

Queensland



Explanatory Notes for SL 2002 No. 234

Veterinary Surgeons Act 1936

VETERINARY SURGEONS REGULATION 2002

GENERAL OUTLINE

Short Title

The short title of the regulation is the *Veterinary Surgeons Regulation 2002*

The provision of the Act under which the legislation was made

Section 37 of the *Veterinary Surgeons Act 1936* provides for the Governor in Council to make regulations.

Objectives of the regulation

The objectives of the regulation are to make a new veterinary surgeons regulation to carry forward all of the existing provisions of the *Veterinary Surgeons Regulation 1991* amended as follows—

- (a) exempting the spaying of cattle by the Willis dropped ovary method from being an act of veterinary science;
- (b) establishing a fee structure set above CPI to maintain full cost recovery;
- (c) inserting a new fee for the application to use premises as a veterinary premises;
- (d) imposing an additional obligation on veterinary surgeons to maintain and produce records of their ongoing veterinary

education to the Veterinary Surgeons Board to assist the Board in dispute resolution.

Reasons for the regulation

The *Veterinary Surgeons Regulation 1991* will expire on 31 August 2002. It is therefore necessary that a new *Veterinary Surgeons Regulation 2002* be made before expiry of the existing regulation to ensure the continued effective administration of the *Veterinary Surgeons Act 1936*.

How will the policy objectives be achieved?

There are two alternative options for dealing with the policy objectives, they are—

- Option 1.** Make a new replacement *Veterinary Surgeons Regulation 2002* before expiry of the current regulation on 31 August 2002. This is the preferred option.
- Option 2.** Do nothing. This would result in the current *Veterinary Surgeons Regulation 1991* expiring on 31 August 2002. If the current regulation were allowed to expire without making a new regulation, there would be no capacity to effectively regulate the registration of veterinary surgeons and administer the *Veterinary Surgeons Act 1936*.

Is the regulation consistent with the policy objectives of the authorising legislation?

Yes. The regulation is consistent with the policy objectives of the *Veterinary Surgeons Act 1936*.

Is the regulation consistent with the policy objectives of other legislation?

Yes. The regulation is consistent with the policy objectives of other legislation.

Estimated costs for government implementation

The remaking of the regulation will not result in any costs to government, because the fees are set at full cost recovery.

Consistency with fundamental legislative principles

The proposed regulation is consistent with fundamental legislative principles.

Does the regulation have sufficient regard to rights and liberties of individuals?

Yes. The regulation has sufficient regard to the rights and liberties of individuals.

Does the legislation have sufficient regard for the institution of Parliament?

Yes. The regulation has sufficient regard for the institution of Parliament.

CONSULTATION

Community

A Regulatory Impact Statement (RIS) was released for public consultation on the proposed changes to the current regulation. Notification of the RIS was published in the Government Gazette on 5 July 2002, the Courier Mail on 6 July and the Queensland Country Life on 11 July 2002. In total 2 100 copies of the RIS were distributed to veterinary surgeons.

Business Regulation Reform Unit

The Business Regulation Reform Unit had been consulted and have acknowledged that the RIS had been prepared for the provisions of the new regulation that are likely to impose appreciable costs to a part of the community. BRRU endorsed the content of the RIS released for consultation.

National Competition Policy Unit – Treasury Department

The National Competition Policy Unit, Treasury was consulted on National Competition Policy (NCP) issues in relation to the RIS to the remaking of the new regulation and has advised that there are no NCP issues contained in the proposed regulation.

Office of the Queensland Parliamentary Counsel

The Office of Queensland Parliamentary Counsel has been consulted during drafting of the regulation.

Results of consultation

The RIS notification process resulted in only two submissions (both from veterinary surgeons) of which one provided adverse comments and the other indicated support for the making of the new regulation. There is general support for the new regulation, evidenced by only two responses being received, despite a copy of the RIS being sent to each registered veterinary surgeon and notification in the Government Gazette, the Courier-Mail and Queensland Country Life newspapers.

