

Veterinary Surgeons Regulation 2016

Explanatory notes for SL 2016 No. 126

made under the

Veterinary Surgeons Act 1936

General Outline

Short title

Veterinary Surgeons Regulation 2016

Authorising law

Section 37 of the *Veterinary Surgeons Act 1936*

Policy objectives and the reasons for them

The purpose of the subordinate legislation is to remake the *Veterinary Surgeons Regulation 2002* (the expiring Regulation) prior to its expiry on 31 August 2016 to continue to provide for the effective administration of the *Veterinary Surgeons Act 1936* (the Act).

The Act regulates the practice of veterinary science in Queensland. Very broadly, the Act:

- establishes the Veterinary Surgeons Board of Queensland (the Board);
- restricts who the Board can register as a veterinary surgeon and veterinary specialist;
- provides disciplinary powers to the Board and the Queensland Civil and Administrative Tribunal that may be exercised where a registrant engages in professional misconduct;
- restricts use of the titles 'veterinary surgeon', 'veterinary specialist' and similar to registered veterinary surgeons and specialists;
- restricts who can practise veterinary science for fee or reward; and
- restricts where veterinary science can be practised.

The expiring Regulation is to be remade subject only to changes necessary to capture current legislative drafting practice. Once remade it will continue to provide for the effective administration of the following provisions under the Act:

- section 2A which provides for what is 'veterinary science' and that acts done for animal husbandry or animal dentistry can be prescribed by regulation as not being 'veterinary science';

- section 8 which provides that certain matters in relation to the election of two members of the Board must occur as prescribed;
- section 17 which provides for the payment of an annual fee to the registrar by veterinary surgeons and veterinary specialists, and that the fees, and any exemptions from payment, are to be provided in the regulation;
- section 18 which provides that a person shall be entitled to be registered as a veterinary surgeon where the person meets the specified requirements, including the requirement to hold a veterinary science qualification recognised by regulation or be a member of a college or other body of veterinary surgeons recognised by regulation;
- section 19 which provides that an application for registration must be accompanied by a fee prescribed by regulation, subject to any exemptions from payment provided under regulation;
- section 19B which provides that an application for registration for a limited period of no longer than 30 days must be accompanied by the fee which is prescribed by regulation;
- section 19C which provides that a veterinary surgeon is entitled to be registered as a veterinary specialist if: the application is in the approved form; is accompanied by the fee which is prescribed by regulation; and the person meets the specified requirements including that they hold a veterinary specialist qualification recognised by regulation;
- section 19D which provides that the Governor in Council may, by regulation, provide for the branches of veterinary science which are to be veterinary specialties;
- section 19E which provides that an application for special registration, must be accompanied by the fee prescribed by regulation and that conditions of special registration may be prescribed by regulation;
- section 25A which provides that an application to use premises as veterinary premises must be accompanied by the fee prescribed by regulation; and
- section 37 which provides the power for the Governor in Council to make regulations about a list of matters, including fees payable and elections held under the Act.

Achievement of policy objectives

The subordinate legislation, as remade, will continue to achieve the effective administration of the Act.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways to effectively achieve the policy objectives.

Benefits and costs of implementation

The remake of the expiring Regulation without policy change would impose no additional cost on the government, the veterinary community and animal owners and industries.

Consistency with fundamental legislative principles

Legislation should have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, section 4(5)(e)*

Both sections 20 and 22 of the remade Regulation potentially breach the fundamental legislative principle (FLP), provided in section 4(5)(e) of the *Legislative Standards Act 1992*, that the subdelegation of a power delegated by an Act should only be allowed in appropriate cases, to appropriate persons and if authorised by an Act.

Section 20 of the remade Regulation

Section 18(1) of the Act provides that to become a registered veterinary surgeon, the person must be a holder of a degree/diploma in veterinary science of a university or other body or be a member of a college or other body of veterinary surgeons (the qualifications). In either case, the qualifications must have been granted after due examination and the Governor in Council, by regulation, is delegated to recognise the qualifications.

Section 20 of the remade Regulation provides the type of qualifications or membership recognised for section 18(1)(a) of the Act. However, section 20 subdelegates the recognising of the qualifications to a body mentioned in schedule 1, part 1, which contains a list of the various accrediting bodies. Likewise, section 20 of the remade Regulation recognises qualifications for section 18(1)(b) of the Act that are listed in schedule 1, part 3 as being those degrees or diplomas awarded after at least four years of study at a veterinary school that is listed by various accrediting bodies.

Section 22 of the remade Regulation

Similarly, section 19D of the Act provides that the Governor in Council may, by regulation, prescribe the branches of veterinary science which are to be veterinary specialties in respect of which a veterinary surgeon may be registered as a veterinary specialist.

Section 22 of the remade Regulation provides that the branches for section 19D of the Act are those branches of veterinary science recognised as a specialty by the Australasian Veterinary Boards Council Incorporated.

The potential FLP breaches in sections 20 and 22 are considered to be justified because the bodies listed, which are national and international organisations, are best placed to recognise the qualifications that a person would need in order to become a registered veterinary surgeon and a veterinary specialist, respectively, and to conduct their own analysis of the adequacy of qualifications and prescribed examinations which are constantly changing. Also, it is not practical to amend the legislation every time those bodies assess/re-assess the adequacy of a qualification or examination.

Consultation

The Veterinary Surgeons Board has been consulted on the remake of the expiring Regulation and advised that it is satisfied with the remade Regulation.

The Office of Best Practice Regulation (OBPR) was consulted with regard to the Regulatory Impact Statement (RIS) requirements. OBPR advised that the proposed remake of the expiring Regulation without policy changes was unlikely to have significant adverse impacts, and therefore, no further analysis was required under the Treasurer's RIS system guidelines.

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