted by this Act:—

“22G. Initiation of proceedings. (1) A charge alleging misconduct in a professional respect referred to the Tribunal for hearing and determination shall be lodged with the registrar of the Tribunal.

(2) An application under section 22C shall be lodged with the registrar of the Tribunal.

(3) A copy of the notice under section 22D (5) calling upon a veterinary surgeon to show cause as to why his name should not be removed from the Register of Veterinary Surgeons shall be lodged with the registrar of the Tribunal.

(4) At least 30 days prior to the date fixed for the hearing of a charge referred to in subsection (1) or of an application referred to in subsection (2), the registrar of the Tribunal shall give notice in writing to the person against whom the charge is made or to whom the application relates informing him of the charge or, as the case may be, the application, particulars thereof and the time and place for hearing.

22H. Appeals. (1) A person aggrieved by—

- (a) a refusal by the Board, on any ground other than that he does not possess the necessary academic

qualifications, of his application to be registered as a veterinary surgeon; or

- (b) an order or determination of the Tribunal made in respect of him under section 22C (3), 22D (6) or 22E (1),

may appeal therefrom to a Judge of the District Court at Brisbane who shall have jurisdiction to hear and determine the appeal and whose decision thereon shall be final and be given effect to by the Board.

(2) An appeal shall be by way of rehearing and shall be instituted within 30 days after notification of the refusal or order or determination to the person aggrieved and no later, by filing a notice of appeal in the registry of the District Court at Brisbane setting out the grounds of appeal.

(3) Rules of court may be made under the *District Courts Act 1967-1985* with respect to the institution, conduct and disposal of an appeal.

Until such rules of court are made or in so far as the rules made do not extend to a particular case, the Judge hearing the appeal may give such directions as to the hearing as he thinks fit and such directions shall be complied with.

(4) Where upon an appeal the Judge orders a penalty to be paid by an appellant he shall order the penalty to be paid to the Board and, for the purposes of its enforcement, the order shall be deemed to be an order made by the Tribunal.

(5) (a) The Judge may make such order as to costs (including the costs of the proceedings in which the order or determination appealed against was made) to be paid by either party to the appeal as he thinks fit.

(b) An order for costs made pursuant to paragraph (a) may be enforced in the same manner as a judgment of the District Court."

28. Amendment of s. 23. Surrender of certificate. Section 23 of the Principal Act is amended by—

(a) omitting the expression "the register under section 17, 22 or 22B" and substituting the words "a register";

(b) omitting the expression "under section 22";

(c) omitting the words "the certificate of" and substituting the words "every certificate of".

29. Amendment of s. 24. Restoration of name. Section 24 of the Principal Act is amended by—

(a) in subsection (1), omitting the words "the register" (first occurring) and substituting the words "a register kept pursuant to this Act";

(b) in subsection (2), omitting the words "the register any name removed therefrom" and substituting the words "a register kept pursuant

to this Act any name removed therefrom by order of a Judge of the District Court or of the Tribunal”.

30. Amendment of s. 25. Prohibited practices. Section 25 of the Principal Act is amended by—

(a) inserting after subsection (1) the following subsection:—

“(1A) Notwithstanding subsection (1), the body known as the School of Veterinary Science of the University of Queensland may practise veterinary surgery provided that any act, procedure, matter or thing forming part of veterinary surgery done or performed on behalf of that body is done or performed by a veterinary surgeon.”;

(b) in subsection (3), omitting the words “A veterinary surgeon,” and substituting the words “Except with the prior approval of the Board, a veterinary surgeon,”;

(c) adding the following paragraph at the end of subsection (4):—

“A veterinary surgeon shall not be convicted of an offence against paragraph (b) if he proves that at the time the person did or performed the act, procedure, matter or thing in relation to veterinary surgery the person was undertaking a course of study in veterinary science conducted by a university situated in Australia and was acting at his direction and under his supervision.”;

(d) in subsection (5), omitting all words from and including the words “For the purposes of this subsection” to the end of the subsection and substituting the following words:—

“For the purposes of paragraph (b), a person who accepts a gift for having done or performed any act, procedure, matter or thing in relation to veterinary surgery is deemed to have done or performed that act, procedure, matter or thing for reward.

For the purposes of this subsection, the Governor in Council may from time to time by Order in Council declare certain operations that may be done in or in connexion with animal husbandry and specified therein not to constitute veterinary surgery.