One submission was critical of allowing lay persons to spay cattle on the grounds of unacceptable standards of animal welfare and potential for economic loss due to death of animals or loss of marketable products. The respondent also claimed that the proposed fee structure would result in “ineffective regulation of the Act to ensure competent provision of veterinary services by qualified persons resulting in monetary contributions from consolidated revenue funds derived equally from the owners of animals and non owners”. It was also suggested that a strategic statement on standards of continuing veterinary education favoured by the Board ought to be distributed to registered veterinary surgeons in the State for consideration and comment.

The other submission on the RIS was supportive but raised the question of lay persons performing spays on their own stock. It also raised the issues of access to restricted drugs and identification and spaying of other livestock species. These issues are beyond the scope of the proposed new regulation. Provisions for access to restricted drugs will be consistent with regulations administered by Queensland Health and only spaying of cattle by the Willis dropped ovary method is being exempted from an act of veterinary science. The respondent supported the proposed increase in fees and noted that the fees should have been higher. Concern was raised on the

definition of continuing veterinary education. The respondent was also under the false impression that continuing veterinary education would be compulsory.

Taking into account the fact that only two submissions were received this would appear to indicate a general level of satisfaction with the provisions that were subjected to Regulatory Impact Statement. After due consideration of the submissions received it has been decided not to modify the regulation in any way.

The basis for this decision is that lay persons performing cattle spaying will still be responsible for meeting their duty of care for the welfare of the animals under the *Animal Care and Protection Act 2001*.

In addition, the proposed fee structure has been previously endorsed by the Australasian Veterinary Association (Queensland Division). The increase in fees is reasonable given that the additional funds are required for new responsibilities and resulting change in Board structure. It supports the payment of a fee for applications for premises approval and encourages Board inspections of premises. The adoption of these fees will ensure that adequate funds are available to the Board to meet its responsibilities and avoid the need for consolidated revenue funds to be injected.

In regard to the issue of continuing veterinary education raised by both respondents, this will not be mandatory however it is considered necessary to oblige registered veterinary surgeons who decide to undertake such continuing veterinary education to keep records of that training and produce the records to the Board if requested. It is clear that the sole purpose of this record-keeping obligation is to help the Board resolve complaints, which is clearly in the interest of veterinary surgeons. After commencement of the regulation, the Board will be providing advice to all veterinary surgeons of the new record-keeping requirements.

NOTES ON PROVISIONS

PART 1 – PRELIMINARY

1 Short title

Clause 1 provides that the short title of the regulation will be the *Veterinary Surgeons Regulation 2002* ('the regulation').

2 Commencement

Clause 2 provides that the regulation commences on 01 September 2002.

PART 2 – ACTS THAT ARE NOT VETERINARY SCIENCE

3 Acts not veterinary science—Act, s 2A

Clause 3 lists acts that are not an act of veterinary science for section 2A of the Act. The purpose of this clause is to recognise a number of acts that are done for animal husbandry or dentistry that are prescribed not to be veterinary science.

PART 3 – PROCEDURES FOR ELECTIONS OF BOARD MEMBERS

4 Definitions

Clause 4 contains definitions of ballot envelope, election day, nomination day and time and return envelope.

5 Notice of election

Clause 5 imposes an obligation on the registrar to give each veterinary surgeon written notice of the election day, at least 3 months before the election day.

6 Notice calling for nominations

Clause 6 obliges the registrar to publish invitations to veterinary surgeons inviting nomination as a candidate for election to the Veterinary Surgeons Board, stating the nomination day and time that is published at least 28 days before the closing date by which nominations must be received by the returning officer, in 2 newspapers circulating generally throughout the State.

