

Veterinary Surgeons Amendment Bill 2011

Clause Notes

Clause 1 Title

Clause 2 Commencement

This Act will commence on a day to be proclaimed.

Clause 3 Principal Act

The *Veterinary Surgeons Act 1987* is the Principal Act amended by this Act.

Clause 4 Section 3 amended (Interpretation)

Amends Section 3 which provides interpretations of terminology used in the Principal Act.

Amendments to subsection (1):

- a) **'animal'** defined. The meaning is consistent with the definition in the *Animal Welfare Act 1993*.
- b) **'corresponding law'** is defined as a law of another State or Territory which provides for the registration of veterinary surgeons.
- c) The term 'entity' replaces the term 'company' in the definition of 'list' to ensure that all businesses providing veterinary services are captured by the definition.
- d) The definition of "primary registration" is no longer necessary as recognition of national registration (registration in other States and territories) removes the need for veterinary surgeons to hold multiple registrations.
'partnership' is defined to have a meaning consistent with the *Partnership Act 1891*, but does not include an incorporated limited partnership.
'records' is redefined to include X-ray images, photographs and other methods of recording and displaying images.
- e) **'registered veterinary specialist'** and **'registered veterinary surgeon'** are redefined to recognise national registration. The definitions include:
 - veterinary surgeons/specialists registered in Tasmania (registered under Part IV)
 - veterinary surgeons/specialists who are registered in another State or Territory and do not permanently reside in Tasmania.

The definition of **'registrar'** is unchanged.

'registration' is redefined to remove the terms 'primary' and 'secondary' registration which are now obsolete as recognition of national registration removes the need for veterinary surgeons to hold multiple registrations.

‘relevant fee’ is redefined to allow the Veterinary Board to set registration fees rather than being prescribed by regulation.

- f) The definition of “secondary registration” is no longer necessary as recognition of national registration (registration in other States and territories) removes the need for veterinary surgeons to hold multiple registrations.
- g) **‘veterinary services’** is redefined to remove ambiguity and clearly identify certain procedures which must be performed only by veterinary surgeons. In particular, the administration of an anaesthetic to an animal and reproductive services are specified as veterinary services. The exclusion of prescribed services from this definition permits laypersons to perform certain procedures which would otherwise be ‘vet only’ procedures.

‘veterinary services company’ is redefined to include incorporated limited partnerships within the meaning of the *Partnership Act 1891*.

‘veterinary services entity’ is defined to encompass partnerships as well as companies enabling the provisions of the Act to apply to all businesses providing veterinary services.

‘veterinary services partnership’ is defined as a business partnership providing veterinary services.

Amendments to subsection (2):

- h) Paragraph (a), which specified that references to being registered and registration include provisional registration and temporary registration, has been amended to remove reference to temporary registration. Temporary Tasmanian registration for veterinary surgeons registered interstate is no longer necessary as their interstate registration will be recognised under the amended Act.

Subsections inserted after subsection (2):

- i) Paragraph 2A is inserted to specify that references to registration or being registered in another States or Territory is taken to include authorisation to provide veterinary services.

Paragraph 2B is inserted to specify that despite 2A, a person is not taken to be registered if their authorisation under corresponding law is:

- Temporary;
- Honorary only; or
- Is prescribed in the regulations

Amendment to subsection (3):

- j) This provision has been expanded to specify that the Principal Act does not permit contravention of any Act relating to ‘animal welfare or control or use of chemicals, poisons or pharmaceuticals’ (formerly it only referred to Acts relating to animal cruelty).

Clause 5 Section 4 amended (Constitution of veterinary Board of Tasmania)

Subsection (4) (a) and (b) require certain members of the Board to be registered veterinary surgeons. This amendment provides that these members must be registered in Tasmania.

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

The Board's functions to approve qualifications, training and courses for training for persons seeking to become registered are removed from this section.

Clause 7 Sections 5A and 5B inserted

Section 5A relates to the approval of qualifications of persons seeking to be registered

- 1) **'qualification'** is defined.
- 2) Allows the Board to approve qualifications for persons to be registered in Tasmania.
- 3) The Board may only approve qualifications which are awarded to persons on successful completion of a course of study or training in veterinary surgery provided by a university or institution.
- 4) The Board's decision to approve a qualification may be based on accreditation by the Australasian Veterinary Boards Council (AVBC) of the institution providing the veterinary training leading to the qualification. This recognises the AVBC's established role in accrediting veterinary courses in Australia.
- 5) Prevents decisions of the Board regarding approval of qualifications being challenged.

