

## TASMANIA

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# VETERINARY SURGEONS AMENDMENT BILL 2011

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# **VETERINARY SURGEONS AMENDMENT BILL 2011**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*  
18 October 2011

*(Brought in by the Minister for Primary Industries and Water,  
the Honourable Bryan Alexander Green)*

## **A BILL FOR**

### **An Act to amend the *Veterinary Surgeons Act 1987***

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

#### **1. Short title**

This Act may be cited as the *Veterinary Surgeons Amendment Act 2011*.

#### **2. Commencement**

The provisions of this Act commence on a day or days to be proclaimed.

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**3. Principal Act**

In this Act, the *Veterinary Surgeons Act 1987\** is referred to as the Principal Act.

**4. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “Agency” in subsection (1):

**“animal”** means –

- (a) a live vertebrate animal,  
other than a human being;  
or  
(b) a prescribed organism;

- (b) by inserting the following definition after the definition of “Commission” in subsection (1):

**“corresponding law”** means a law, of another State or a Territory, that provides for the registration or other authorisation of a person to provide veterinary services;

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- (c) by omitting “companies” from the definition of “list” in subsection (1) and substituting “entities”;
- (d) by omitting the definitions of “primary registration” and “records” from subsection (1) and substituting the following definitions:

**“partnership”** has the same meaning as in the *Partnership Act 1891*, except that it does not include an incorporated limited partnership within the meaning of that Act;

**“records”** includes –

- (a) books, accounts, minutes, registers, deeds, writings and documents; and
  - (b) X-ray images, photographs and other methods of recording and displaying images; and
  - (c) any other sources of information compiled, recorded, or stored, in written form or on micro-film, or by electronic process, or in any other manner or by any other means;
- (e) by omitting the definitions of “Registrar”, “registered veterinary

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specialist”, “registered veterinary surgeon”, “registration” and “relevant fee” from subsection (1) and substituting the following definitions:

**“registered veterinary specialist”**  
means a person who –

- (a) is registered as a veterinary specialist under Part IV; or
- (b) is not permanently resident in this State and, subject to subsection (2B), is registered under a corresponding law as a veterinary specialist;

**“registered veterinary surgeon”**  
means a person who –

- (a) is registered as a veterinary surgeon under Part IV; or
- (b) is not permanently resident in this State and, subject to subsection (2B), is registered under a corresponding law as a veterinary surgeon;

**“Registrar”** means the person appointed and holding office



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under section 7 as the Registrar of the Board;

**“registration”** means registration under this Act;

**“relevant fee”**, in relation to any matter, means the fee that is approved in relation to the matter;

- (f) by omitting the definition of “secondary registration” from subsection (1);
- (g) by omitting the definitions of “veterinary services” and “veterinary services company” from subsection (1) and substituting the following definitions:

**“veterinary services”** means services that form part of the practice of veterinary surgery, and includes, but is not limited to including, the following services:

- (a) the examination of, or attendance on, any animal for the purposes of diagnosing the physiological or pathological condition of the animal, including testing or imaging for diagnostic purposes;
- (b) giving advice based on a diagnosis referred to in paragraph (a), including

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prescribing treatment,  
drugs, medications or  
medical appliances;

(c) performing medical or  
physical treatment of  
animals;

(d) performing surgical  
procedures on animals;

(e) administering an  
anaesthetic to any animal;

(f) conducting pregnancy  
testing of any animal;

(g) carrying out, by manual  
operation or use of  
instrumental appliances,  
any procedure on an  
animal for artificial  
breeding purposes –

but does not include any  
prescribed services;

**“veterinary services company”**

means a body corporate, one of  
the objects of which is the  
provision of veterinary services,  
and includes an incorporated  
limited partnership, within the  
meaning of the *Partnership Act*  
*1891*, that carries on a business,  
all or part of which consists of the  
provision of veterinary services;

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**“veterinary services entity”** means –

- (a) a veterinary services company; or
- (b) a veterinary services partnership;

**“veterinary services partnership”**  
means a partnership that carries on a business, all or part of which consists of the provision of veterinary services;

(h) by omitting paragraph (a) from subsection (2) and substituting the following paragraph:

- (a) a reference in this Act to a person being registered under Part IV includes a reference to a person provisionally so registered, and a reference to registration under Part IV has a corresponding meaning; and

(i) by inserting the following subsections after subsection (2):

- (2A) A reference in this Act to a person being registered as a veterinary surgeon or veterinary specialist under a corresponding law is to be taken to include a reference to the person being registered or otherwise authorised under such a law to provide

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veterinary services, or specialist veterinary services, respectively, for which registration or authorisation under that law is required, and a reference to registration under a corresponding law has a corresponding meaning.

