

**Reprint  
as at 1 March 2016**



## **Veterinarians Act 2005**

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Date of assent    21 December 2005  
Commencement    see section 2

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry for Primary Industries.**

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## 1 Title

This Act is the Veterinarians Act 2005.

## 2 Commencement

- (1) Section 104 comes into force on 1 January 2006.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

## Part 1 Preliminary provisions

## 3 Purpose

The purpose of this Act is to protect the public interest by aiming to ensure that veterinarians are competent to practise; and, for that purpose,—

- (a) to continue the Veterinary Council of New Zealand; and
- (b) to state the Council's functions; and
- (c) to provide the Council with the powers to—
  - (i) register people qualified to practise as veterinarians; and
  - (ii) issue practising certificates to specialists and people qualified to practise as veterinarians; and
  - (iii) set and implement standards for veterinary performance; and
  - (iv) monitor performance and, if necessary, discipline veterinarians and certain other people.

## 4 Interpretation

In this Act, unless the context otherwise requires,—

**certificate of registration—**

- (a) means a certificate of registration issued by the Council under section 12(2); and
- (b) includes—

- (i) a certificate of limited registration issued by the Council under section 14(3); and
- (ii) a certificate of provisional registration issued by the Council under section 15(3)

**chairperson** means the chairperson of the Council elected under clause 7 of Schedule 1

**competence assessment** means a competence assessment conducted under section 58

**complaints assessment committee** means a complaints assessment committee appointed under section 82

**conditions of practice** means conditions of practice that the Council may impose on a specified person under section 61

**Council** means the Veterinary Council of New Zealand continued under section 73

**disciplinary hearing** means a hearing by the Council conducted under sections 47 to 49

**health practitioner** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

**institution** means a university, veterinary college, or other institution providing tertiary education in veterinary science

**judicial committee** means a judicial committee appointed under section 83

**layperson** means a person other than a veterinarian, a registered person, or a person entitled to be registered under this Act

**limited registration** means limited registration under section 14

**medical assessment** means a medical assessment conducted under section 55

**medical practitioner** has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

**member** means a member of the Council

**mental or physical condition** includes, without limitation,—

- (a) any mental or physical impairment; and
- (b) any condition or impairment caused by alcohol or drug abuse

**minimum standards for practising** means the minimum standards for practising as a veterinarian prescribed by the Council under section 75(i)

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**oversight** means professional support and assistance provided to a veterinarian by another veterinarian for the purposes of professional development

**practising certificate** means a practising certificate issued by the Council under section 26(1)

**prescribed** means prescribed by the Council (using the procedure in section 88(1))

**provisional registration** means provisional registration under section 15

**recognised**, in relation to an institution, degree, or diploma, means recognised by the Council under section 8(1)

**register** means the register established and maintained by the Council under section 22(1)

**registered** means registered under this Act; and **registration** has a corresponding meaning

**registered person**—

(a) means a person registered under section 12(2); and

(b) includes a person registered under section 14 or section 15

**Registrar** means the Registrar for the Council appointed under clause 20 of Schedule 1

**specialist** means a veterinarian who satisfies the requirements of section 7(2)

**specified period** includes a period ending on the occurrence of a specified event

**specified person** has the meaning set out in section 34

**supervision** means the monitoring of, and reporting on, the performance of a veterinarian by another veterinarian

**veterinarian** means a person—

(a) who is a registered person; and

(b) who holds a current practising certificate.

Section 4 **health practitioner**: inserted, on 12 December 2012, by section 4 of the Veterinarians Amendment Act 2012 (2012 No 116).

## 5 Act binds the Crown

This Act binds the Crown.

## **Part 2**

### **Registration and practising certificates**

#### **Subpart 1—Registration**

#### **6 Entitlement to registration**

- (1) A person, on payment of the prescribed fee, is entitled to be registered if the person satisfies the Council that he or she is a fit and proper person to be registered and has, or is eligible to have,—
- (a) a recognised veterinary science degree or diploma from a recognised institution; or
  - (b) a veterinary science degree or diploma of not less than 4 years of study and 1 or more of the following:
    - (i) a pass mark in prescribed examinations;
    - (ii) a pass in an assessment programme approved by the Council;
    - (iii) a pass in post-graduate study or training approved by the Council.
- (2) Despite subsection (1), no person is entitled to be registered unless the Council is satisfied that the person can communicate in and understand English to an appropriate standard for practising as a veterinarian in New Zealand.

Compare: 1994 No 107 ss 9, 11(2)

Section 6(1): amended, on 27 March 2008, by section 4 of the Veterinarians Amendment Act 2008 (2008 No 19).

#### **7 Entitlement to registration as specialist**

- (1) The Council may—
- (a) designate any branch of veterinary science as a branch in respect of which a veterinarian may practise as a specialist;
  - (b) amend or revoke any designation under paragraph (a).
- (2) A veterinarian, on payment of the prescribed fee, is entitled to be registered as a specialist if the veterinarian satisfies the Council that, in relation to the branch of veterinary science in respect of which he or she seeks to be registered as a specialist, he or she—
- (a) is appropriately qualified; and
  - (b) has had sufficient training and experience to justify practising as a specialist in that branch of veterinary science.

Compare: 1994 No 107 s 10

Section 7(1): amended, on 27 March 2008, by section 5(1) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 7(1)(b): amended, on 27 March 2008, by section 5(2) of the Veterinarians Amendment Act 2008 (2008 No 19).

**8 Recognition of institutions and academic qualifications**

- (1) The Council must publish a notice in the *Gazette* declaring—
  - (a) the institutions and the degrees or diplomas offered by those institutions that are recognised for the purposes of section 6(1)(a); and
  - (b) the assessment programmes, and post-graduate study or training approved by the Council for the purposes of section 6(1)(b).
- (2) Before publishing a notice under subsection (1)(a), the Council must satisfy itself that an institution provides a course of instruction in veterinary science that, in relation to each degree or diploma,—
  - (a) provides tuition at a level that is acceptable to the Council; and
  - (b) provides assessment or examination at a level that is acceptable to the Council; and
  - (c) leads to a degree or diploma in veterinary science that is acceptable to the Council.
- (3) If the Council considers that an institution, or a degree or diploma offered by the institution, included in a declaration under subsection (1)(a) no longer satisfies the criteria in subsection (2), the Council must, by notice in the *Gazette*, amend or revoke the declaration or relevant part of the declaration.
- (4) Subsection (3) does not affect the registration or continued registration of a person that the Council has accepted for registration on the basis of a degree or diploma from an institution prior to the revocation or amendment of the recognition status of the institution or the degree or diploma.

Compare: 1994 No 107 s 12

*Disqualification from registration***9 Disqualification from registration**

A person is not entitled to be registered—

- (a) if he or she—
  - (i) has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer; and
  - (ii) does not satisfy the Council that, having regard to all the circumstances, including the time that has elapsed since the conviction, the offence does not reflect adversely on his or her fitness to practise as a veterinarian; or
- (b) if the Council is satisfied that registration of the person would be inappropriate because, in New Zealand or elsewhere, he or she—
  - (i) is the subject of professional disciplinary proceedings; or

- (ii) is under investigation, or has been struck off the relevant register of veterinarians, or has been otherwise disciplined by a veterinary professional organisation; or
- (c) if the Council is satisfied that the person cannot practise satisfactorily as a veterinarian because of a mental or physical condition.

Compare: 1994 No 107 s 11(1)

Section 9(a)(i): amended, on 27 March 2008, by section 6(1) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 9(b): amended, on 27 March 2008, by section 6(2) of the Veterinarians Amendment Act 2008 (2008 No 19).

### *Procedure for registration*

## **10 Application for registration**

An application for registration must be made to the Council and must—

- (a) be made in a form determined by the Council; and
- (b) contain the information determined by the Council; and
- (c) be accompanied by the prescribed fee.

Section 10: substituted, on 27 March 2008, by section 7 of the Veterinarians Amendment Act 2008 (2008 No 19).

## **11 Consideration of application**

When considering an application for registration, the Council may, in relation to the application,—

- (a) examine the applicant or any other person:
- (b) require any person to verify, by statutory declaration, any statement made by that person:
- (c) require the applicant to provide any document or information that the Council considers, on reasonable grounds, is necessary to assess his or her application.

Compare: 1994 No 107 s 14(1), (2)

### *Registration (other than limited or provisional registration)*

## **12 Council to register applicant or decline application**

(1) Subsection (2) applies if the Council is satisfied that—

- (a) the applicant—
  - (i) is entitled under section 6 to be registered; or
  - (ii) is a veterinarian who is entitled under section 7(2) to be registered as a specialist; and
- (b) the applicant has paid the prescribed application fee.

(2) The Council must—

- (a) register the applicant and enter his or her name in the register; and
  - (b) notify the applicant in writing that he or she is registered; and
  - (c) issue the applicant with a certificate of registration.
- (3) If the Council is not satisfied that the applicant is entitled to be registered, the Council must—
- (a) decline the application; and
  - (b) notify the applicant in writing of—
    - (i) its decision (with reasons); and
    - (ii) his or her right of appeal against the decision.

Compare: 1994 No 107 ss 14(3), 15, 16

### *Limited registration*

#### **13 Scopes of practice for limited registration**

- (1) The Council may—
- (a) prescribe the elements of veterinary practice, in terms of 1 or more scopes of practice, in respect of which a person may be registered as a person with limited registration; and
  - (b) amend or revoke any notice published for the purposes of paragraph (a).
- (2) A scope of practice may be described in any way the Council thinks fit, including, without limitation, in any 1 or more of the following ways:
- (a) by reference to a name or form of words that is commonly understood by veterinarians;
  - (b) by reference to 1 or more species of animal;
  - (c) by reference to an area of science or learning;
  - (d) by reference to tasks commonly performed;
  - (e) by reference to illnesses or conditions to be diagnosed, treated, or managed.
- (3) Before the Council publishes a notice, the Council must—
- (a) consult about the proposed notice with—
    - (i) veterinarians, or people who the Council considers represent the views of veterinarians; and
    - (ii) organisations that the Council considers will be affected by the proposed notice; and
    - (iii) statutory bodies responsible for the administration of the Animal Products Act 1999, the Animal Welfare Act 1999, and the Biosecurity Act 1993; and

- (b) take into account the effect of any proposed scope of practice in relation to—
  - (i) New Zealand’s economic interests; and
  - (ii) maintaining consistency with and support of New Zealand’s food safety, biosecurity, and animal welfare regimes.