7 Requirements for nominations

Clause 7 restricts a nomination of a candidate for election to the Veterinary Surgeons Board to nominate 1 candidate only, and state the full name of the candidate and be signed by the candidate and 3 or more other veterinary surgeons and must be received by the returning officer before the closure of the nomination and time. A nomination must be accompanied by a candidate's written statement consisting of not more than 200 words.

8 Candidates elected unopposed

Clause 8 provides that where only 1 or 2 candidates are nominated by the nomination day and time, the returning officer is not required to conduct a ballot for the election and the candidates are elected to the Board unopposed.

9 Returning officer to give notice to elected members

Clause 9 obliges the returning officer to give written notice to the persons elected to the Board under section 8, and the returning officer must, at the first reasonable opportunity, give each veterinary surgeon written notice of the persons elected to the Board under section 8.

10 Returning officer to conduct ballot

Clause 10 provides that if more than 2 candidates are nominated by the nomination day and time, the returning officer, must conduct a ballot for the election under division 4 of the regulation.

11 Voting material

Clause 11 obliges the returning officer to send the following voting material to each veterinary surgeon at least 28 days before the election day—

1. a ballot paper;
2. an unsealed envelope for the ballot paper;
3. an unsealed envelope addressed to the returning officer.

The ballot paper must—

1. state the election day; and
2. list, in alphabetical order, the name of each candidate;
3. provide instructions on how a veterinary surgeon may cast a vote;
4. be initialled by the returning officer; and
5. be accompanied by any statements submitted by the candidates.

12 How votes are cast

Clause 12 describes the procedure for casting a vote. It requires that a veterinary surgeon may mark a ballot paper with a cross opposite the name of 1 or 2 candidates, and put the ballot paper in the unsealed envelope for the ballot paper (the ‘ballot envelope’) and seal the ballot envelope, and put the ballot envelope in an unsealed envelope addressed to the returning officer (the ‘return envelope’) and seal the return envelope, and sign and write the surgeon’s name on the return envelope, and return the return envelope to the returning officer before the election day.

13 Returning officer must keep ballot box

Clause 13 obliges the returning officer to keep a ballot box for the election. The returning officer, on receiving a valid return envelope, must open the return envelope, take the ballot envelope out of the return envelope and place the ballot envelope in the ballot box. The ballot box

must be sealed in a way that prevents ballot envelopes from being taken from it until the votes are counted. A valid return envelope is a sealed return envelope that contains a ballot envelope and the has the name and signature of a veterinary surgeon on it.

14 Candidate may appoint scrutineer

Clause 14 allows a candidate to appoint one scrutineer for the election, by giving written notice to the returning officer at least 5 days before the election.

15 Returning officer must count votes

Clause 15 requires the returning officer, in the presence of any scrutineer, to open each ballot envelope in the ballot box for the election, and accept each formal vote and reject each informal ballot paper and count and record the number of votes for each candidate made on the accepted ballot papers. The returning officer may accept an informal ballot paper if the returning officer is of the opinion that the intention of the voter is clear. Formal ballot paper means a ballot paper marked as required under clause 12(a). Informal ballot paper means a ballot paper not marked as required under clause 12(a).

16 Candidates with highest votes elected

Clause 16 provides that the 2 candidates with the highest number of votes are elected to the Board, and provides for the returning officer to conduct a draw to decide the winning candidate where 2 or more candidates have received the same number of votes. The process for the conduct of the draw is also defined.

17 Returning officer to give notice to candidates

Clause 17 requires the returning officer to give each candidate written notice of the candidates elected, and at the first reasonable opportunity must give written notice to each veterinary surgeon of the result of the election.

18 Ballot papers to be kept

Clause 18 obliges ballot papers to be kept for 3 months after the ballot day and destroyed after 3 months by the returning officer in the presence of a board member.

PART 4 – MATTERS ABOUT VETERINARY SURGEONS**19 Form of registers – Act s 16**

Clause 19 allows the register of veterinary surgeons and veterinary specialists to be kept in electronic form, which ensures ease and security in maintaining the records.