(2B) Despite subsection (2A), a person is not, for the purposes of this Act, to be taken to be registered or authorised as a veterinary surgeon or veterinary specialist under a corresponding law if the registration, or other authorisation, of the person under that law –

- (a) is specified under that law to be temporary;
- (b) is honorary only, including registration or authorisation under a corresponding law that is granted or maintained by a person who has generally retired from practice; or
- (c) is of a type of registration or authorisation that is prescribed in the regulations for the

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purposes of this  
subsection.

- (j) by inserting in subsection (3) “, animal welfare or control or use of chemicals, poisons or pharmaceuticals” after “animals”.

**5. Section 4 amended (Constitution of Veterinary Board of Tasmania)**

Section 4(4) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “a registered veterinary surgeon” and substituting “registered as a veterinary surgeon under Part IV”;
- (b) by omitting from paragraph (c) “registered veterinary surgeons” and substituting “persons who are registered as veterinary surgeons under Part IV and who are”.

**6. Section 5 amended (Functions and powers of the Board)**

Section 5(1) of the Principal Act is amended by omitting paragraphs (c) and (d).

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**7. Sections 5A and 5B inserted**

After section 5 of the Principal Act, the following sections are inserted in Part II:

**5A. Board to approve qualifications and courses**

(1) In this section –

**“qualification”** means a degree, diploma, certificate of completion of a course of study or training, or any other qualification.

(2) The Board may approve qualifications for persons seeking to become registered under Part IV.

(3) The Board may only approve under subsection (2) a qualification if the qualification may be awarded to a person on the successful completion of a course of study, or training, that is provided by a university or institution and relates to veterinary surgery.

(4) Without limiting the power of the Board under subsection (2), the Board may approve a qualification under that subsection if the course of study or the training, successful completion of which will result in the award of the qualification, is provided by a university or institution that is accredited by the Australasian Veterinary Boards Council to provide the course of study or the training.

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- (5) A decision of the Board to approve, or not to approve, a qualification under subsection (2) –
  - (a) is not subject to prohibition, mandamus, certiorari, injunction, declaration or any order of a court having similar effect; and
  - (b) is not otherwise to be challenged, appealed against, quashed or called into question on any account.

**5B. Board to declare veterinary service standards**

- (1) The Board, by notice, may declare veterinary service standards.
- (2) Veterinary service standards may –
  - (a) specify the standards of service that are to be provided by a veterinary practitioner in carrying on the practice of veterinary science; and
  - (b) specify the rules of conduct that are to be observed by a veterinary practitioner in carrying on the practice of veterinary science.

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**8. Section 9 substituted**

Section 9 of the Principal Act is repealed and the following section is substituted:

**9. Administration**

All fees paid or recovered under this Act are to be applied by the Board in and towards defraying the expenses incurred in the administration of this Act.

**9. Section 10 amended (Powers of inspectors)**

Section 10(2) of the Principal Act is amended as follows:

- (a) by omitting paragraphs (b) and (c) and substituting the following paragraphs:
  - (b) ascertaining whether a person who is, or was in the previous 3 years, a registered veterinary surgeon or a person exempted under section 13 has, in this State, failed to comply with, or contravened, or is failing to comply with or is contravening –
    - (i) any provision of this Act;
    - (ii) any condition, limitation, or restriction, imposed by the Board or by virtue of section 11A(1),  
section 18A or



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section 46(2)(d), subject to which the person may practise, or continue to practise, veterinary surgery; or

- (iii) any veterinary service standard declared under section 5B;
- (c) ascertaining whether a person who is, or was in the previous 3 years, a registered veterinary surgeon or a person exempted under section 13 is no longer a fit and proper person to practise veterinary surgery in this State; or
- (b) by omitting paragraphs (h) and (i) and substituting the following paragraphs:
  - (h) make the inquiries of a person on or in those premises or vehicles that the inspector considers to be necessary for the purposes of this Act;
  - (i) require a person on those premises to, without delay or within a period specified by the inspector –
    - (i) produce to the inspector a document, held at the premises or at other premises, that may relate to the provision of

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veterinary services by a person who is or was on the premises or who is or was engaged to provide services at or from the premises;

- (ii) produce to the inspector a certificate of registration issued to the person under section 21;
- (iii) assist the inspector to access any document, kept in an electronic form, that is a record kept in accordance with section 34 or that may relate to the provision of veterinary services by a person who is or was engaged to provide services at or from the premises;
- (iv) if the person is reasonably able to do so, produce a copy of a document referred to in this paragraph and provide it to the inspector; or
- (v) permit the inspector to make a copy of a document referred to in this paragraph; and

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- (j) require a person to provide reasonable assistance to the inspector in the exercise of the inspector's powers under this Act.