#### **14 Application for limited registration**

- (1) A person may apply to the Council for limited registration in terms of 1 or more scopes of practice notified under section 13.
- (2) Subsection (3) applies if the Council is satisfied that the applicant—
  - (a) is appropriately qualified to practise within the scope or scopes of practice in the notice; and
  - (ab) is a fit and proper person to be registered; and
  - (b) can communicate in and understand English to an appropriate standard for practising as a veterinarian in New Zealand; and
  - (c) has paid the prescribed application fee.
- (3) The Council must—
  - (a) register the applicant and enter his or her name in the register—
    - (i) subject to the conditions of practice that the Council considers appropriate (if any); and
    - (ii) subject to the time limits on registration that the Council considers appropriate (if any); and
  - (b) notify the applicant in writing that he or she is registered; and
  - (c) issue the applicant with a certificate of limited registration.
- (4) If the Council is not satisfied that the applicant meets the requirements of subsection (2), the Council must—
  - (a) decline the application; and
  - (b) notify the applicant in writing of—
    - (i) its decision (with reasons); and
    - (ii) his or her right of appeal against the decision.

Compare: 1994 No 107 s 23

Section 14(2)(ab): inserted, on 27 March 2008, by section 8 of the Veterinarians Amendment Act 2008 (2008 No 19).

#### *Provisional registration*

#### **15 Provisional registration**

- (1) If an applicant is applying for the first time under this Act for registration (other than for limited registration), the Council may offer to the applicant a

- certificate of provisional registration pending a decision by the Council on the person's registration application.
- (2) Before making an offer, the Council must be satisfied on reasonable grounds that the applicant appears to be entitled under section 6 to be registered.
  - (3) If the applicant accepts an offer by the Council, the Council must—
    - (a) register the applicant and enter his or her name in the register for a period not exceeding 3 months; and
    - (b) notify the applicant in writing that he or she is provisionally registered; and
    - (c) issue the applicant with—
      - (i) a certificate of provisional registration; and
      - (ii) a practising certificate for the period of the provisional registration (subject to the conditions of practice that the Council considers appropriate, if any).
  - (4) Despite subsection (3)(a), the Council may renew a person's certificate of provisional registration and practising certificate, once only, for a further period not exceeding 3 months.
  - (5) The Council may, at any time, cancel the registration of a person under this section, but must give the person written notice of and reasons for the cancellation.

Compare: 1994 No 107 s 22

## **16 Change from provisional to full registration**

If the Council is satisfied that a person with provisional registration is fit for registration under section 12(2), the Council must—

- (a) register the person; and
- (b) notify the person in writing of his or her change in registration status; and
- (c) issue the person with a certificate of registration.

### *Cancellation of registration*

## **17 Cancellation of registration**

- (1) The Council must cancel a person's registration if—
  - (a) the person requests the Council in writing to cancel his or her registration; or
  - (b) the Council is notified of the death of the person—
    - (i) under subsection (2); or
    - (ii) by any other means; or

- (c) the person has been registered as a result of an error and the Council is informed of or discovers the error.
- (2) On the registration of the death of any person who is stated to be a veterinarian, or who is registered under this Act, every Registrar (within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995)—
  - (a) must notify the Council in writing of the death of the person and particulars of the date and place of death; and
  - (b) may charge the Council a reasonable fee for a notification under paragraph (a).
- (3) This section does not limit the powers of the Council under Part 3.

Compare: 1994 No 107 ss 19(1), 20, 21(3)

Section 17(2): amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

#### **18 Amendment to specialist's registration**

- (1) The Council must amend a specialist's registration (and certificate of registration) to that of a registered person only, if—
  - (a) the specialist requests the Council in writing to amend his or her registration in this way; or
  - (b) the specialist has been registered as a specialist as a result of an error and the Council is informed of or discovers the error.
- (2) This section does not limit the powers of the Council under Part 3.

Compare: 1994 No 107 s 19(2)

#### **19 Surrender of certificate of registration if registration cancelled or suspended**

A person whose registration is cancelled or suspended must deliver his or her certificate of registration to the Registrar no later than 10 working days after the date on which the notice of cancellation or suspension has been given to the person.

Compare: 1994 No 107 s 62(1)

#### **20 Effect of cancellation or suspension of registration**

- (1) A person is not a registered person for the purposes of this Act if his or her registration is cancelled or suspended.
- (2) At the end of a period of suspension, a person's registration is immediately reinstated and the Council must reissue to the person his or her certificate of registration.
- (3) Subsection (2) applies unless the Council cancels the person's registration before the end of the period of suspension.

Section 20(3): replaced, on 12 December 2012, by section 5 of the Veterinarians Amendment Act 2012 (2012 No 116).

### *Offences relating to registration*

#### **21 Offences relating to registration**

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who, for the purpose of obtaining registration (either for himself or herself or for any other person),—
  - (a) either orally or in writing makes a declaration or representation knowing it to be false or misleading in relation to a material particular; or
  - (b) provides to the Council or makes use of any document knowing it to contain a declaration or representation that is false or misleading in relation to a material particular; or
  - (c) provides to the Council or makes use of any document knowing that it is not genuine.
- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who claims to be registered under section 12(2) if he or she is registered under section 14.
- (3) Every person who breaches section 19 without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding \$2,000.

Compare: 1994 No 107 ss 24, 62(2)

Section 21(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 21(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 21(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### *Register of veterinarians and other registered persons*

#### **22 Register of veterinarians and other registered persons**

- (1) The Council must establish and maintain a register of veterinarians and other registered persons.
- (2) The register must—
  - (a) be in the prescribed form; and
  - (b) contain the prescribed information; and
  - (c) contain any other information that the Council considers necessary or desirable for the purpose of the register; and
  - (d) include, for each veterinarian,—
    - (i) details of any conditions of practice imposed on the veterinarian; and

- (ii) whether his or her registration or practising certificate is suspended and, if so, the following information:
    - (A) the grounds under this Act for the suspension; and
    - (B) the period of suspension; and
    - (C) any conditions for termination of the suspension; and
  - (e) contain in separate parts the prescribed information in relation to—
    - (i) specialists;
    - (ii) veterinarians with limited or provisional registration (including the period of time for which each veterinarian is registered in either category);
    - (iii) registered persons.
- (3) The Registrar must ensure that the register is available to members of the public to inspect it free of charge.
- (4) Subsection (3) is subject to any prohibition order made by the District Court under section 71.
- (5) The Registrar must, on payment of the prescribed fee,—
  - (a) issue a certificate of registration to any registered person;
  - (b) supply a certified copy of an entry in the register to any person requesting it.
- (6) Information entered in the register under subsection (2)(c) and (e)(iii) does not form part of the register for the purposes of subsection (3) or subsection (5)(b).  
Compare: 1994 No 107 ss 16, 22(6), 23(4), 61

### **23 Alterations to register**

- (1) The Registrar must promptly amend the information in the register,—
  - (a) in relation to a registered person, if—
    - (i) the person's registration is cancelled or amended;
    - (ii) the person's registration is suspended and the period of suspension has expired or the suspension is lifted by the Council, the District Court, or the High Court (as the case may be);
  - (b) in relation to a veterinarian, if—
    - (i) the Council has cancelled the veterinarian's practising certificate;
    - (ii) the Council has suspended the veterinarian's practising certificate and the period of suspension has expired or ceased to apply, or the suspension is lifted by the Council, the District Court, or the High Court (as the case may be);
    - (iii) the Council has imposed conditions of practice on the veterinarian and the conditions have expired or ceased to apply, or are re-

moved by the Council, the District Court, or the High Court (as the case may be):

- (c) in relation to a specified person, in accordance with section 51(4).
- (2) The Registrar may at any time amend the information in the register—
  - (a) after receiving any information under subsection (3); or
  - (b) if the amendment is necessary for the purposes of section 22(2); or
  - (c) if the Registrar considers, on reasonable grounds, that an amendment is necessary.
- (3) A veterinarian must—
  - (a) notify the Registrar if he or she changes his or her name, contact address, or practice name (whether the practice name is the veterinarian's own or his or her employer's); and
  - (b) provide the Registrar with the relevant current information.
- (4) A notification under subsection (3) must be in writing (which may include by way of fax, email, or other electronic means) and made no later than 1 month after the information in the register is no longer current.
- (5) Every person who breaches subsection (3) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding \$500.

Compare: 1994 No 107 s 18

Section 23(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## Subpart 2—Practising certificates

### 24 Application for practising certificate

- (1) The following people may apply to the Council for a practising certificate:
  - (a) a registered person who wishes to practise as a veterinarian;
  - (b) a veterinarian or a specialist who wishes to renew his or her practising certificate.
- (2) An application under subsection (1) must—
  - (a) be made in a form determined by the Council; and
  - (b) contain the information determined by the Council; and
  - (c) be accompanied by the prescribed fee.

Compare: 1994 No 107 s 7(1)

Section 24(2): substituted, on 27 March 2008, by section 9 of the Veterinarians Amendment Act 2008 (2008 No 19).

### 25 Consideration of application

When considering an application for a practising certificate, the Council may, in relation to the application,—

- (a) examine the applicant or any other person:
- (b) require any person to verify, by statutory declaration, any statement made by that person:
- (c) require the applicant to provide any document or information that the Council considers, on reasonable grounds, is necessary to assess his or her application.

## **26 Council to issue certificate or decline application**

- (1) The Council must issue to an applicant under section 24 a practising certificate if the Council is satisfied that—
  - (a) the applicant is appropriately registered; and
  - (b) the applicant satisfies the practising requirements of the Act; and
  - (c) the application fee has been paid.
- (2) A certificate is effective from the date stated on the certificate, and expires at the close of the practising year to which the certificate relates, unless stated otherwise on the certificate.
- (3) If the Council is not satisfied that the applicant meets the requirements of subsection (1), the Council must—
  - (a) notify the applicant in writing of its decision (with reasons); and
  - (b) give the applicant a reasonable opportunity to make submissions and be heard on the matter (either personally or by counsel or agent); and
  - (c) confirm, reverse, or modify its decision (for example, by issuing a practising certificate to the applicant subject to conditions of practice); and
  - (d) notify the applicant in writing of its further decision (including, if relevant, with reasons, and a statement of the applicant's right of appeal against the decision).
- (4) In this section, **practising year** means the 12-month period ending on 31 March in any year.

Compare: 1994 No 107 ss 7, 8(1)

## **27 Content of certificate**

A practising certificate must state—

- (a) the date of its expiry; and
- (b) the section of this Act that the person is registered under; and
- (c) whether any conditions of practice are currently imposed on the person; and
- (d) if paragraph (c) applies, where the public can find out, free of charge, what conditions are imposed on the person.

**28 Expiry of certificate**

A practising certificate continues in force until the close of the date of its expiry unless it is sooner cancelled or suspended under this Act.