20 Primary and secondary registration

Clause 20 recognises a person's entitlement to be registered as a veterinary surgeon and a veterinary specialist to make application for primary registration where the majority of the veterinary practice is carried out in Qld, or to make application for secondary registration where the majority of the practice is carried out in another State or Territory. This process supports reciprocal arrangements between jurisdictions for mutual recognition of veterinary surgeons.

21 Veterinary qualifications and other matters – Act s 18

Clause 21 provides for the recognition of veterinary qualifications accredited by bodies listed in schedule 1, part 1 and membership of a body mentioned in schedule 1, part 2 if membership is obtained by examination by the body. A degree or diploma mentioned in schedule 1, part 3 is recognised and particular examinations conducted by the Australasian Veterinary Boards are also recognised as veterinary qualifications. Subclause (3) provides that the prescribed period for section 18(2)(a) of the Act is 3 months. Subclause (4) lists the examinations that are the prescribed examinations for section 18(2)(b) of the Act.

22 Specialist veterinary qualifications – Act s 19C

Clause 22 recognises the qualifications mentioned in schedule 2 as specialist veterinary qualifications.

23 Veterinary specialities – Act s 19D

Clause 23 recognises particular branches of veterinary science as veterinary specialities.

PART 5 – MISCELLANEOUS**24 Veterinary surgeon to display sign**

Clause 24 obliges a veterinary surgeon to display a sign containing the veterinary surgeon's name, whether the veterinary surgeon is a veterinary surgeon or a veterinary specialist, the veterinary qualifications recorded either in the register of veterinary surgeons or, in the case of a veterinary specialist, recorded on the register of veterinary specialists.

25 Record of treatment of animals

Clause 25 obliges each veterinary surgeon to keep records for each animal treated and include the animal's identifying details and information for each consultation about the animal which is listed in the clause. Such records must be kept for 3 years from the day the last entry about the animal is included in the record.

26 Record of continuing education

Clause 26 is a new obligation for veterinary surgeons to keep records of any continuing education undertaken by the veterinary surgeon, in the approved form for 3 years from the day the continuing education is undertaken. The purpose of this new obligation is to assist the Veterinary Surgeons Board in complaint resolution in respect of competency of a veterinary surgeon.

27 Common seal of the board

Clause 27 provides the common seal of the Veterinary Surgeon's Board must include the board's name and the State coat of arms, and provides that the common seal may only be attached to documents under the authority of the chairperson in writing or a resolution of the Board.

28 Prescribed drugs and poisons – Act s 25

Clause 28 provides that a disqualifying offence in accordance with section 25 (e) of the Act applies to each controlled or restricted drug, or poison under the *Health (Drugs and Poisons) Regulation 1996*.

29 Fees

Clause 29 refers to the fees payable under the Act as the fees stated in schedule 3, however a public servant is exempted from payment of registration fees, annual roll fees and additional annual roll fees as a veterinary specialist.

SCHEDULE 1- VETERINARY QUALIFICATIONS

Schedule 1 Part 1 lists the accredited bodies for degrees or diplomas recognised for section 18(1)(a) of the Act.

Schedule 1 Part 2 recognises membership for the act in the Royal College of Veterinary Surgeons, United Kingdom.

Schedule 1 Part 3 recognises for the Act a degree or diploma awarded after at least 4 years study at a veterinary school listed in either the World Dictionary of Veterinary Schools or the World List of Universities, other than a degree or diploma accredited by a body mentioned in part 1.

SCHEDULE 2 – SPECIALIST VETERINARY QUALIFICATIONS

Schedule 2 Part 1 lists the qualifications that are recognised as specialist veterinary qualifications.

Schedule 2 Part 2 contains a definition of the “advisory committee”, that is referred to in Part 1.

SCHEDULE 3 – FEES

Schedule 3 prescribes the fees payable under the Act.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Primary Industries.