A person shall not be convicted of an offence against paragraph (b) if he proves that at the time he did or performed the act, procedure, matter or thing in relation to veterinary surgery he was undertaking a course of study in veterinary science conducted by a university situated in Australia and was acting at the direction and under the supervision of a veterinary surgeon.”;

(e) in subsection (8), omitting the word “, “specialist” ”;

(f) inserting the following subsection after subsection (8):—

“(8A) A person, other than a veterinary specialist, shall not take or use or by inference adopt the name, initial, symbol or

description of veterinary specialist or any word or words being a combination or an abbreviation of the words "veterinary specialist" or use or have attached to or exhibited at his place of business or residence any name, initial, title, symbol or description that implies or is calculated to imply that he is a veterinary specialist.";

(g) in subsection (9) (b), omitting the expressions "\$500" and "\$50" and substituting the expressions "\$2 000" and "\$100" respectively.

31. Amendment of s. 26. Veterinary surgeon may sue for fees, etc. Section 26 of the Principal Act is amended by omitting all words from and including the words "registered under this Act" to and including the words "court whatever" and substituting the words "or a corporation, firm or association consisting wholly of persons who are veterinary surgeons shall demand, claim, accept, receive or retain or sue or counterclaim for, set off or recover".

32. Repeal of and new s. 28. Power of Board to examine on oath. The Principal Act is amended by repealing section 28 and substituting the following section:—

"**28. Person not to be a member of both the Board and the Tribunal.** An appointment shall not be made under this Act such that a person would, at the same time, be both a member or deputy member of the Board and a member or acting member of the Tribunal and any such appointment shall be void and of no effect."

33. Repeal of and new s. 29. Power to summon witnesses. The Principal Act is amended by repealing section 29 and substituting the following section:—

"**29. Tribunal deemed to be Commission of Inquiry.** For the purpose of exercising its jurisdiction under this Act—

- (a) the Tribunal shall be deemed to be a Commission of Inquiry within the meaning of *The Commissions of Inquiry Acts, 1950 to 1954* and, subject to this Act, the provisions of those Acts shall apply to proceedings of the Tribunal;
- (b) the members of the Tribunal shall be deemed to be Commissioners under those Acts and to have all the powers, authorities, rights, privileges and protection of Commissioners conferred by those Acts including, in the case of the chairman of the Tribunal, those of the chairman of a Commission of Inquiry; and
- (c) witnesses before the Tribunal shall have the protection conferred by those Acts on witnesses before a Commission of Inquiry."

34. New s. 29B. The Principal Act is amended by inserting the following section after section 29A:—

"**29B. Allowances and expenses.** (1) Subject to subsection (2), each member of the Board and each member of the Tribunal

shall be paid such fees and allowances as the Governor in Council approves from time to time.

(2) A fee or an allowance shall not be paid to a member who is—

- (a) a stipendiary magistrate for attendance at any meeting held during the hours during which a Magistrates Court office is normally open for the conduct of public business;
- (b) an officer of the Public Service of Queensland for attendance at any meeting held during the ordinary office working hours of that officer.

(3) Each member of the Board and each member of the Tribunal shall be paid such expenses as are necessarily incurred by him in the discharge of his duties as a member and as the Minister approves.”.

35. Amendment of s. 32. Evidence. Section 32 of the Principal Act is amended by inserting the following subsection after subsection (2):—

“(3) A certificate purporting to be that of the registrar as to—

- (a) an order or determination made by the Board or the Tribunal; or
- (b) an amount owing to the Board pursuant to an order of the Board or the Tribunal,

shall upon its production be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.”.

36. Amendment of s. 33. Board may sue. Section 33 of the Principal Act is amended by—

- (a) numbering the existing provisions as subsection (1);
- (b) adding at the end thereof the following subsection:—

“(2) Where the Tribunal or the Board has ordered that a sum of money or costs be paid to the Board and the order is not complied with the amount of such sum or costs outstanding shall be a debt due and owing by the person against whom the order was made to the Board and may be sued for and recovered in a court of competent jurisdiction.”.

37. New ss. 33A and 33B. The Principal Act is amended by inserting the following sections after section 33:—

“**33A. Reports.** (1) The Tribunal shall prepare a written report, signed by the persons by whom it was constituted at the relevant time, in relation to all matters heard and determined by it under this Act.

The report shall be lodged with the registrar of the Tribunal.

(2) The Board shall prepare a written report in relation to all matters dealt with by it under section 22A.

The report shall be lodged with the registrar of the Board.

(3) Unless otherwise authorized by the Board, a report referred to in subsection (1) or (2) shall not be made available to any person other than the Minister or a person acting in aid of him, a member of the Tribunal, a member or officer of the Board or the person to whom it relates or that person's solicitor.

(4) The Board may publish the whole or any part of a report to which this section applies in such manner as it thinks fit.