Compare: 1994 No 107 s 7(2)

**28A Extension of expiry date of certificate on application for new certificate**

- (1) This section applies where—
  - (a) a person who is the holder of an existing practising certificate applies for a new practising certificate before the expiry of his or her existing practising certificate; and
  - (b) the application complies with section 24(2).
- (2) Despite section 28, the applicant's existing practising certificate continues in force until the earlier of—
  - (a) the date that a new certificate is issued under section 26(1); or
  - (b) the date that the Council notifies the applicant under section 26(3)(d) that it is not satisfied that he or she meets the requirements for the issue of a new certificate.

Section 28A: inserted, on 12 December 2012, by section 6 of the Veterinarians Amendment Act 2012 (2012 No 116).

**29 Surrender of certificate if certificate is cancelled or suspended**

A person whose practising certificate is cancelled or suspended must deliver his or her practising certificate to the Registrar no later than 10 working days after the date on which a notice of cancellation or suspension has been given to the person.

Compare: 1994 No 107 s 62(1)

**30 Effect of cancellation or suspension of practising certificate**

- (1) A person is not a veterinarian for the purposes of this Act if his or her practising certificate is cancelled or suspended.
- (2) At the end of a period of suspension, a person's practising certificate is immediately reinstated and the Council must reissue to the person his or her practising certificate.
- (3) Subsection (2) applies unless the Council—
  - (a) cancels the person's practising certificate before the end of the period of suspension; or
  - (b) reinstates the person's practising certificate before the end of the period of suspension.

*Offences relating to practising certificates*

**31 Offences relating to practising certificates**

- (1) Every registered person who practises as a veterinarian without holding a current practising certificate commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (2) Every person who breaches section 29 without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding \$2,000.

Compare: 1994 No 107 ss 6(2), 62(1)

Section 31(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 31(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**Subpart 3—Unlawful use of title**

**32 Unlawful use of title of veterinarian**

- (1) No person, other than a veterinarian, may use in connection with his or her business, trade, employment, calling, or profession—
  - (a) the title “veterinarian”; or
  - (b) any words, initials, or abbreviations that are intended to cause, or that may reasonably cause, any person to believe that the person using those words, initials, or abbreviations is a veterinarian; or
  - (c) the word “veterinary” with any words, initials, or abbreviations that are intended to cause, or that may reasonably cause, any person to believe that the person using the word “veterinary” with those words, initials, or abbreviations is a veterinarian.
- (2) Every person who breaches subsection (1) commits an offence, and is liable on conviction to a fine not exceeding \$10,000.

Compare: 1994 No 107 s 4

Section 32(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**33 Unlawful use of title of specialist**

- (1) No person, other than a specialist, may use in connection with his or her business, trade, employment, calling, or profession any words, initials, or abbreviations of the title “specialist” that are intended to cause, or that may reasonably cause, any person to believe that the person using those words, initials, or abbreviations is a specialist.
- (2) Every person who breaches subsection (1) commits an offence, and is liable on conviction to a fine not exceeding \$10,000.

Compare: 1994 No 107 s 5

Section 33(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

### Part 3

## Disciplinary proceedings and medical and competence assessments

### Subpart 1—Preliminary provisions

#### 34 Interpretation

In this Part, **specified person**—

- (a) means a veterinarian or a person who was a veterinarian at the time of the relevant conduct; and
- (b) unless the context otherwise requires, includes—
  - (i) a registered person;
  - (ii) a registered person whose registration is suspended;
  - (iii) a person who was registered at the time of the relevant conduct.

#### 35 Procedure for making decisions

In the performance and exercise of its decision-making functions and powers under this Part, the Council or a complaints assessment committee must observe the rules of natural justice.

Compare: 1994 No 107 s 32

#### 36 Legal assessors

- (1) The Council and a complaints assessment committee may each appoint a legal assessor who—
  - (a) may be present at any proceedings of the Council or the committee under this Part; and
  - (b) may advise the Council or the committee on matters of law, procedure, and evidence at—
    - (i) the proceedings; or
    - (ii) any time before or after the proceedings.
- (2) A legal assessor must not be present when the Council or the committee deliberates.

Compare: 1994 No 107 s 64

#### 37 Evidence and privilege

- (1) For the purposes of this Part, every person has the same privileges as a witness in a court of law in relation to—
  - (a) providing documents, things, or information to the Council in relation to a disciplinary hearing or a medical or competence assessment; or

- (b) giving evidence or answering questions at a disciplinary hearing or a medical or competence assessment.
- (2) For the purposes of this Part, every counsel appearing before the Council in relation to a disciplinary hearing or a medical or competence assessment has the same privileges and immunities as counsel in a court of law.

### Subpart 2—How disciplinary process works

#### **38 Complaints about specified person**

- (1) Any person may make a complaint to the Council about the conduct of a specified person.
- (2) A complaint must be in writing.
- (3) As soon as practicable after receiving a complaint, the Council must refer the complaint to a complaints assessment committee and the committee must investigate the complaint under section 40.

Compare: 1994 No 107 s 25

#### **39 Council-referred matter about specified person**

- (1) The Council may refer to a complaints assessment committee a matter about the conduct of a specified person that arises—
  - (a) out of its own inquiries; or
  - (b) from information it receives.
- (2) The complaints assessment committee must investigate the matter under section 40.

### *Complaints assessment committee investigations*

#### **40 Investigation by complaints assessment committee**

- (1) A complaints assessment committee must promptly investigate—
  - (a) every complaint referred to it under section 38(3); and
  - (b) every referral it receives under section 39(1).
- (2) However, if at any time after receiving a complaint a committee considers, on reasonable grounds, that no further action is necessary in relation to the complaint, the committee—
  - (a) is not required to investigate the complaint; and
  - (b) must notify in writing (with reasons)—
    - (i) the complainant; and
    - (ii) the Council, which may, if it thinks fit, determine the matter in any event using its powers under this Part.

- (3) Before investigating a complaint or referral, a committee must inform the specified person against whom the complaint or referral has been made in writing of the general nature of the complaint or referral.
- (4) For the purpose of carrying out an investigation a committee may appoint or employ any person to make inquiries on its behalf, provide advice, or otherwise assist the committee.
- (5) The committee may require a complainant to support his or her complaint with any statutory declarations that the committee thinks fit.
- (6) Subsection (1) is subject to section 46(1).  
Compare: 1994 No 107 s 26(1)–(4)

#### **41 Power to call for information or documents**

- (1) If the conditions set out in subsection (2) are satisfied, a complaints assessment committee may, by written notice, require any person to provide to the committee any papers, documents, records, or things.
- (2) The conditions are that—
  - (a) the committee believes, on reasonable grounds, that the exercise of the powers conferred under subsection (1) is necessary to enable the committee to carry out its investigation; and
  - (b) the person to whom a notice under subsection (1) is to be given has failed to comply with a previous request to provide to the committee, within a reasonable time, the papers, documents, records, or things required by the notice; and
  - (c) the committee believes, on reasonable grounds, that—
    - (i) it is not practicable to obtain the information required by the committee from another source; or
    - (ii) for the purposes of the investigation, it is necessary to obtain the papers, documents, records, or things to verify or refute information obtained from another source.

Compare: 2003 No 48 s 77

#### **42 Compliance with requirement to provide information or document**

- (1) A person who receives a notice under section 41 must, without charge, comply with the requirement stated in the notice in the manner and within the period (being not less than 10 working days after the notice is given to the person) specified in the notice.
- (2) Subsection (1) does not require a person to provide any information or produce any document that would be privileged in a court of law.
- (3) No person is required to produce to a committee any papers, records, documents, or things if compliance with that requirement would be in breach of an

obligation of secrecy or non-disclosure imposed on the person by an enactment (other than the Official Information Act 1982 or the Privacy Act 1993).

- (4) Every person commits an offence, and is liable on conviction to a fine not exceeding \$10,000, who, when required to comply with a notice given under section 41,—
- (a) refuses or fails without reasonable excuse to comply with the notice; or
  - (b) knowingly or recklessly provides information that is false or misleading in any material particular.

Compare: 2003 No 48 s 78

Section 42(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **43 Decision of complaints assessment committee**

- (1) After investigating a complaint or a referral, the complaints assessment committee must provide to the Council a written statement,—
- (a) if the committee considers that the matter is a medical matter, recommending—
    - (i) that the specified person be required to undergo a medical assessment; and
    - (ii) if necessary, that the Council exercise its powers under section 57:
  - (b) if the committee considers that the matter is a competence matter, recommending—
    - (i) that the specified person be required to undergo a competence assessment; and
    - (ii) if necessary, that the Council exercise its powers under section 60:
  - (c) if the committee considers that the matter can be resolved by agreement with the specified person, recommending that the Council impose conditions of practice on the specified person:
  - (d) if the committee considers that the matter requires a disciplinary hearing, stating that the committee intends to lay 1 or more charges against the specified person:
  - (e) if the committee considers that the matter is any combination of medical, competence, and disciplinary matters,—
    - (i) recommending that the Council take 2 or more of the actions set out in paragraphs (a) to (c) as specified by the committee; or
    - (ii) stating that the committee intends to lay 1 or more charges against the specified person and recommending that the Council require the specified person to undertake a medical assessment or a competence assessment, or both (and, if necessary, that the Council exercise its powers under section 57 or section 60, or both):

- (f) if the committee considers that the matter requires no further action, stating that it will be taking no further action in relation to the specified person.
- (2) However, if during the investigation the committee has acted under section 46, the committee must provide to the Council a written statement (with reasons)—
  - (a) stating whether—
    - (i) the complaint was settled between the parties and, if not, the matters on which agreement was reached between the parties (if any); or
    - (ii) conciliation occurred between the parties, and the result of the conciliation; and
  - (b) recommending what, if any, further action the Council should take under this Part in relation to the specified person who was the subject of the complaint.
- (2A) Despite subsections (1) and (2), the complaints assessment committee may make a recommendation to the Council without investigating, or fully investigating, a complaint or referral if the committee considers that the complaint or referral—
  - (a) relates to the competence of the specified person; or
  - (b) relates to a medical issue; or
  - (c) requires urgent action by the Council.
- (3) The Council may determine a matter referred to it under this section—
  - (a) in accordance with the committee's statement; or
  - (b) if it thinks fit, in any other way using its powers under this Part.

Compare: 1994 No 107 ss 26(5), (6), 27(3), (4)

Section 43(2A): inserted, on 27 March 2008, by section 10 of the Veterinarians Amendment Act 2008 (2008 No 19).