Section 5B

Allows the Board to set standards for veterinary practice and professional conduct which must be observed by veterinary surgeons.

Clause 8 Section 9 substituted

Allows the registration fees paid to be used to meet the costs of the operation of the Veterinary Board.

Clause 9 Section 10 amended (Powers of inspectors)

Amendments to section 10(2).

Amendments to subsections (b) and (c).

The purposes for which an inspector may exercise their powers are amended to:

- allow inspectors to investigate whether a veterinary surgeon is failing to comply with veterinary service standards set by the Board under s5B.
- extend the application of the investigation provision to veterinary surgeons who have been registered within the past 3 years as well as those currently registered. This enables investigation of veterinary surgeons who, for example, have allowed their registration to lapse.

Amendments to subsections (h) and (i).

The powers of inspectors are amended to require persons on premises

subject to inspection to:

- produce documents and records which may relate to the provision of veterinary services
- produce a certificate of registration
- assist in accessing documents in electronic form
- provide copies of documents (if reasonable to do so)
- allow the inspector to make copies of documents
- provide reasonable assistance to the inspector

These amendments allow inspectors to conduct investigations more effectively and without unreasonable obstruction.

Clause 10 Section 11 amended (Practice by unregistered persons)

Section 11(2) specifies when unregistered persons (including lay persons) may perform veterinary surgery or provide veterinary services.

- a) Relates to the administration of an anaesthetic by a lay person under the instruction and supervision of a veterinary surgeon. To remove ambiguity, the term supervision has been replaced with the requirement that the veterinary surgeon providing instruction must be in the presence of the person administering the anaesthetic.
- b) This amendment corrects a drafting error.
- c) A similar amendment to (a) but relates to veterinary students acting under instruction. Clarifies that the student must be in the presence of the veterinary surgeon providing instruction.

Clause 11 Section 11 A inserted

11A relates to interstate registered practitioners and provides that:

- 1) If a vet registered interstate has had conditions or limitations imposed on their registration, those conditions apply in Tasmania.
- 2) If a vet registered interstate has had their registration suspended for a period, the suspension applies in Tasmania and they are not taken to be registered to practice for the duration of the suspension.

Clause 12 Section 14 amended (Veterinary register)

Section 14(6) allows the Board to publish a copy of the register (a list of veterinary surgeons registered to practice in Tasmania) in the *Gazette*. The amendment ensures that it includes only those veterinary surgeons and specialists registered in Tasmania.

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

With the recognition of interstate registration it is now necessary to specify that this section applies only to registration in Tasmania.

Amendment(s):

(a) Amends subsection (1) to read:

...a person is entitled to be registered [under this Part](#) as a veterinary surgeon if..

This amendment clarifies that the subsection applies to entitlement to registration in Tasmania (rather than interstate).

(b) Amends subsection (2) to read:

...a person is qualified to be registered [under this Part](#) as a veterinary surgeon if....

Like amendment (a), it clarifies that the subsection applies to entitlement to registration in Tasmania (rather than interstate).

(c) Amends subsection (2)(a) which specifies what training the applicant must have undertaken in order to be registered in Tasmania. The provision is simplified by replacing the description of study required with reference to the new section 5A which defines approved qualifications. This amendment also ensures consistency.

(d) Amends subsection (2)(b) which specifies that interstate registration is sufficient to entitle an applicant to become registered in Tasmania. The provision is simplified by substituting the new definition of 'corresponding law' in reference to interstate registered veterinary surgeons.

(e), (f) and (g) amend subsection (3) which relates to conditions under which the Board would regard a person as not fit to practice in Tasmania:

(e) Amends subsection (3)(a) which specifies that refusal of registration interstate would be such a condition. The provision is simplified by substituting the defined term 'corresponding law' in reference to interstate registration.

(f) Amends subsection (3)(b) which specifies that cancellation or suspension of registration interstate would be such a condition. The provision is similarly simplified by using the defined term 'corresponding law' in reference to interstate registration.

(g) Amends subsection (3)(c)(iii) to include an offence under 'corresponding law' as well as the Tasmanian Act as such a condition.

Clause 14 Sections 16 and 17 substituted

Section 16 relates to entitlement to register as a veterinary specialist and section 17 was a provision allowing temporary Tasmanian registration of interstate registered vets for a maximum of 3 months.

Section 17 is no longer necessary as the amendments to the Tasmanian Act recognise the interstate registration of vets not permanently residing in Tasmania.

Section 16 is amended by substitution to:

- clarify that the section applies to registration as a veterinary specialist in Tasmania
- require that the person is registered in Tasmania
- change 'prescribed specialty' to 'approved specialty' – this enables the Board to determine what is a specialty rather than specialties

having to be prescribed in regulations.