33B. Giving of notice. A notice or other document to be given to a person for the purposes of this Act may be duly given—

(a) by serving the same personally on that person; or

(b) by sending the same by pre-paid post letter addressed to that person at his place of residence or business last known to the person by whom the same is sent.”.

38. New ss. 33C and 33D. The Principal Act is amended by inserting the following sections after section 33B as inserted by this Act:—

“33C. Veterinary surgeon to produce records. (1) The Board may, by notice in writing given to him, direct a veterinary surgeon to produce to it, within the time specified in the notice, such records as relate to his practice of veterinary surgery as are specified in the notice.

(2) A veterinary surgeon who fails to comply with a direction of the Board under subsection (1) commits an offence.

33D. Power of entry, etc. (1) A prescribed person may at any reasonable time enter upon any land and into any premises on land upon or in which he suspects, on reasonable grounds, that an act, procedure, matter or thing that forms part of veterinary surgery, is being or has been done or performed in order to ascertain whether an offence against this Act is being or has been committed or whether any veterinary surgeon is guilty of misconduct in a professional respect.

(2) Before a prescribed person enters a part of any premises which part is used exclusively as a dwelling-house he shall, save where he has the permission of the occupier of that part to his entry, obtain from a justice a warrant to enter.

(3) A justice who is satisfied upon the complaint of a prescribed person that there is reasonable cause to suspect that an act, procedure, matter or thing that forms part of veterinary surgery is being or has been done or performed in any premises may issue his warrant directed to the complainant to enter the premises at such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time.

(4) A warrant shall be, for the period of one month from the date of its issue, sufficient authority for the prescribed person to whom it is directed to enter the premises specified in the warrant at the times specified therein.

(5) A prescribed person who enters upon any land or into any premises pursuant to this section or to a warrant issued pursuant to this section may—

- (a) search the land or premises and examine anything found thereon or therein;
- (b) interview any person found thereon or therein;
- (c) collect and take away samples and specimens of anything found thereon or therein;
- (d) photograph the land or premises or any part thereof and anything found thereon or therein;
- (e) seize and take away records which, in his opinion formed on reasonable grounds, may contain evidence in respect of an offence against this Act or of misconduct in a professional respect.

(6) In this section premises that are used as a dwelling-house do not include the curtilage of those premises.

(7) Any person, other than a veterinary surgeon, who assaults, resists, obstructs or hinders, threatens or intimidates a prescribed person in the exercise of his powers under this section commits an offence against this Act.

Penalty: \$1 000.

(8) In this section—

“prescribed person” means a member or deputy member of the Board or any officer of the Board.”.

39. Amendment of s. 34. Savings. Section 34 of the Principal Act is amended by—

(a) numbering the existing provisions as subsection (1) and in those provisions—

(i) omitting the expression “1972” (where thrice occurring) and substituting in each case the expression “1981”;

(ii) omitting the words “Health Acts” (where thrice occurring) and substituting in each case the expression “*Health Act 1937-1984*”;

(iii) omitting the words “pharmaceutical chemist” (where twice occurring) and substituting in each case the word “pharmacist”;

(b) adding at the end thereof the following subsection:—

“(2) In subsection (1)—

“pharmacist” has the meaning ascribed to that term by the *Pharmacy Act 1976-1984*:

The term includes any company or association of persons entitled to carry on a practice of pharmacy under that Act.”.

40. Amendment of s. 35. Section 35 of the Principal Act is amended by—

(a) in subsection (1), omitting the expression "*The Justices Acts, 1886 to 1932*" and substituting the expression "*the Justices Act 1886-1985*";

(b) in subsection (2), omitting the expression "\$200" and substituting the expression "\$500".

41. Amendment of s. 37. Regulations. Section 37 of the Principal Act is amended by—

(a) in paragraph (a), inserting after the word "registrar" the words ", deputy registrar";

(b) in paragraph (d), inserting after the word "Board" the words "and of the Tribunal";

(c) in paragraph (f), omitting the words "Board members,";

(d) in paragraph (h), omitting the expression "\$200" and substituting the expression "\$500";

(e) inserting the following paragraphs after paragraph (k):—

"(ka) the manner in which and the extent to which a corporation, firm or association consisting wholly of persons who are veterinary surgeons may advertise the provision of professional services by its members, the place at which those services are offered and the qualifications of its members to practise veterinary surgery;

(kb) the manner in which and the extent to which the School of Veterinary Science of the University of Queensland may advertise the provision of professional services by members of its staff who are veterinary surgeons;"

(f) in paragraph (o), omitting the words "and veterinary hospitals" and substituting the words ", veterinary hospitals and other veterinary premises".

42. Repeal of s. 38. Regulations, etc., to have effect. The Principal Act is amended by repealing section 38.