**10. Section 11 amended (Practice by unregistered persons)**

Section 11(2) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a) and substituting the following paragraph:
  - (a) a person who administers anaesthetic under the instruction of a registered veterinary surgeon who is in the presence of the person while the person administers the anaesthetic;
- (b) by omitting from paragraph (b) "available; or" and substituting "available;";
- (c) by omitting paragraph (c) and substituting the following paragraph:
  - (c) a veterinary student who is acting under the instruction of a registered veterinary surgeon who is in the presence of the student while the student is so acting; or

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**11. Section 11A inserted**

After section 11 of the Principal Act, the following section is inserted in Part III:

**11A. Interstate registered practitioners**

- (1) A condition, limitation or restriction imposed on the registration of a person as a veterinary surgeon or a veterinary specialist under a corresponding law applies to the practice in this State of veterinary surgery by the person and the rendering of veterinary services in this State by the person.
- (2) If the registration of a person as a veterinary surgeon or a veterinary specialist under a corresponding law is suspended under that law or another corresponding law, the person is not, for the period of the suspension, to be taken to be a registered veterinary surgeon or a registered veterinary specialist, respectively, for the purposes of section 11(1) and section 12.

**12. Section 14 amended (Veterinary register)**

Section 14(6) of the Principal Act is amended by omitting “registered veterinary surgeons or registered veterinary specialists at that time” and substituting “, at that time, persons registered under this Part,”.

**13. Section 15 amended (Entitlement to registration as veterinary surgeon)**

Section 15 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “under this Part” after “entitled to be registered”;
- (b) by inserting in subsection (2) “under this Part” after “be registered”;
- (c) by omitting from subsection (2)(a) “completed a regular graded course of veterinary study of at least 4 years’ duration at an approved institution,” and substituting “obtained a qualification approved by the Board under section 5A”;
- (d) by omitting from subsection (2)(b) “law in force in any other State or Territory of the Commonwealth” and substituting “corresponding law”;
- (e) by omitting from subsection (3)(a) “a law in force in another State or a Territory of the Commonwealth or in a place outside the Commonwealth (being a law regulating the practice of veterinary surgery)” and substituting “a corresponding law,”;
- (f) by omitting paragraph (b) from subsection (3) and substituting the following paragraph:

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- (b) the registration of that person under a corresponding law is suspended or has been cancelled or otherwise terminated in accordance with that law;
- (g) by inserting in subsection (3)(c)(iii) “, or a corresponding law,” after “Act”.

**14. Sections 16 and 17 substituted**

Sections 16 and 17 of the Principal Act are repealed and the following section is substituted:

**16. Entitlement to registration as veterinary specialist**

- (1) Subject to this section, a person is entitled to be registered as a veterinary specialist under this Part if –
  - (a) the person is registered under Part IV as a veterinary surgeon; and
  - (b) the person satisfies the Board that he or she possesses adequate qualifications and experience with respect to the approved speciality to which the registration is to relate.
- (2) For the purposes of determining whether a person possesses adequate qualifications and experience with respect to an approved speciality, the

Board may, amongst other matters, take into account –

- (a) the opinion of the Australasian Veterinary Board Council as to whether particular qualifications and experience are adequate; and
- (b) whether the person is registered as a veterinary specialist under a corresponding law.

**15. Section 18 amended (Application for registration)**

Section 18 of the Principal Act is amended as follows:

- (a) by omitting subsections (1), (1A) and (1B) and substituting the following subsection:
  - (1) A person may apply to the Board to be registered under this Part.
- (b) by inserting in subsection (3)(a) “under this Part” after “registration”;
- (c) by omitting subsection (7).

**16. Section 18A inserted**

After section 18 of the Principal Act, the following section is inserted in Part IV:

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**18A. Conditions of registration**

- (1) If the Board registers under section 18 a person –
  - (a) who is or was registered as a veterinary surgeon or a veterinary specialist under a corresponding law; and
  - (b) whose registration under that law has been, before the person is registered by the Board –
    - (i) suspended under that law for a period specified under that law; or
    - (ii) cancelled, and the re-registration of that person prohibited under that law before the end of a period specified under that law in respect of the cancellation –

the Board must register the person subject to the condition that the person must not, until the period has expired, practise veterinary surgery or render veterinary services.

- (2) If the Board registers under section 18 a person –



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- (a) who is registered as a veterinary surgeon or a veterinary specialist under a corresponding law; and
- (b) whose registration under that law is, immediately before the registration of the person under this Part, subject to a condition, limitation, or restriction, imposed under a corresponding law –

the registration of the person under this Part is, for the period for which the condition, limitation or restriction applies under the corresponding law, subject to that condition, limitation or restriction.

- (3) If the Board registers under section 18 a person to whom a prohibition under section 46(2)(ba) applies for a period, the Board must register the person subject to the condition that the person must not, until the period has expired, practise veterinary surgery or render veterinary services.
- (4) If the Board registers under section 18 a person to whom a condition, limitation or restriction under section 46(2)(d) applies for a period, the registration of the person under this Part is, for that period, subject to that condition, limitation or restriction.
- (5) The Board must give notice to a person registered under section 18 of any conditions, limitations or restrictions

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imposed by the Board on the registration  
of the person.