### *Interim suspension*

#### **44 Interim suspension pending medical assessment**

- (1) A complaints assessment committee may, in addition to providing a statement about a specified person to the Council under section 43, recommend to it that until the Council has conducted a medical assessment, the Council—
  - (a) suspend the specified person's practising certificate; or
  - (b) impose conditions of practice on the specified person.
- (2) The committee may make a recommendation under subsection (1)(a) only if it is satisfied on reasonable grounds that—

- (a) the specified person cannot practise satisfactorily as a veterinarian because of a mental or physical condition; and
  - (b) because the specified person may continue to practise as a veterinarian, it is necessary in the public interest to suspend the specified person's practising certificate.
- (3) The committee may make a recommendation under subsection (1)(b) only if it is satisfied that—
  - (a) the specified person cannot practise satisfactorily as a veterinarian because of a mental or physical condition; but
  - (b) despite this it would not be contrary to the public interest to allow the specified person to continue to practise subject to conditions of practice.
- (4) The committee must immediately notify the specified person in writing (with reasons) that a recommendation has been made.
- (5) After considering the committee's recommendation, the Council must—
  - (a) suspend the specified person's practising certificate, if it is satisfied that—
    - (i) the specified person cannot practise satisfactorily as a veterinarian because of a mental or physical condition; and
    - (ii) because the specified person may continue to practise as a veterinarian, it is necessary in the public interest to suspend the specified person's practising certificate; or
  - (b) impose conditions of practice on the specified person if it is satisfied that—
    - (i) the specified person cannot practise satisfactorily as a veterinarian because of a mental or physical condition; but
    - (ii) despite this it would not be contrary to the public interest to allow the specified person to continue to practise subject to conditions of practice; or
  - (c) refuse to suspend or impose conditions of practice on the specified person, and require the committee to continue its procedure under section 43.
- (6) However, if the Council acts under subsection (5)(a) or (b), it must complete the medical assessment no later than 50 working days after the suspension or conditions take effect.
- (7) The suspension or conditions of practice, as the case may be, cease to apply—
  - (a) if the Council does not complete the medical assessment before the end of the 50-working day period; and
  - (b) without any further action being taken by the Council or the specified person.

- (8) A decision of the Council under subsection (5) takes effect immediately, and the Council must ensure that the specified person, the complaints assessment committee, and the complainant (if any) are notified in writing (with reasons) as soon as practicable after the decision is made.

Compare: 1994 No 107 ss 41, 42

#### **45 Interim suspension pending disciplinary hearing or competence assessment**

- (1) A complaints assessment committee may, in addition to providing a statement about a specified person to the Council under section 43, recommend to it that, until the Council has conducted a disciplinary hearing or a competence assessment, or both, the Council—
- (a) suspend the specified person's practising certificate; or
  - (b) impose conditions of practice on the specified person.
- (2) The committee may make a recommendation only if it is satisfied on reasonable grounds that it is necessary in the public interest to suspend the specified person's practising certificate or impose conditions of practice on the specified person.
- (3) The committee must immediately notify the specified person in writing (with reasons) that a recommendation has been made.
- (4) After considering the committee's recommendation, the Council must—
- (a) suspend the specified person's practising certificate or impose conditions of practice on the person, if it is satisfied on reasonable grounds that it is necessary in the public interest to do so; or
  - (b) refuse to suspend or impose conditions of practice on the specified person, and require the committee to continue its procedure under section 43.
- (5) However, if the Council acts under subsection (4)(a), it must complete the disciplinary hearing or the competence assessment, or both, no later than 50 working days after the suspension or conditions take effect.
- (6) The suspension or conditions of practice, as the case may be, cease to apply—
- (a) if the Council does not complete the disciplinary hearing or competence assessment, or both, before the end of the 50-working day period; and
  - (b) without any further action being taken by the Council or the specified person.
- (7) A decision of the Council under subsection (4) takes effect immediately, and the Council must ensure that the specified person, the complaints assessment committee, and the complainant (if any) are notified in writing (with reasons) as soon as practicable after the decision is made.

Compare: 1994 No 107 s 28

### *Mediation*

#### **46 Resolution of complaint by mediation**

- (1) When a complaint comes before a complaints assessment committee, or at any time during the investigation of a complaint, the committee may, if it thinks fit, consider—
  - (a) whether resolution of the complaint or part of the complaint may be reached by agreement between the complainant and the specified person and, if so, assist in such a resolution; and
  - (b) whether resolution of the complaint may be reached by conciliation between the complainant and the specified person and, if so, discuss the possibility with them.
- (2) For the purposes of subsection (1), the committee may appoint or employ a mediator or conciliator to act on the committee's behalf.
- (3) No evidence of any admission, information, or statement made to any person acting as a mediator or conciliator under this section is admissible in any proceedings before the Council, a court, or a tribunal.
- (4) To avoid doubt, any resolution or part resolution of a complaint under this section does not preclude the Council exercising, in relation to the specified person, its powers under this Part.

Compare: 1994 No 107 s 27

### *Disciplinary hearings*

#### **47 Procedure for hearing**

- (1) The Council must, by written notice, inform the specified person concerned of its intention to hold a disciplinary hearing.
- (2) The notice must include—
  - (a) a statement that a complaints assessment committee has reason to believe that 1 or more grounds exist entitling the Council to exercise its powers under section 50 or section 61(1); and
  - (b) sufficient information to clearly inform the specified person of the grounds referred to in paragraph (a); and
  - (c) the hearing date on which the Council intends to hear the matter (being a date not less than 20 working days after the date on which the notice is served).
- (3) The notice may require the specified person to give written notice to the Council (being not later than a specified date before the hearing date) as to whether he or she will—
  - (a) attend the hearing; and
  - (b) speak at the hearing personally or by a representative.

- (4) A person who fails to comply with any requirement under subsection (3) may still attend the hearing and be heard. However, in making any order under section 51, the Council may take into account the fact of the non-compliance.
- (5) The Council must inform the complainant (if any) in writing of the hearing date.
- (6) The Council may authorise any person to appear at a hearing and adduce evidence and make submissions on the matter.

Compare: 1994 No 107 s 33

#### **48 Council has powers of Commission of Inquiry**

For the purposes of a disciplinary hearing, the Council has the powers of a commission under the Commissions of Inquiry Act 1908 and the provisions of that Act, except sections 11 and 12 (which relate to costs) apply as if the hearing were an inquiry under that Act.

Compare: 1994 No 107 s 35

#### **49 Disciplinary hearing to be in public**

- (1) The Council must hold every disciplinary hearing in public.
- (2) However, if the Council considers it appropriate to do so, having regard to the interests of any person and to the public interest, the Council may—
  - (a) hold a hearing or any part of a hearing in private:
  - (b) prohibit, by order, the publication of—
    - (i) any report of a hearing or a part of a hearing (whether held in public or in private):
    - (ii) the whole or any part of any paper, document, or record produced at a hearing:
    - (iii) the name of or any particulars about the specified person who is the subject of a hearing, or any other person:
  - (c) decide a hearing, including any question arising during the hearing, in private.
- (3) An order made under subsection (2)(b) continues in force until the sooner of the date specified in the order (if any) or the date of its revocation. However, a person may apply at any time to the Council for the order to be revoked.
- (4) Subsection (2)(b)(iii) does not apply in relation to the publication of the effect of an order under section 54(2).
- (5) Every person commits an offence and is liable on conviction to a fine not exceeding \$10,000 who, without lawful excuse, breaches any order made by the Council under subsection (2).

Compare: 1994 No 107 s 34

Section 49(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**50 Grounds for discipline of specified person**

- (1) The Council may take 1 or more of the actions set out in section 51 against a specified person if, at the conclusion of a disciplinary hearing, it is satisfied that—
- (a) both of the following matters apply:
    - (i) the specified person has been convicted within the last 7 years, whether before or after he or she was registered, by any court in New Zealand or elsewhere of—
      - (A) any offence punishable by imprisonment for a term of 3 months or more; or
      - (B) any other offence against this or any other Act that has a direct bearing on the veterinary profession; or
      - (C) an offence against the Agricultural Compounds and Veterinary Medicines Act 1997, the Animal Welfare Act 1999, the Medicines Act 1981, or the Misuse of Drugs Act 1975, or an offence against any regulations made by or under those Acts; and
    - (ii) the commission of the offence reflects adversely on the person's fitness to practise as a veterinarian; or
  - (b) the specified person has been guilty of professional misconduct because of any act or omission (including an unethical act or omission) that, in the opinion of the Council, requires disciplinary sanction; or
  - (c) the specified person has been guilty of professional misconduct because of any act or omission that, in the opinion of the Council, has brought or was likely to bring discredit to the profession; or
  - (d) the specified person has, for the purpose of obtaining registration (either for himself or herself or for any other person),—
    - (i) either orally or in writing, made any declaration or representation knowing it to be false or misleading in a material particular; or
    - (ii) produced to the Council or made use of any document knowing it to contain a declaration or representation referred to in subparagraph (i); or
    - (iii) produced to the Council or made use of any document knowing that it was not genuine; or
  - (e) the specified person has been struck off the register of veterinarians or has otherwise been disciplined by a veterinary professional organisation in another country; or
  - (f) the specified person has breached any conditions of practice imposed on him or her; or

- (g) the specified person has failed to comply with the minimum standards for practising.
- (2) However, the Council must not take any action against a specified person in relation to any matter in subsection (1) that occurred before the specified person was registered, if the Council knew of the matter before the registration.

Compare: 1994 No 107 s 29

### Subpart 3—How specified person may be disciplined

#### *Penalties*

#### **51 Penalties**

- (1) In any case to which section 50 applies, the Council may—
  - (a) do either or both of the following things:
    - (i) cancel the specified person's registration and remove the person's name from the register:
    - (ii) at the same time, or in a subsequent order, order that the specified person may not apply for reregistration before the expiry of a specified period:
  - (b) if the specified person is registered as a specialist, amend his or her registration (and certificate of registration) to that of a registered person only:
  - (c) suspend the specified person's registration for a period of no more than 12 months:
  - (d) cancel the specified person's practising certificate:
  - (e) suspend the specified person's practising certificate for a specified period:
  - (f) order that the specified person be ineligible to hold a practising certificate for a specified period:
  - (g) order that the specified person be censured:
  - (h) order that the specified person may, for a period not exceeding 3 years, practise only subject to the conditions of practice specified in the order:
  - (i) order the specified person to pay,—
    - (i) in any case to which section 50(1)(b) or (c) applies, a fine not exceeding \$30,000; and
    - (ii) in any case to which section 50(1)(d) applies, a fine not exceeding \$10,000:
  - (j) if the matter arises from a complaint, order—
    - (i) that any professional fee paid or owing to the specified person by the complainant be refunded, reduced, or waived:

- (ii) that the specified person pay the complainant's costs and expenses for the hearing by the Council and any inquiries made by the complaints assessment committee.
- (2) No fine may be imposed under subsection (1)(i) in relation to an act or omission that constitutes an offence for which the specified person has been convicted by a court.
- (3) The Council may order that the specified person pay the costs and expenses of, and incidental to, the disciplinary hearing and any investigation made by the complaints assessment committee.
- (4) The Registrar must note the action taken by the Council in the register, and the Council may publicly notify the action in any other way it thinks fit.
- (5) An application by a specified person to whom subsection (1)(a)(ii) applies to have his or her name restored to the register must be treated for the purposes of this Act as if it were an application under section 10.