- allow the Board to rely on the opinion of the Australasian Veterinary Board Council (AVBC) regarding the adequacy of qualifications as a specialist. This recognises the established role of the AVBC in accreditation.
- allow the Board to accept interstate registration as a specialist as a sufficient condition for registration as a specialist in Tasmania.

Clause 15 Section 18 amended (Application for registration)

This section relates to application for registration in Tasmania.

- (a) Subsections referring to primary and secondary registration have been removed as they are no longer necessary due to the recognition of interstate registration.
- (b) Clarifies that the section refers to registration in Tasmania.
- (c) Removes a provision allowing the Board to apply conditions prescribed in the regulations to any registration. The application of conditions to registration is now dealt with by the new section 18A.

Clause 16 Section 18A inserted

Section 18A enables the Board to apply conditions to registration in Tasmania.

In particular, it provides that if any of the following conditions exist, they will be applied to the applicant's registration in Tasmania:

- cancellation or suspension of interstate registration.
- conditions imposed on interstate registration.
- cancellation or suspension imposed by the Tasmanian Board.
- conditions imposed by the Tasmanian Board.

It also provides that the Board must give notice of any conditions imposed on registration.

Clause 17 Section 19 amended (Provisional registration)

Section 19 allows veterinary graduates to be registered before their graduation provided that they have successfully completed their veterinary training.

This section has been amended to:

- replace the description of training and qualification required with reference to qualifications approved under the new section 5A.
- specify that the section applies to provisional registration in Tasmania.
- require that the Board notifies the person provisionally registered of any conditions on the registration.

- Clause 18 Section 20 substituted**
Allows delegates of the Board to temporarily register veterinary surgeons in Tasmania until their application can be considered and ratified by the Board.
- Clause 19 Section 21 substituted**
The substituted provision relating to certificates of registration clarifies that it applies to certificates for registration in Tasmania.
- Clause 20 Section 22 amended (Annual registration fee)**
Changes the due date for registration fees from 1 March to 1 January for national consistency.
- Clause 21 Section 23 amended (Cancellation of registration)**
Clarifies that the provision applies to persons registered in Tasmania.
- Clause 22 Section 23A inserted**
Provides for suspension or cancellation of a person's interstate registration to have an equivalent effect on their registration in Tasmania.
- Clause 23 Part V Heading amended**
This amendment is for consistency and ensures that the Part applies to all entities providing veterinary services.
- Clause 24 Part V, Division 1: Heading amended**
As for Clause 23, the amendment is for consistency and to ensure that the Division applies to all entities providing veterinary services.
- Clause 25 Section 26 amended (Notification of intention to provide veterinary services)**
Amendments for consistency and to ensure that this section applies to all entities providing veterinary services.
- Clause 26 Section 29 amended (List of veterinary services entities)**
Amendments ensure that this section applies to all providers of veterinary services.
(f) ensures that the Board makes the list of veterinary service entities in Tasmania accessible to interstate authorities responsible for corresponding law.

- Clause 27 Section 31 amended (Removal from list)**
Amendments ensure that the section applies to all entities providing veterinary services.
- Clause 28 Section 33 amended (Restriction on provision of veterinary services by veterinary entities)**
It is an offence for a veterinary services company to provide veterinary services on their behalf by anyone other than a registered vet.
The amendment:
- creates an analogous offence for a veterinary services partnership
 - makes each partner liable for such an offence
 - provides a defence if the services were provided without the partner's knowledge or consent.
- The amendment ensures that the section applies to all entities providing veterinary services.
- Clause 29 Section 34 amended (Records to be kept)**
This section requires veterinary service providers to keep records regarding the services provided.
Amended to:
- ensure it applies to all veterinary service providers
 - require that records are kept for persons provided with services in the past as well as persons they currently provide services to
 - apply to veterinarians who were formerly registered but no longer are
 - reduce the period for which records must be kept from 7 years to 5 years to achieve national consistency
- Clause 30 Section 35 substituted**
Board may require information from records kept under section 34
This substituted section has been amended to:
- ensure it applies to all veterinary service providers
 - remove the requirement for client consent in order to provide information to the Board relating to treatment provided.
- Clause 31 Section 37 amended (Production of case histories, &c.)**
This section limits the power of the Australian Securities and Investment Commission to require information from veterinary service providers. The amendment ensures that the section applies to all entities providing veterinary services.