**17. Section 19 amended (Provisional registration)**

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “the course” and substituting “a course”;
- (b) by omitting from subsection (1)(a) “a degree or diploma in veterinary surgery” and substituting “a qualification approved under section 5A”;
- (c) by omitting from subsection (2)(a) “referred to in that subsection”;
- (d) by omitting from subsection (2)(a) “degrees, diplomas, or, as the case may be, certificates, in veterinary surgery are conferred” and substituting “a qualification approved under section 5A may be awarded to the person”;
- (e) by omitting from subsection (2)(b) “this Act” and substituting “this Part”;
- (f) by inserting in subsection (4) “under this Part” after “surgeon”;
- (g) by inserting in subsection (5) “and specifies in the provisional registration of the applicant” after “application”;

(h) by inserting the following subsection after subsection (7):

- (8) The Board must give notice to a person who is provisionally registered under this section of any conditions, limitations or restrictions imposed by the Board on the provisional registration of the person.

**18. Section 20 substituted**

Section 20 of the Principal Act is repealed and the following section is substituted:

**20. Temporary registration under section 18 or 19**

- (1) If the Board is not immediately able to consider under section 18 or 19 an application, members of the Board, or one member of the Board together with the Registrar, may register the applicant under section 18 or 19 temporarily until the application can be considered by the Board.
- (2) An applicant may only be registered temporarily under section 18 or 19 in accordance with subsection (1) if –
- (a) the persons registering the applicant are reasonably satisfied that the Board would have

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registered the applicant under section 18 or 19, as the case may be, if the application for registration had been considered by the Board at the time of the temporary registration; and

- (b) the relevant fee has been paid.

**19. Section 21 substituted**

Section 21 of the Principal Act is repealed and the following section is substituted:

**21. Certificate of registration**

- (1) On the registration of a person under section 18, the Registrar must issue to that person a certificate to the effect that the person is registered under this Part as a veterinary surgeon or veterinary specialist.
- (2) On the registration of a person under section 19, the Registrar must issue to that person a certificate to the effect that the person is provisionally registered under this Part as a veterinary surgeon or veterinary specialist.
- (3) Despite subsections (1) and (2) –
  - (a) on the registration of a person under section 18 in accordance with section 20, the Registrar must issue to that person a

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certificate to the effect that the person is registered under this Part temporarily as a veterinary surgeon or veterinary specialist;  
or

- (b) on the registration of a person under section 19 in accordance with section 20, the Registrar must issue to that person a certificate to the effect that the person is temporarily provisionally registered under this Part as a veterinary surgeon or veterinary specialist.

**20. Section 22 amended (Annual registration fee)**

Section 22 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
- (1) A person registered under this Part before 1 January in a year must, before that date, pay to the Board the relevant fee for that year.
- (b) by inserting in subsection (3) “under this Part” after “registration”.

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**21. Section 23 amended (Cancellation of registration)**

Section 23(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “registered veterinary surgeon or registered veterinary specialist” and substituting “registered veterinary surgeon, or registered veterinary specialist, who is registered under this Part”;
- (b) by inserting in paragraph (b) “under this Part” after “registration”.

**22. Section 23A inserted**

After section 23 of the Principal Act, the following section is inserted in Part IV:

**23A. Effect of suspension or cancellation of registration under corresponding law**

- (1) If the registration as a veterinary surgeon, or veterinary specialist, under a corresponding law of a person who is registered under this Part is suspended under that law or another corresponding law, the registration of the surgeon or specialist under this Part is suspended for the same period and on the same terms as the terms of the first-mentioned suspension.

- (2) If the registration as a veterinary surgeon, or veterinary specialist, under a corresponding law of a person who is registered under this Part is cancelled under that law or another corresponding law for any reason –
- (a) the registration under this Part of the surgeon or specialist is cancelled; and
  - (b) the registration under this Part of the person is prohibited on the same terms as the terms of the first-mentioned cancellation.

**23. Part V: Heading amended**

Part V of the Principal Act is amended by omitting “**BODIES CORPORATE**” from the heading to that Part and substituting “**ENTITIES**”.

**24. Part V, Division 1: Heading amended**

Division 1 of Part V of the Principal Act is amended by omitting “*companies*” from the heading to that Division and substituting “*entities*”.

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**25. Section 26 amended (Notification of intention to provide veterinary services)**

Section 26 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or partnership” after “company”;
- (b) by inserting in subsection (2) “or partnership” after “on the company”;
- (c) by inserting in subsection (2) “, or is a partner in the partnership,” after “of the company”;
- (d) by inserting in subsection (3) “or partnership” after “subsection (2), the Board may refuse to include the company”;
- (e) by inserting in subsection (3) “or partnership” after “until the company”;
- (f) by inserting in subsection (3) “or partnership” after “provided, the Board may refuse to include the company”.