Compare: 1994 No 107 ss 30, 31, 38, 39

## **52 Non-payment of fines or costs**

If money payable by a specified person under section 51(1)(i), (1)(j), or (3) remains unpaid for 60 days or more, the Council may—

- (a) cancel the person's registration; or
- (b) suspend the person's registration until the person pays the money and, if he or she does not do so within 12 months, cancel his or her registration; or
- (c) cancel the person's practising certificate; or
- (d) suspend the person's practising certificate until the person pays the money and, if he or she does not do so before the practising certificate expires, refuse any subsequent application for a practising certificate until the money is paid.

### *Decisions and orders*

## **53 Provisions relating to decisions and orders**

- (1) A decision or an order of the Council made under section 51 must—
  - (a) be in writing (with reasons); and
  - (b) contain a statement of the specified person's right to appeal against the decision or order, and the time within which the notice of appeal must be given; and
  - (c) be signed by the chairperson of the Council or the Registrar.
- (2) A copy of a decision or an order must be served on the specified person to whom it applies and takes effect from the date on which it is served or a later date as may be specified in the decision or order.

- (3) The Registrar must inform the complainant (if any) in writing of the effect of any decision or order made under section 51.

Compare: 1994 No 107 s 36

#### **54 Publication**

- (1) This section applies if—
- (a) the Council has made a decision or an order under this Part in relation to a specified person and the specified person has not appealed against the decision or order within the time allowed; or
  - (b) a court has made an order under this Act in relation to a specified person.
- (2) If subsection (1) applies, the Council may publish a notice in 1 or more publications it thinks fit stating the effect of the decision or order.
- (3) Subsection (2) is subject to sections 49 and 71.

Compare: 1994 No 107 s 63

### Subpart 4—Medical and competence assessments

#### *Medical assessments*

#### **55 Medical assessments**

- (1) The Council may by notice, on its own initiative or on the recommendation of a complaints assessment committee, require a specified person to undertake a medical examination by a medical practitioner at the Council's expense.
- (2) The notice must—
- (a) be served on the specified person; and
  - (b) be in writing signed by the chairperson (with reasons); and
  - (c) specify—
    - (i) the name and address of the medical practitioner who is to conduct the examination; and
    - (ii) the date by which the examination is to take place (being a date not earlier than 5 working days after the notice is served on the specified person); and
  - (d) inform the specified person that—
    - (i) he or she may attend the examination with another person, who may be a support person or an observer; and
    - (ii) the medical practitioner conducting the examination may consult with any other health practitioner regarding the examination; and
    - (iii) the specified person may refuse to undertake the examination, but that the Council may, despite the refusal, act under section 57(1) in any event.

- (3) Before giving a notice under this section, the Council must endeavour to consult with the specified person about the medical practitioner who is to conduct the examination.
- (3A) The medical practitioner conducting the examination may consult with another health practitioner who the medical practitioner considers is able to assist in the completion of the examination or in the completion of the report under subsection (4).
- (4) The medical practitioner must, as soon as practicable after conducting an examination, make a written report to the Council.
- (5) The Council must, as soon as practicable after receiving the report,—
  - (a) send a copy to the specified person; and
  - (b) give the specified person a reasonable opportunity to make submissions and be heard on the matter (either personally or by counsel or agent).

Compare: 1994 No 107 s 41(1)–(4)

Section 55(2)(d): replaced, on 12 December 2012, by section 7(1) of the Veterinarians Amendment Act 2012 (2012 No 116).

Section 55(3A): inserted, on 12 December 2012, by section 7(2) of the Veterinarians Amendment Act 2012 (2012 No 116).

## **56 Interim suspension by Council pending medical assessment**

- (1) In addition to acting under section 55, the Council may, on its own initiative, until it has conducted the medical assessment,—
  - (a) suspend the specified person’s practising certificate; or
  - (b) impose conditions of practice on the specified person.
- (2) For the purposes of this section, section 44(5) to (7) applies, with all necessary modifications, as if the Council were acting under that section on the recommendation of a complaints assessment committee.

Compare: 1994 No 107 ss 41, 42

## **57 Consequences of medical assessment**

- (1) The Council may take 1 or more of the following actions against a specified person who has undergone a medical assessment:
  - (a) cancel the specified person’s registration:
  - (b) suspend the specified person’s registration for a specified period:
  - (c) cancel the specified person’s practising certificate:
  - (d) suspend the specified person’s practising certificate for a specified period:
  - (e) order that the specified person be ineligible to hold a practising certificate for a specified period:
  - (f) impose conditions of practice on the specified person.

- (2) At any time the Council may cancel the suspension of a specified person's registration or practising certificate or remove any conditions of practice imposed on the specified person under this section.
- (3) However, the Council may act under subsection (2) only if it is satisfied that the suspension is no longer required or the specified person can practise satisfactorily as a veterinarian (with or without conditions of practice being imposed).

Compare: 1994 No 107 ss 41(5), (6), 42

### *Competence assessments*

#### **58 Competence assessments**

- (1) The Council may by notice, on the recommendation of a complaints assessment committee or of its own motion, require a specified person to undergo an assessment of the specified person's competence at the Council's expense.
- (2) An assessment must follow the procedure set out in section 55(2) to (5), and those provisions apply with all necessary modifications, as if the medical examination were an examination by a person qualified to assess the specified person's competence.

Section 58(1): amended, on 27 March 2008, by section 11 of the Veterinarians Amendment Act 2008 (2008 No 19).

#### **59 Council may require specified person to make practice records available**

For the purposes of a competence assessment, the Council may inspect a specified person's practice records, and the specified person must make the records available, without charge, for that purpose to any person authorised by the Council to receive them.

Compare: 2003 No 48 s 42

#### **60 Consequences of competence assessment**

- (1) The Council may take 1 or more of the following actions against a specified person who has undergone a competence assessment:
  - (a) cancel the specified person's registration:
  - (b) suspend the specified person's registration for a specified period:
  - (c) cancel the specified person's practising certificate:
  - (d) suspend the specified person's practising certificate for a specified period:
  - (e) order that the specified person be ineligible to hold a practising certificate for a specified period:
  - (f) impose conditions of practice on the specified person.

- (2) At any time, the Council may cancel the suspension of a specified person's registration or practising certificate or remove any conditions of practice imposed on the specified person under this section.
- (3) However, the Council may act under subsection (2) only if it is satisfied that the suspension is no longer required or that the specified person can practise satisfactorily as a veterinarian (with or without conditions of practice being imposed).

## **Part 4**

### **Conditions of practice and appeals**

#### *Conditions of practice*

#### **61 Conditions of practice**

- (1) The Council may impose conditions of practice on a specified person—
  - (a) as a requirement of the specified person's registration or continued registration; or
  - (b) as a condition of—
    - (i) issuing the specified person with a practising certificate; or
    - (ii) allowing the specified person to continue to hold a practising certificate; or
  - (c) as a result of a recommendation by a complaints assessment committee; or
  - (d) as a result of a disciplinary hearing or a medical or competence assessment.
- (2) However, the conditions imposed must be only those that in the Council's opinion are necessary to ensure that the specified person will comply with the minimum standards for practising if the specified person were (as the case may be)—
  - (a) to be issued with a practising certificate; or
  - (b) to continue to hold a practising certificate.
- (3) Without limiting subsection (1), conditions of practice may include 1 or more of the following:
  - (a) a condition that the specified person practise subject to the supervision of 1 or more nominated veterinarians or classes of veterinarians:
  - (b) a condition that the specified person practise subject to the oversight of 1 or more nominated veterinarians or classes of veterinarians:
  - (c) a condition that the specified person not perform any work of a stated kind, or that the specified person perform any work of a stated kind only in stated circumstances:

- (d) a condition that the specified person practise only in a stated capacity (for example, as an employee of 1 or more nominated persons or classes of persons):
- (e) a condition that the specified person practise in association with 1 or more nominated persons or classes of persons:
- (f) a condition that the specified person practise only for a specified period:
- (g) a condition that the specified person obtain 1 or more further stated qualifications or gain further experience of a stated kind:
- (h) a condition that the specified person's practice (or the relevant part of his or her employer's practice) be audited at specified or random intervals:
- (i) a condition that the specified person be subject to specified medical tests at specified intervals or from time to time:
- (j) a condition that the specified person—
  - (i) pass any examinations or assessments within a specified period or at specified intervals:
  - (ii) complete a period of practical training:
  - (iii) complete a period of practical experience:
  - (iv) undertake a course of instruction:
  - (v) undergo an inspection:
- (k) a condition that the specified person adopt and undertake a systematic process for ensuring that the services provided by the specified person meet the minimum standards for practising.

## **62 When conditions effective**

- (1) The Council must notify a specified person of any conditions of practice it has imposed on the specified person.
- (2) A notice must—
  - (a) be in writing; and
  - (b) contain a statement—
    - (i) of the reasons why the conditions have been imposed; and
    - (ii) of the person's right to appeal against the imposition of the conditions, or the nature of 1 or more of the conditions imposed, and the time within which the notice of appeal must be given; and
  - (c) be signed by the chairperson of the Council or the Registrar; and
  - (d) be served on the specified person.
- (3) Unless expressly provided elsewhere in this Act, the conditions take effect as from the date on which the notice is served.

- (4) The specified person may practise as a veterinarian only to the extent permitted by the notice.

**63 When conditions expire or removed**

- (1) Any condition of practice imposed by the Council on a specified person ceases to apply on the earliest of the following dates:
- (a) the date stated in the relevant notice under section 62(1);
  - (b) the date on which the Council is satisfied that the specified person has completed, in relation to the condition, the requirement or requirements stated in the relevant notice under section 62(1);
  - (c) the date on which the Council is satisfied that the specified person is able to comply with the relevant minimum standards of practice without the imposition of the condition.
- (2) If subsection (1)(b) or (c) applies, the Council must give written notice to the specified person that the condition of practice is removed.
- (3) The notice must be served on the specified person and takes effect as from the date on which the notice is served.
- (4) Subsection (1) is subject to sections 44(7), 45(6), and 56(2).

*Appeals*

**64 Right of appeal**

- (1) Any person may appeal to a District Court against any decision of the Council to decline to register the person.
- (2) A veterinarian may appeal to a District Court against any decision of the Council to decline to register the veterinarian as a specialist.
- (3) A specified person may appeal to a District Court against any decision of the Council to—
- (a) decline to issue a practising certificate to the person; or
  - (b) suspend or cancel his or her registration; or
  - (c) suspend or cancel his or her practising certificate; or
  - (d) impose 1 or more penalties on the person under Part 3; or
  - (e) impose 1 or more conditions of practice on the person.
- (4) An appeal—
- (a) must be brought to the court by way of originating application in accordance with the rules of court; and
  - (b) must be lodged within 20 working days after notice of the decision or action is communicated to the appellant, or within any further time a

District Court Judge allows on application made before or after that period expires.