- Clause 32 Section 39 amended (Liability of registered veterinary surgeons for veterinary services performed on behalf of veterinary services entities)**
- References to ‘veterinary services company’ have been amended to ensure that references apply to all entities providing veterinary services.
- Clause 33 Section 40 amended (Offences by veterinary services entities)**
- Has been amended to apply to veterinary services partnerships as well as veterinary services companies.
- Clause 34 Section 41 amended (Interpretation of Part IV)**
1. Recognition of national registration
Amended to apply also to interstate registered veterinary surgeons practising in Tasmania
 2. Misconduct in a professional respect
Subsection (2) lists a number of acts which constitute “misconduct in a professional respect” in Tasmania.
The amendment adds to the list:
 - failure to comply with the veterinary service standards set by the Board
 - failure to comply with conditions imposed on interstate registration
 - conviction anywhere of an offence as a veterinary surgeon or an offence relating to the control or use of chemicals, poisons or pharmaceuticals (previously only included animal welfare offences).
 3. Business Names
(f) amends the provision relating to business names so that a veterinary surgeon needs to notify the Board of a registered business name rather than the Board needing to approve the business name.
 4. Time limitation on complaints and investigations
Amendment (m) places a time limitation on complaints and investigations relating to treatments provided or failure to provide treatment. Such complaints or investigations can only be made within 3 years of treatment ceasing or the failure to provide treatment.
- Clause 35 Section 43 amended (Complaints against persons formerly registered under this Act)**
- The section is amended to extend its application to veterinarians formerly registered interstate but only for professional misconduct in Tasmania.
- Clause 36 Section 44 amended (Inquiries relating to complaints)**
- The amendment extends the application of the section to veterinarians practising in Tasmania who are registered or were formerly registered interstate.
- Clause 37 Section 45A inserted**
- Allows the Board to publish a determination made as the result of an inquiry, together with reasons for the determination.

Clause 38 Section 46 amended (Determination of the Board)

The amendment:

- specifies that misconduct in a professional respect refers to misconduct in Tasmania
- specifies that determinations to suspend registration refer to suspension of registration in Tasmania
- Allows the Board to prohibit an interstate registered vet from practising in Tasmania for a period of time (even though it as has no jurisdiction to suspend registration)
- Ensures that the effect of a prohibition on an interstate registered vet practising in Tasmania for a period of time has the same effect as the suspension of Tasmanian registration with respect to other sections of the Act.
- substitutes 'determination' for 'order' for consistency.

Clause 39 Section 47 amended (Surrender of certificates)

The amendment specifies that the section applies to the suspension or cancellation of registration in Tasmania

Clause 40 Section 40 amended (Informal proceedings)

Amendment accommodates recognition of national registration by substituting the terms defined to include interstate registered vets practising in Tasmania.

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

The amendments:

- accommodate recognition of national registration by using the term 'registered veterinary surgeon' which is defined to include interstate registered vets practising in Tasmania.
- Ensure that provisions applying to veterinary services companies also apply to veterinary services partnerships.

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

The amendments ensure that provisions applying to veterinary services companies also apply to veterinary services partnerships.

Clause 43 Section 53 amended (Reviews)

The amendment

- removes reference to sections which have been removed by amendment
- ensures that provisions applying to veterinary services companies also apply to veterinary services partnerships.

Clause 44 Section 54A inserted

This section requires the Board share information regarding registrations and any restrictions on registrations with interstate registering authorities as soon

as is practicable. This enables national coordination of registration and registration information.

Clause 45 Section 55 substituted

This section (Evidentiary Certificates) provides that certificates signed by the Registrar regarding registration status are admissible in evidence in legal proceedings and are evidence of the matters specified in the certificate.

The amendment by substitution accommodates recognition of national registration by ensuring that such certificates include:

- certificates regarding registration of interstate veterinarians practising in Tasmania.
- certificates which prohibit an interstate vet from practicing in Tasmania for a period.

Clause 46 Section 56 amended (Service of Documents)

Provides for the service of documents to a veterinary services partnership to ensure that the section applies to all entities providing veterinary services.

Clause 47 Section 57 substituted

Makes fees payable to the Board rather than being paid into the Consolidated Fund.

Clause 48 Section 59 amended (Entitlement to sue for fees)

Extends entitlement to sue for fees to veterinary services partnerships.

Clause 49 Section 60 amended (Regulations)

Removes the requirement that fees be prescribed in regulations (are now set by Board approval).

Clause 50 Schedule 3 amended (Transitional and Savings Provisions)

These provide for the transition from the former Act to the amended Act.

Clause 51 Repeal

This Act is to be repealed 90 days after commencement as it is no longer required once the Principal Act is amended.