**26. Section 29 amended (List of veterinary services entities)**

Section 29 of the Principal Act is amended as follows:



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- (a) by omitting from subsection (1) “veterinary services companies” and substituting “veterinary service entities”;
- (b) by omitting from subsection (3)(a) “veterinary services company” and substituting “veterinary services entity”;
- (c) by inserting in subsection (3)(b)(i) “or, in the case of a partnership, the office of the partnership at which notices may be served on the partnership” after “Tasmania”;
- (d) by inserting in subsection (3)(b)(ii) “or partnership” after “company”;
- (e) by inserting in subsection (3)(b)(iii) “or the partners in the partnership” after “company”;
- (f) by inserting the following subsection after subsection (7):
  - (7A) The Board is to take the steps the Board thinks fit to ensure that authorities responsible under corresponding laws for the registration or other authorisation of persons to provide veterinary services may inspect the list.
- (g) by omitting from subsection (8) “veterinary services company” and substituting “veterinary services entity”.

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**27. Section 31 amended (Removal from list)**

Section 31 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “veterinary services company” and substituting “veterinary services entity”;
- (b) by omitting from subsection (2) “company” and substituting “veterinary services entity”.

**28. Section 33 amended (Restrictions on provision of veterinary services by veterinary services entities)**

Section 33 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) If a person –
  - (a) who is not a registered veterinary surgeon; and
  - (b) who is acting in the ordinary course of the business of a veterinary services partnership –

provides a veterinary service for a person, each partner in the partnership who is a partner who caused or permitted the service to be provided by the person is guilty of an offence and is liable on summary conviction to a penalty not exceeding 50 penalty units.

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- (4) It is a defence to a charge under subsection (3) against a partner if it is proved that the person who provided the veterinary service provided the service without the knowledge or consent of the partner.

**29. Section 34 amended (Records to be kept)**

Section 34 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “veterinary services company, registered veterinary surgeon or registered veterinary specialist” and substituting “veterinary services entity, registered veterinary surgeon or registered veterinary specialist, or a person who was formerly a registered veterinary surgeon or registered veterinary specialist,”;
- (b) by omitting from subsection (1)(a)(i) “provides” and substituting “has provided”;
- (c) by omitting from subsection (1)(b) “a period of 7 years” and substituting “5 years”;
- (d) by omitting from subsection (4)(a) “veterinary services company” and substituting “veterinary services entity”;

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- (e) by inserting in subsection (4)(b) “or a veterinary services partnership that has been dissolved” after “dissolved”.

**30. Section 35 substituted**

Section 35 of the Principal Act is repealed and the following section is substituted:

**35. Board may require information from records kept under section 34**

- (1) In this section –

“**relevant entity**” means a veterinary services entity, registered veterinary surgeon or registered veterinary specialist;

“**relevant person**”, in relation to –

- (a) a veterinary services company on which a notice is served under subsection (2)(a), means a person who is concerned in the management of the company;
- (b) a veterinary services partnership on which a notice is served under subsection (2)(b), means a partner in the partnership;  
or

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- (c) a person on whom a notice is served under subsection (2)(c), means that person.
- (2) The Board may serve a notice for the purposes of this section on –
- (a) a veterinary services company;
  - (b) a veterinary services partnership;  
or
  - (c) a registered veterinary surgeon, a registered veterinary specialist or a person who was formerly a registered veterinary surgeon or registered veterinary specialist.
- (3) A notice that is served on a relevant entity under subsection (2) may require a relevant person to provide to the Board a statement in writing by the relevant person containing the relevant information specified in the notice.
- (4) For the purposes of subsections (3) and (5), the relevant information specified in a notice is the particulars, for the period specified in the notice, of the information in the records that have been kept under section 34.
- (5) A notice that is served on a relevant entity under subsection (2) is to specify the period in which the relevant information is to be provided.

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(6) A relevant person who is required by a notice under subsection (2) to provide a statement in writing must not fail to –

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

(b) provide the Board with the statement within the period specified in the notice or, if a further period is allowed by the Board, within that further period.

Penalty: Fine not exceeding 20 penalty units.

(7) A relevant person must not, in a statement provided in accordance with a notice served under subsection (2), make a representation which is false or misleading in a material particular.

Penalty: Fine not exceeding 10 penalty units.

(8) It is a defence to a charge under subsection (6) if it is proved that, at the time when the representation was made, the defendant believed on reasonable grounds that the representation was neither false nor misleading.

**31. Section 37 amended (Production of case histories, &c.)**

Section 37(1) of the Principal Act is amended as follows:

- (a) by omitting “veterinary services company” and substituting “veterinary service entity”;
- (b) by omitting from paragraph (a) “company” and substituting “entity”;
- (c) by omitting from paragraph (b) “company” and substituting “entity”.