Compare: 1994 No 107 ss 56, 57

### **65 Notice of right of appeal**

When notifying a person under this Act of any decision or action against which section 64 gives him or her a right of appeal, the Council must also notify the person in writing of the right of appeal and the time within which an appeal must be lodged.

### **66 Actions to have effect pending determination of appeal**

A decision or action against which an appeal is lodged under section 64 continues in force unless the District Court orders otherwise.

Compare: 1994 No 107 s 59

### **67 Procedure on appeal**

- (1) An appeal under section 64 must be heard as soon as is reasonably practicable after it is lodged.
- (2) An appeal is by way of rehearing.
- (3) On hearing the appeal, the District Court may—
  - (a) confirm, reverse, or modify the decision or action appealed against;
  - (b) make any other decision or take any other action that the person or body that made the decision or took the action appealed against could have made or taken;
  - (c) refer the matter or an aspect of the matter back to the Council for reconsideration under section 69.
- (4) The court must not review—
  - (a) any decision or action not appealed against; or
  - (b) any part of any decision or action not appealed against.

Compare: 1994 No 107 s 58

### **68 Court's decision final**

- (1) The decision of the District Court on an appeal under this Part is final.
- (2) Subsection (1) is subject to section 72.

Compare: 1994 No 107 s 60(1)

### **69 Court may refer matter back for reconsideration**

- (1) Instead of determining an appeal under this Part, the District Court may direct the Council to reconsider, either generally or in respect of any specified aspect, the whole or any part of the decision or action.
- (2) In giving a direction under subsection (1), the court—

- (a) must state its reasons for the direction; and
  - (b) may give any other directions it thinks just in relation to the matter referred back for reconsideration.
- (3) Upon being directed to reconsider a matter, the Council must reconsider the matter and, in doing so, must—
- (a) take the court's reasons into account; and
  - (b) give effect to the court's directions.

**70 Orders as to costs**

On an appeal under section 64, the District Court may order any party to the appeal to pay to any other party to the appeal any or all of the costs incurred by the other party in respect of the appeal.

**71 Orders as to publication of names**

- (1) On any appeal under section 64, the District Court may, if in its opinion it is proper to do so, prohibit the publication of the name or particulars of the affairs of any person.
- (2) In deciding whether to make an order under subsection (1), the court must have regard to—
- (a) the interests of any person (including, without limitation, the privacy of any complainant); and
  - (b) the public interest.

**72 Appeal on question of law**

- (1) A party to an appeal under section 64 may appeal to the High Court against any determination of law arising in the appeal.
- (2) The appeal must be heard and determined in accordance with the appropriate rules of court.
- (3) Part 6 of the Criminal Procedure Act 2011 applies to the appeal—
- (a) so far as it is applicable and with all necessary modifications; but
  - (b) only so far as it relates to appeals on questions of law.
- (4) Subsection (3) overrides subsection (2).

Compare: 1994 No 107 s 60

Section 72(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## Part 5

### Veterinary Council of New Zealand

#### 73 Veterinary Council of New Zealand

The Veterinary Council of New Zealand established under section 43 of the Veterinarians Act 1994 is continued.

#### 74 Council is body corporate

The Council is a body corporate with perpetual succession.

Compare: 1994 No 107 s 43(2)

#### *Functions of Council*

#### 75 Functions of Council

The Council's functions are—

- (a) to advise and make recommendations to the Minister on any matter relating to veterinarians and the practice of veterinary science:
- (b) to advise the governing body of any New Zealand university in any matter relating to the education of veterinarians:
- (c) to promote and encourage high standards of professional education and conduct among veterinarians:
- (d) to consider reciprocal arrangements with registration bodies in other countries:
- (e) to register persons, issue practising certificates, assess whether persons meet the requirements for continued registration or eligibility for a practising certificate, and perform the other functions relating to registration and practising requirements in accordance with Part 2, including—
  - (i) to determine the institutions and the degrees and diplomas offered by those institutions that are recognised for the purposes of section 6(1)(a); and
  - (ii) to approve assessment programmes, post-graduate study, and post-graduate training for the purposes of section 6(1)(b)(ii) and (iii); and
  - (iii) to designate branches of veterinary science as branches in which veterinarians may practise as specialists for the purposes of section 7(1); and
  - (iv) to determine the form and content of applications for the purposes of sections 10(a) and (b) and 24(2)(a) and (b):
- (f) to keep and maintain the register and carry out the other functions relating to the register in accordance with Part 2:

- (g) to receive, investigate, and hear complaints about, inquire into the conduct of, make assessments of, and discipline specified persons under Part 3:
- (h) to investigate offences and bring prosecutions under the Act:
- (i) to prescribe minimum standards for practising as a veterinarian, including standards relating to either or both of the following:
  - (i) a person's fitness to practise as a veterinarian:
  - (ii) the maintenance, examination, or improvement of the overall competence of a veterinarian to practise:
- (j) to prescribe—
  - (i) examinations for the purposes of section 6(1)(b)(i):
  - (ii) *[Repealed]*
  - (iii) the form of the register and the information to be contained in the register under section 22:
  - (iv) *[Repealed]*
- (k) to prescribe fees payable for the matters referred to in section 97 in accordance with sections 98 to 100.

Compare: 1994 No 107 s 44

Section 75(e)(ii): amended, on 27 March 2008, by section 12(1) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 75(e)(iii): added, on 27 March 2008, by section 12(2) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 75(e)(iv): added, on 27 March 2008, by section 12(2) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 75(j)(ii): repealed, on 27 March 2008, by section 12(3) of the Veterinarians Amendment Act 2008 (2008 No 19).

Section 75(j)(iv): repealed, on 27 March 2008, by section 12(4) of the Veterinarians Amendment Act 2008 (2008 No 19).

## 76 Capacity and powers

For the purpose of performing its functions, the Council has—

- (a) full capacity to carry on or undertake any activity, do any act, or enter into any transaction; and
- (b) for the purposes of paragraph (a), full rights, powers, and privileges.

Compare: 1994 No 107 s 43(2)

## 77 Composition of Council

The Council must have 7 members being—

- (a) 3 veterinarians elected in accordance with regulations made under section 101; and
- (b) 2 laypersons appointed by the Minister by notice in the *Gazette*; and

- (c) 1 veterinarian appointed by the Minister by notice in the *Gazette*; and
- (d) the person for the time being responsible for the veterinary science academic programme at Massey University.

Compare: 1994 No 107 s 45

## **78 Further provisions as to Council and its members**

Schedule 1 applies to the Council and its members.

### *Committees of Council*

## **79 Council may appoint committees**

- (1) The Council may, by resolution, appoint 1 or more committees to—
  - (a) perform any of the Council's functions or duties, or exercise any of the Council's powers, that are delegated to the committee under clause 17 of Schedule 1:
  - (b) inquire into and report to the Council on any matters within the scope of the Council's functions, duties, or powers that are referred to the committee by the Council.
- (2) A committee is subject to the control of the Council and may at any time be discharged, altered, or reconstituted by the Council.

## **80 Membership and chairperson of committees**

- (1) A committee must consist of 2 or more people, at least 1 of whom must be a member of the Council.
- (2) Unless the Council otherwise decides, the Council must appoint the chairperson of all committees.

## **81 Committees to regulate own procedure**

Subject to the Council's direction, a committee may regulate its own procedure.

## **82 Complaints assessment committees**

- (1) The Council may appoint 1 or more complaints assessment committees.
- (2) Each committee must consist of 2 veterinarians and 1 layperson, one of whom must be appointed as the chairperson of the committee.
- (3) The Council may at any time—
  - (a) revoke any appointment made under subsection (2); or
  - (b) reconstitute a committee; or
  - (c) have more than 1 committee operating from time to time.
- (4) A member of a complaints assessment committee must not be appointed as a member of any judicial committee that is considering, or that may consider, a

matter that the member considered as part of the complaints assessment committee.

- (5) A resolution of a complaints assessment committee is passed if a majority of votes are cast for it.

Compare: 1994 No 107 s 51

### **83 Judicial committees**

- (1) The Council may appoint 1 or more judicial committees to exercise 1 or more of the Council's functions and powers under Part 3.
- (2) A judicial committee must consist of a minimum of 3 and a maximum of 5 members.
- (3) A judicial committee must include—
- (a) a barrister or solicitor of the High Court of not less than 7 years' practice; and
  - (b) a layperson; and
  - (c) a member of the Council; and
  - (d) a veterinarian with relevant experience.
- (4) For the purposes of subsection (2), one member may satisfy 2 or more of the requirements of subsection (3).
- (5) A member of a judicial committee must not be appointed as a member of a complaints assessment committee that is considering, or that may consider, a matter that the member considered as part of the judicial committee.

Compare: 1994 No 107 ss 52, 53, 55

### **84 Procedure of judicial committees**

- (1) Except as otherwise provided in this Act, the Council must determine the procedure of the judicial committee, including the number of members required for a quorum.
- (2) A resolution of a judicial committee is passed if a majority of votes are cast for it.

Compare: 1994 No 107 s 54

### *Reporting by Council*

### **85 Obligation to prepare annual report**

- (1) The Council must prepare an annual report on its operations for each financial year.
- (2) An annual report must include the audited financial statements of the Council for the relevant financial year.
- (3) The financial year of the Council ends in each year on 31 December or any other day determined by the Minister.

Section 85(3): amended, on 12 December 2012, by section 8 of the Veterinarians Amendment Act 2012 (2012 No 116).

## **86 Annual report**

- (1) As soon as practicable after the end of each financial year, the Council must deliver to the Minister the annual report for that financial year.
- (2) Within 16 sitting days of receiving the annual report from the Council, the Minister must present a copy of the report to the House of Representatives.

## **Part 6 Miscellaneous provisions**

### **87 Protection for members of Council and others**

Neither the Council nor any committee, member, committee member, employee, or agent of the Council is liable for any thing done or omitted to be done, in good faith in the performance or intended performance of their functions or duties, or the exercise of their powers, under this Act.

Compare: 1994 No 107 s 65

### **88 Approved and prescribed matters to be notified and available for inspection**

- (1) Any matter approved or prescribed by the Council under this Act must—
  - (a) be published in the *Gazette* no later than 30 days after being approved or prescribed; and
  - (b) be made available so that members of the public may inspect the documents relating to the matter free of charge.
- (2) However, a person may be charged a reasonable fee if the person is supplied with a copy of any particulars.
- (3) A *Gazette* notice may, instead of setting out the details of the matter that has been approved or prescribed, specify where the documents containing those details may be inspected or where a copy of them may be purchased.
- (4) The Council may make the documents or 1 or more of the documents relating to an approved or prescribed matter available (for inspection or supply) at any other place the Council determines.