**32. Section 39 amended (Liability of registered veterinary surgeons for veterinary services performed on behalf of veterinary services entities)**

Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “veterinary services company” and substituting “veterinary services entity”;
- (b) by omitting from subsection (2) “veterinary services company” and substituting “veterinary services entity”;
- (c) by omitting from subsection (3) “veterinary services company” first occurring and substituting “veterinary services entity”;

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- (d) by omitting from subsection (3) “veterinary services company” second occurring and substituting “veterinary services entity”.

**33. Section 40 amended (Offences by veterinary services entities)**

Section 40 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Where an offence against this Act is committed by a person (in this section referred to as “**the principal offender**”) who is a partner in a veterinary services partnership, every other partner in the partnership is deemed also to have committed the offence and may be convicted of the offence, unless the other partner proves that the act or omission constituting the offence took place without the other partner’s knowledge or consent.
- (4) A partner referred to in subsection (3) may be convicted of an offence under that subsection whether or not the principal offender who committed the offence referred to in that subsection is charged with or convicted of the offence.



**34. Section 41 amended (Interpretation of Part VI)**

Section 41 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “a person registered under this Act is guilty of misconduct in a professional respect if” and substituting “a registered veterinary surgeon or registered veterinary specialist is guilty of misconduct in a professional respect if”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (2):
  - (ab) he contravenes or fails to comply with any provision of a veterinary service standard declared under section 5B;
- (c) by inserting in subsection (2)(b) “by virtue of section 11A(1) or section 18A(2) or” after “him”;
- (d) by inserting in subsection (2)(b) “, in this State,” after “comply”;
- (e) by inserting in subsection (2)(c) “in this State” after “he practises”;
- (f) by omitting subparagraph (iii) from subsection (2)(c) and substituting the following subparagraph:
  - (iii) a name, registered under the *Business Names Act 1962*, that

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the person is entitled to use under that Act and of which the Board has been notified in writing by the person;

- (g) by inserting in subsection (2)(d) “in this State” after “permits”;
- (h) by inserting in subsection (2)(e) “in this State” after “Part III”;
- (i) by omitting from subsection (2)(f) “he uses” and substituting “in this State he uses”;
- (j) by inserting in subsection (2)(f) “or in a register of veterinary surgeons, or registered veterinary specialists, kept under a corresponding law” after “register”;
- (k) by omitting from subsection (2)(g) “he carries out” and substituting “in this State he carries out”;
- (l) by omitting paragraph (h) from subsection (2) and substituting the following paragraph:
  - (h) he is convicted in this State, in another State or a Territory of the Commonwealth or a place outside the Commonwealth, of –
    - (i) an offence as a veterinary surgeon; or

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- (ii) an offence under any law relating to cruelty to animals, animal welfare or control or use of chemicals, poisons or pharmaceuticals.
- (m) by inserting the following subsections after subsection (3):
  - (4) A relevant complaint by a person, or investigation by the Board, on a ground specified in section 46(1)(e), (f), (g) or (h), that relates to treatment provided, or a failure to provide treatment, by a person may only be made within 3 years after –
    - (a) the treatment ceased to be provided by the person; or
    - (b) the failure by the person occurred.
  - (5) A reference in subsection (4) to a relevant complaint by a person, or investigation by the Board, is a reference to –
    - (a) a complaint by a person under section 42(1) or section 43; or
    - (b) an investigation by the Board referred to in section 44(1) –

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on a ground, specified in section 46(1)(e), (f), (g) or (h), that relates to treatment provided, or a failure to provide treatment, by a registered veterinary surgeon, a registered veterinary specialist, or a formerly registered veterinary surgeon or formerly registered veterinary specialist.

**35. Section 43 amended (Complaints against persons formerly registered under this Act)**

Section 43 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) A complaint may be made to the Board by any person that a person who was formerly a registered veterinary surgeon or registered veterinary specialist had, during the period of 3 years immediately before the making of the complaint, as a person so registered been guilty in this State of misconduct in a professional respect.

**36. Section 44 amended (Inquiries relating to complaints)**

Section 44 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) The Board must, if it is of the opinion that as a result of a complaint under section 42 or 43 or as a result of its own investigation –
- (a) a person who is a registered veterinary surgeon or registered veterinary specialist; or
  - (b) a person who was formerly a registered veterinary surgeon or registered veterinary specialist –

should be required to show cause why he or she should not be dealt with under this Part, serve on the person a notice in accordance with subsection (2).

**37. Section 45A inserted**

After section 45 of the Principal Act, the following section is inserted in Part VI:

**45A. Publication of results of inquiry**

The Board, after making a decision in relation to an inquiry, may publish the details in relation to the inquiry that the Board thinks fit.