### **89 Application of Legislation Act 2012 to *Gazette* notices**

Every matter approved or prescribed under this Act that is required to be published in the *Gazette* is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Section 89: replaced, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

### **89A Notification of convictions**

A registrar of a court who knows that a person convicted in the court is a veterinarian must send a notice of the conviction to the Council if the conviction is for—

- (a) any offence against—
  - (i) the Agricultural Compounds and Veterinary Medicines Act 1997; or
  - (ii) the Animal Products Act 1999; or
  - (iii) the Animal Welfare Act 1999; or
  - (iv) the Biosecurity Act 1993; or
  - (v) the Food Act 2014; or
  - (vi) the Hazardous Substances and New Organisms Act 1996; or
  - (vii) the Medicines Act 1981; or
  - (viii) the Misuse of Drugs Act 1975; or
- (b) any other offence that is punishable by imprisonment for a term of 3 months or more.

Section 89A: inserted, on 12 December 2012, by section 9 of the Veterinarians Amendment Act 2012 (2012 No 116).

Section 89A(a)(v): amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

### *Evidence*

### **90 Certificate of Council to be conclusive evidence**

A certificate as to any of the following matters, given in writing by any person authorised by the Council in writing to provide certificates of that type, is conclusive evidence of that matter, in the absence of proof to the contrary:

- (a) as to whether a person was registered at any time:
- (b) as to whether a person is currently registered:
- (c) as to whether a person holds a current practising certificate:
- (d) as to any entry in the register:
- (e) as to any act or proceeding of the Council or of any committee of the Council.

Compare: 1994 No 107 s 66

### **91 Information from institutions may be sufficient evidence of facts**

- (1) This section applies—
  - (a) if an institution informs the Council that it has lawfully removed the name of a person from the register in which it records qualifications, and the Council has, on the basis of the qualification,—

- (i) registered the person; or
    - (ii) included the qualification in the details of registration of the person; or
  - (b) if a registering authority outside New Zealand informs the Council that it has lawfully removed the name of a person from a register of veterinarians maintained by the authority.
- (2) If subsection (1) applies,—
- (a) the Registrar must make a note in the entry of the register in relation to the person of the information provided by an institution or registering authority; and
  - (b) for the purposes of any assessment, investigation, or disciplinary hearing in relation to the person under this Act, the Council may, in the absence of proof to the contrary, use the findings of fact on which the institution or registration authority based its decision to remove the person's name from its register as sufficient evidence of the facts found.

Compare: 1994 No 107 s 37

## **92 Power of Council to supply evidence for registration overseas**

- (1) The Council may supply to a veterinarian or other registered person the documents it thinks fit for the purpose of enabling the veterinarian or person to seek registration as a veterinarian outside New Zealand.
- (2) A veterinarian who requests documents of this type from the Council must pay the prescribed fee (if any) for the documents.

Compare: 1994 No 107 s 67

### *Financial*

## **93 Payment and application of charges, fees, fines, and other money**

- (1) All charges, fees, fines, and other money payable by a person under this Act—
  - (a) are payable to the Council;
  - (b) are recoverable as a debt due to the Council from that person, whether or not he or she is or remains a veterinarian or registered person;
  - (c) may be applied by the Council (as it considers appropriate) in the performance of its functions and duties and the exercise of its powers under this Act.
- (2) For the purposes of this section, **fine** does not include a fine imposed for the commission of an offence against a provision of this Act.

Compare: 1994 No 107 s 68

**94 Crown not liable for debts of Council**

The Crown is not liable to contribute towards the payment of any debts or liabilities of the Council.

Compare: 1994 No 107 s 69

*References to veterinarians in other enactments*

**95 References to veterinarians in other enactments**

References in any enactment to a veterinarian or a veterinary practitioner or a veterinary surgeon, or registered veterinarian or veterinary surgeon, or duly qualified veterinarian or veterinary surgeon are, unless the context otherwise requires, to be read as if they were references to a veterinarian within the meaning of section 4 of this Act.

Compare: 1994 No 107 s 70

Section 95: amended, on 12 December 2012, by section 10 of the Veterinarians Amendment Act 2012 (2012 No 116).

*Service of documents*

**96 Service of documents**

- (1) Any document, notification, or summons required or authorised by or under this Act may be served—
  - (a) by delivering it personally to the person; or
  - (b) by posting it to the person at that person's usual place of residence.
- (2) A summons must,—
  - (a) if it is to be served under subsection (1)(a), be served at least 48 hours before the attendance of the witness is required;
  - (b) if it is to be served under subsection (1)(b), be served at least 10 days before the attendance of the witness is required.
- (3) A document, notice, or summons that is posted is treated as having been served when it would have been delivered in the ordinary course of post.

Compare: 1994 No 107 s 71

*Fees*

**97 Council may prescribe fees**

- (1) The Council may from time to time, by notice in the *Gazette*, prescribe the fees payable for the following matters:
  - (a) applying for registration under the Act;
  - (b) maintaining the register;
  - (c) making an addition or alteration to the register;
  - (d) applying for a practising certificate:

- (e) issuing any certificate, or a copy of any certificate:
  - (f) supplying a copy of an entry in the register:
  - (g) supplying a veterinarian or other registered person with any document (other than a certificate of registration) required by the veterinarian or registered person for the purpose of seeking registration overseas:
  - (h) the Council setting, approving, or marking examinations:
  - (i) the additional fee to be paid if a prescribed fee is paid after its due date:
  - (j) any other matter that relates to anything the Council is required to do in order to carry out its functions and duties under this Act.
- (2) A notice prescribing fees—
- (a) may prescribe different fees for different classes of veterinarian or registered person:
  - (b) may exempt any class or classes of veterinarian or registered person from liability to pay the fee:
  - (c) may provide for the waiver, part payment, or refund of any fee.
- (3) A notice under this section comes into force on a date specified in the notice, being not less than 28 days after the date the notice is published in the *Gazette*.

### **98 Principles guiding prescribing of fees**

In prescribing fees under section 97, the Council must be guided by the following principles:

- (a) fees must be fair and reasonable:
- (b) the income from fees must provide the Council with adequate funding to carry out its functions:
- (c) the structure of the fee system should seek to eliminate any cross-subsidisation between fee payers:
- (d) fees may provide for the Council to maintain adequate net assets provided the net assets have a value no greater than 1.5 times the Council's average annual revenue in the previous 3 financial years.

### **99 Consultation with veterinarians and other registered persons on fee increases**

- (1) The Council must take reasonable steps to consult all veterinarians and other registered persons before gazetting a notice under section 97 that will increase any fees payable to the Council.
- (2) Subsection (1) does not apply to a notice under section 97(1)(a) or (h).

**100 Further provisions relating to fees**

- (1) The Council may amend or revoke a notice under section 97, by notice in the *Gazette*, as if the amendment or revocation were itself a notice under section 97.
- (2) The Council must ensure that a current version of each notice that the Council has published under section 97 is—
  - (a) available on the Council’s website or by other electronic means; and
  - (b) available so that members of the public may—
    - (i) inspect the notices free of charge; or
    - (ii) obtain a copy of a notice for a reasonable fee.
- (3) If a fee is payable to the Council under this Act, the Registrar may, until the fee is paid, decline to do any act, or to permit any act to be done, or to receive any document in respect of which that fee is payable.

*Regulations*

**101 Regulations**

The Governor-General may, by Order in Council made on the recommendation of the Minister given after consultation by the Minister with the Council, make regulations for 1 or more of the following purposes:

- (a) regulating the procedure of the Council;
- (b) prescribing the manner of holding elections of members to be elected to the Council;
- (c) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Compare: 1994 No 107 s 72

*Amendment to Privacy Act 1993*

**102 Amendment to Schedule 2 of Privacy Act 1993**

*Amendment(s) incorporated in the Act(s).*

*Repeals and revocations*

**103 Repeal of Veterinarians Act 1994**

The Veterinarians Act 1994 (1994 No 107) is repealed.

**104 Revocations**

- (1) The following regulations are revoked:
  - (a) the Veterinarians (Elections) Regulations 1995 (SR 1995/134);
  - (b) the Veterinarians (Fees) Regulations 1999 (SR 1999/432).

- (2) Despite subsection (1)(b), fees that became payable to the Council under the Veterinarians (Fees) Regulations 1999 before the commencement of this section continue to be due and payable as if those regulations had not been revoked.

### **105 Consequential amendments**

The enactments specified in Schedule 2 are consequentially amended in the manner indicated in that schedule.

#### *Transitional provisions relating to existing veterinarians*

### **106 People entitled to retain registration**

- (1) For the purposes of this section and sections 107 to 109, the **1994 Act** means the Veterinarians Act 1994.
- (2) Every person who is registered under the 1994 Act immediately before the commencement of this Act is to be treated as if he or she were registered under this Act and this Act applies to every such person.
- (3) The Registrar must, as soon as practicable after the commencement of this Act, enter on the register the names of the people to whom subsection (2) applies.

### **107 Annual retention certificates issued under 1994 Act to continue in full force**

Every current annual retention certificate issued under section 7 of the 1994 Act to a person who, immediately before the commencement of this Act, was registered as a veterinarian under that Act—

- (a) is to be treated as if it were a practising certificate issued to the person under section 26; and
- (b) continues in full force and effect until the earlier of the following dates:
- (i) the date that the certificate is cancelled under this Act; or
  - (ii) the date that the certificate would have expired under the 1994 Act.

#### *Other transitional provisions*

### **108 Existing matters and existing proceedings**

- (1) Despite section 103, the 1994 Act continues to apply in relation to any matters that were commenced, but not completed, under it before its repeal.
- (2) However,—
- (a) any court action or disciplinary or other proceeding that was commenced under the 1994 Act before its repeal—
- (i) must be continued under this Act; but

- (ii) at the end of the action or proceeding, no order may be made, or action taken, unless—
  - (A) the same could have been made or taken under the 1994 Act; or
  - (B) the person who is the subject of the action or proceeding agrees; and
- (b) any application for registration made under the 1994 Act but not determined before its repeal must be determined in accordance with the provisions of this Act.

### **109 Membership of Council**

The persons holding office as members immediately before the commencement of this Act continue to hold office on the commencement of this Act until the first of the following events:

- (a) the date that the member would have ceased to hold office under the 1994 Act is reached; or
- (b) the member dies, resigns, is removed from office, or ceases to be a member in accordance with this Act.