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**38. Section 46 amended (Determination of Board)**

Section 46 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(e) “the office” and substituting “a veterinary surgeon or, if the person is registered as a veterinary specialist, of such a veterinary specialist”;
- (b) by inserting in subsection (1)(g) “in this State” after “respect”;
- (c) by omitting from subsection (2)(a) “this Act” and substituting “Part IV”;
- (d) by inserting the following paragraph after paragraph (b) in subsection (2):
  - (ba) a determination prohibiting the person from engaging in this State in the practice of veterinary surgery, or rendering a veterinary service, for a period specified in the determination;
- (e) by omitting from subsection (4) “order” and substituting “determination”;
- (f) by inserting in subsection (5) “, or the imposition of a prohibition under subsection (2)(ba),” after “this section”;
- (g) by omitting from subsection (5)(a) “order” and substituting “determination”;

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- (h) by inserting in subsection (6) “section 11 and section 12 and” after “purposes of”;
- (i) by inserting the following subsection after subsection (6):
  - (6A) While a person is prohibited from engaging in this State in the practice of veterinary surgery, or rendering a veterinary service, for a period specified in a determination under subsection (2)(ba), the person is, for that period, for the purposes of section 11 and section 12, to be taken to not be a registered veterinary surgeon or registered veterinary specialist.
- (j) by inserting in subsection (8) “or imposes a prohibition on a person under subsection (2)(ba)” after “section”;
- (k) by inserting in subsection (10) “under Part IV, or impose a prohibition on the person under subsection (2)(ba),” after “that person”.

**39. Section 47 amended (Surrender of certificates)**

Section 47(1) of the Principal Act is amended by inserting “under Part IV” after “whose registration”.

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**40. Section 48 amended (Informal proceedings)**

Section 48(1) of the Principal Act is amended by omitting “registered or formerly registered” and substituting “who was formerly a registered veterinary surgeon or registered veterinary specialist”.

**41. Section 49 amended (Disciplinary powers of Board in respect of listed veterinary services entities)**

Section 49 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “person registered under this Act” and substituting “registered veterinary surgeon”;
- (b) by inserting in subsection (1) “or a partner in a veterinary services partnership” after “services company”;
- (c) by inserting in subsection (1)(a) “or partnership” after “company”;
- (d) by inserting in subsection (1)(b) “or partnership” after “company”;
- (e) by inserting in subsection (2)(b) “or a partner in the relevant veterinary services partnership” after “company”;
- (f) by inserting in subsection (3) “or relevant veterinary services partnership” after “company”;



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- (g) by inserting in subsection (4) “or a partner in a veterinary services partnership” after “services company”;
- (h) by inserting in subsection (4)(a) “or partnership” after “that company”;
- (i) by inserting in subsection (4)(a) “or partnership” after “the company”;
- (j) by inserting in subsection (5) “or a veterinary services partnership” after “services company”;
- (k) by inserting in subsection (5) “or partnership” after “the company”;
- (l) by inserting in subsection (6) “or veterinary services partnership” after “services company”;
- (m) by inserting in subsection (6) “or partnership” after “the company”.

**42. Section 50 amended (Procedure on exercising disciplinary powers under section 49)**

Section 50 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a veterinary services partnership” after “services company”;

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- (b) by omitting paragraph (a) from subsection (1) and substituting the following paragraph:
  - (a) the Board must, by notice served on the company or partnership, require the company or partnership to appear before the Board;
- (c) by omitting paragraph (c) from subsection (1) and substituting the following paragraph:
  - (c) the company or partnership may appear before the Board by a member or an officer of the company or partnership authorised for that purpose by the company or by a partner in the partnership.
- (d) by inserting in subsection (2) “or veterinary services partnership” after “services company”;
- (e) by inserting in subsection (2) “or partnership” after “the company”;
- (f) by inserting in subsection (3)(a) “or veterinary services partnership” after “company”;
- (g) by inserting in subsection (3)(b) “or partnership” after “company”;

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- (h) by inserting in subsection (3) “or partnership” after “if the person appearing on behalf of the company”;
- (i) by inserting in subsection (5) “or partnership” after “company”.

**43. Section 53 amended (Reviews)**

Section 53 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “section 17, 18, 19, or 20” and substituting “section 18 or 19”;
- (b) by omitting from subsection (1)(d) “section 17 or 18” and substituting “section 18”;
- (c) by omitting from subsection (1)(d)(ii) “section 17(3)(a) or 18(3)(b)” and substituting “section 18(3)(b)”;
- (d) by inserting in subsection (2) “or a partner in a veterinary services partnership” after “company”.

**44. Section 54A inserted**

Before section 55 of the Principal Act, the following section is inserted in Part VIII:

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**54A. National coordination of registration and registration information**

(1) In this section –

**“registering authority”** means the person or persons responsible for ensuring the registration or other authorisation of persons as veterinary surgeons or veterinary specialists under a corresponding law.

(2) The Board must notify each registering authority as soon as practicable after –

- (a) registering a person under Part IV;
- (b) imposing a condition on the registration of a person;
- (c) cancelling or suspending the registration of a person;
- (d) a complaint is made or withdrawn under this Act;
- (e) making a determination under section 46; or
- (f) taking action under section 49.

**45. Section 55 substituted**

Section 55 of the Principal Act is repealed and the following section is substituted:

**55. Evidentiary certificates**

(1) A document purporting to be a certificate signed by the Registrar and stating that a person specified in that certificate –

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

(b) was, on a day or during a period specified in that certificate, a person whose registration as a veterinary surgeon or veterinary specialist was suspended or cancelled under this Act or a corresponding law –

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

(2) A document –

(a) purporting to be a certificate signed by the Registrar; and

(b) stating that a person specified in that certificate was, on a day or

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during a period specified in that certificate, a person who was prohibited, by a determination made under section 46(1) in accordance with section 46(2)(ba), from engaging in this State in the practice of veterinary surgery, or rendering a veterinary service, for a period specified in the certificate –

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

**46. Section 56 amended (Service of documents)**

Section 56(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c)(iii) “Tasmania.” and substituting “Tasmania; or”;
- (b) by inserting the following paragraph after paragraph (c):
  - (d) in the case of a veterinary services partnership –
    - (i) by delivering it to a partner in the partnership;
    - (ii) by leaving it at the place, or principal place, of

business of the partnership in Tasmania with a person apparently employed there, being a person who has, or apparently has, attained the age of 16 years; or

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

**47. Section 57 substituted**

Section 57 of the Principal Act is repealed and the following section is substituted:

**57. Fees**

- (1) All fees payable under this Act are payable to the Board.
- (2) All fees payable under this Act may be recovered as debts due to the Board.
- (3) Despite any other Act, fees paid to the Board under this Act are not required to be paid into the Consolidated Fund.

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**48. Section 59 amended (Entitlement to sue for fees)**

Section 59 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) A veterinary services partnership is entitled to sue in a court of competent jurisdiction for the recovery of its fees or other remuneration for veterinary services rendered in its name or on its behalf by a registered veterinary surgeon.

**49. Section 60 amended (Regulations)**

Section 60(2) of the Principal Act is amended as follows:

- (a) by omitting paragraphs (b) and (ba);
- (b) by omitting from paragraph (c) “registration;” and substituting “registration; and”.

**50. Schedule 3 amended (Transitional and Savings Provisions)**

Schedule 3 to the Principal Act is amended by inserting after clause 4 the following clause:

**5. Transitional and savings provisions relating to *Veterinary Surgeons Amendment Act 2011***

- (1) In this section –



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**“amending Act”** means the *Veterinary Surgeons Amendment Act 2011*;

**“commencement day”** means the day on which all of the amendments, effected by the amending Act, to Part IV of the former Act come into force;

**“former Act”** means this Act as in force before the commencement day.

- (2) Despite the amendments to the former Act effected by the amending Act, a person who was, immediately before the commencement day, temporarily registered under the former Act is to be taken, for the period for which the person would have been so registered had this Act not been amended by the amending Act, to be registered under this Act as in force from time to time after the commencement day.
- (3) Despite the amendments to the former Act effected by the amending Act, a person who was, immediately before the commencement day, provisionally registered, temporarily provisionally registered, or registered for a period under section 17 of the former Act, is to be taken, for the period for which the person would have been so registered had the former Act not been amended by

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the amending Act, to be registered under this Act as in force from time to time after the commencement day.

- (4) Despite the amendments to the former Act effected by the amending Act, a person who was, immediately before the commencement day, registered for a purpose under section 17 of the former Act, is to be taken to be registered for that purpose under this Act as in force from time to time after the commencement day until –
- (a) the purpose has been achieved; or
  - (b) the expiry of 12 months after the day on which this provision comes into force –

whichever occurs first.

- (5) Despite the amendments to the former Act effected by the amending Act, a person who was, immediately after the commencement day, registered (other than temporarily or provisionally or for a period or purpose under section 17 of the former Act) is to be taken to be registered under this Act as in force from time to time after the commencement day.
- (6) Nothing in this section is to be taken to prevent the registration, temporary registration, or provisional registration, of a person under the former Act being

cancelled or suspended under this Act as in force from time to time after the commencement day.

- (7) Despite the amendments to the former Act effected by the amending Act, a person who, immediately before the commencement day, had obtained qualifications that entitled him or her under the former Act to be registered as a veterinary surgeon is to be taken to be qualified to be registered as a veterinary surgeon for the purposes of this Act.
- (8) Despite the amendments to the former Act effected by the amending Act, a person who, immediately before the commencement day, had satisfied the Board that he or she possessed adequate qualifications and experience in respect of a speciality to be entitled under the former Act to be registered as a veterinary specialist is to be taken to be qualified to be registered as a veterinary specialist for the purposes of this Act.
- (9) For the avoidance of doubt, except as otherwise specified in a provision of this section, the amendments of the former Act made by the amending Act apply to, and in relation to, a person after those provisions come into effect.

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**51. Repeal**

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.