## Schedule 1

### Further provisions applying to Council and its members

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#### 1 Term of appointment or election

- (1) A member elected under section 77(a)—
  - (a) holds office for 3 years; and
  - (b) may be re-elected.
- (2) A member appointed under section 77(b) or (c)—
  - (a) holds office for 3 years or for a shorter period stated in the notice of appointment; and
  - (b) may be reappointed; but
  - (c) may not be a member for more than 9 consecutive years.
- (3) A member continues in office despite the expiry of his or her term of office until—
  - (a) the member is re-elected or reappointed; or
  - (b) the member's successor is elected or appointed.
- (4) This clause is subject to clause 4.  
Compare: 1994 No 107 ss 46–48

#### 2 Resignation

- (1) A member may resign from office by written notice to the Registrar signed by the member.
- (2) The resignation is effective when the Registrar receives the notice or at any later time specified in the notice.

#### 3 Removal from office

The Minister may remove a member from office by written notice to the member (with a copy to the Council) at any time for any of the following reasons proved to the satisfaction of the Minister:

- (a) neglect of the member's duties; or
- (b) failure or inability to perform, or inadequate performance of, the member's duties and responsibilities as a member; or
- (c) misconduct by the member; or
- (d) bankruptcy.

Compare: 1994 No 107 s 49(1)

#### 4 Members ceasing to hold office

- (1) A member ceases to hold office if he or she—

- (a) dies; or
  - (b) resigns in accordance with clause 2; or
  - (c) is removed from office in accordance with clause 3 or any other enactment.
- (2) Without limiting subclause (1),—
- (a) a member who is elected under section 77(a) or appointed under section 77(c) ceases to hold office if he or she ceases to be a veterinarian; and
  - (b) a member who is appointed under section 77(b) ceases to hold office if he or she becomes a veterinarian, a registered person, or a person entitled to be registered under this Act.
- (3) If a vacancy is created under subclause (1) or (2),—
- (a) the vacancy must be filled in the same way as the original vacancy; and
  - (b) the person filling the vacancy (other than a person filling an appointment under section 77(b) or (c)) must hold office for the remainder of the term of his or her predecessor.

Compare: 1994 No 107 s 49(2)–(4)

## **5 Validity of acts**

- (1) The acts of a person as a member are valid even if—
- (a) the person's appointment was defective; or
  - (b) the person is not qualified for the appointment.
- (2) The acts of the Council are valid even if there is a vacancy in its membership.

Compare: 1994 No 107 s 49(5)

### *Remuneration and allowances of members and others*

## **6 Remuneration and allowances of members and others**

- (1) A member is entitled to receive, from the funds of the Council, remuneration and allowances for services as a member in accordance with the framework determined by the Government from time to time for the classification and remuneration of members of statutory and other bodies.
- (2) The Council may also approve payments for services to members of complaints assessment, judicial, or any other committees appointed by the Council in accordance with the same framework.

### *Chairperson and deputy chairperson*

## **7 Appointment**

At its first meeting each year the Council must elect one of its members as the chairperson and another as the deputy chairperson.

**8 Term of appointment**

The chairperson and the deputy chairperson each holds office until—

- (a) he or she is re-elected under clause 7; or
- (b) his or her successor is elected; or
- (c) he or she resigns from that office by written notice to the Council stating the date on which the resignation takes effect; or
- (d) he or she ceases to hold office as a member.

**9 Vacancy during year**

- (1) If the chairperson or deputy chairperson vacates office as a member of the Council, the Council must elect a new chairperson or deputy chairperson (as the case may be) at the first meeting of the Council that is held after the vacancy on the Council is filled.
- (2) If the office of the chairperson or deputy chairperson becomes vacant in any other way, the Council must, as soon as practicable after the vacancy arises, elect one of its members to fill the vacancy.

**10 Exercise of chairperson's functions, duties, and powers during vacancy**

If there is no chairperson or, for any reason, the chairperson is unable to perform his or her functions, duties, and powers as chairperson, the deputy chairperson has all the functions, duties, and powers of the chairperson.

*Procedures of Council*

**11 Dates, times, and places of meetings**

- (1) The Council or the chairperson must appoint the dates, times, and places for meetings of the Council, and give notice of those meetings to each member not present when the appointments are made.
- (2) However, the Council may hold a meeting by means of audio, or audio and visual, communication if—
  - (a) all reasonable efforts have been made to enable each member to participate in the meeting held in this manner; and
  - (b) the number of members participating constitutes a quorum for a meeting under clause 12(1); and
  - (c) the members participating in the meeting can hear each other throughout the meeting.

**12 Quorum**

- (1) A quorum for a meeting of the Council is 4 members, at least one of whom is a layperson.

- (2) No business may be transacted at a meeting of the Council if a quorum is not present.

### **13 Presiding at meetings**

- (1) At a meeting of the Council, the following person presides:
- (a) if there is a chairperson and he or she is present, the chairperson; or
  - (b) if there is no chairperson or he or she is not present, the deputy chairperson; or
  - (c) in any other case, a member chosen by the members present to be chairperson of the meeting.
- (2) A person chosen under subclause (1)(c) may exercise all the functions, duties, and powers of the chairperson for the purposes of the meeting.

### **14 Voting at meetings**

- (1) Each member has 1 vote.
- (2) However, if there is an equality of votes, the chairperson also has a casting vote.
- (3) A resolution of the Council is passed if a majority of votes are cast for it.
- (4) A member must not be present at, or vote at, or otherwise participate in a meeting if the member has a direct or indirect pecuniary interest in the matter being considered.
- (5) If a member is a veterinarian, the member must not be present at, or vote at, or otherwise participate in a meeting if either or both of the following matters are being considered:
- (a) a matter relating to disciplining the member under this Act;
  - (b) a matter relating to the member's registration.

### **15 Unanimous written resolutions**

- (1) A resolution in writing by letter, telegram, fax, or electronic message signed or assented to by all members is as valid and effectual as if it had been passed at a meeting of the Council duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.
- (3) Subclause (1) does not apply to a resolution passed in the exercise of a function or power of the Council under Part 3 in relation to any matter that has been the subject of a disciplinary hearing.

### **16 Procedure generally**

Except as otherwise provided in this Act, the Council may regulate its own procedure.

*Delegation***17 Ability to delegate**

- (1) The Council may delegate (either generally or specifically) any of the functions, duties, and powers of the Council to a committee or the Registrar.
- (2) However, the Council may delegate its powers to hold a hearing, suspend or revoke a practising certificate or registration, or impose penalties or conditions under Part 3 only to a judicial committee.

Schedule 1 clause 17(2): amended, on 27 March 2008, by section 13 of the Veterinarians Amendment Act 2008 (2008 No 19).

**18 Effect of delegation**

- (1) If any functions, duties, or powers are delegated under clause 17, the delegate may, unless the delegation provides otherwise, perform the function or duty, or exercise the power, in the same manner, subject to the same restrictions and duties, and with the same effect as if the delegate were the Council.
- (2) A delegate who purports to perform a function or duty, or exercise a power, under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.
- (3) A delegation under clause 17—
  - (a) may be revoked at will by resolution of the Council; and
  - (b) does not prevent the Council from performing the function or duty, or exercising the power.

**19 Presumptions and saving of certain transactions**

- (1) The validity or enforceability of any deed, agreement, right, or obligation entered into, or incurred, by the Council is not affected by a failure of the Council to comply with any provision of this Act.
- (2) A person purporting to execute any documentation on behalf of the Council under any authority is, in the absence of proof to the contrary, presumed to be acting in accordance with that authority.

*Employees***20 Council to appoint Registrar**

The Council must appoint a Registrar for the Council on the terms and conditions it thinks fit.

**20A Registrar's ability to delegate**

- (1) The Registrar may delegate 1 or more of his or her functions, duties, or powers to 1 or more employees of the Council except a function, duty, or power delegated to the Registrar by the Council under clause 17.

- (2) A delegation must be in writing and may be subject to any conditions that the Registrar thinks fit.
- (3) A delegate may, unless the delegation provides otherwise, perform the function or duty, or exercise the power, in the same manner, subject to the same restrictions and duties, and with the same effect as if he or she were the Registrar, but may not further delegate the function, duty, or power.
- (4) A delegate who purports to perform or exercise a function, duty, or power under a delegation made under this clause is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of the delegation.
- (5) A delegation under this clause—
  - (a) may be revoked at will by the Registrar in writing; and
  - (b) does not prevent the Registrar from personally performing the function or duty, or exercising the power.
- (6) A delegation under this clause does not cease to have effect merely because the Registrar who made it ceases to hold office.

Schedule 1 clause 20A: inserted, on 12 December 2012, by section 11 of the Veterinarians Amendment Act 2012 (2012 No 116).

## **21 Council may employ employees**

The Council may employ employees—

- (a) as it thinks fit; and
- (b) on the terms and conditions it thinks fit.

## **22 Superannuation or retiring allowance**

The Council, for the purpose of providing superannuation or retirement allowances to the Registrar or its employees, may subsidise or contribute to any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).

Schedule 1 clause 22: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

## Schedule 2

### Consequential amendments to other enactments

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#### Part 1

##### Amendments to Acts

**Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87)***Amendment(s) incorporated in the Act(s).***Animal Welfare Act 1999 (1999 No 142)***Amendment(s) incorporated in the Act(s).***Hazardous Substances and New Organisms Act 1996 (1996 No 30)***Amendment(s) incorporated in the Act(s).***Meat Act 1981 (1981 No 56)***Amendment(s) incorporated in the Act(s).***Medicines Act 1981 (1981 No 118)***Amendment(s) incorporated in the Act(s).***Misuse of Drugs Act 1975 (1975 No 116)***Amendment(s) incorporated in the Act(s).***Public Bodies Contracts Act 1959 (1959 No 98)***Amendment(s) incorporated in the Act(s).***Securities Act 1978 (1978 No 103)***Amendment(s) incorporated in the Act(s).*

#### Part 2

##### Amendments to regulations

**Animal Products (Fees, Charges, and Levies) Regulations 2002 (SR 2002/138)***Amendment(s) incorporated in the regulations.***Animal Welfare Export Certificate Regulations 1999 (SR 1999/393)***Amendment(s) incorporated in the regulations.***Biosecurity (Costs) Regulations 2003 (SR 2003/77)***Amendment(s) incorporated in the regulations.*

**Biosecurity (Deer and Other Testing Costs) Regulations 1998 (SR 1998/458)**

*Amendment(s) incorporated in the regulations.*

**Biosecurity (National Bovine Tuberculosis Pest Management Strategy) Order 1998 (SR 1998/179)**

*Amendment(s) incorporated in the order(s).*

**Game Regulations 1975 (SR 1975/174)**

*Amendment(s) incorporated in the regulations.*

**Health (Needles and Syringes) Regulations 1998 (SR 1998/254)**

*Amendment(s) incorporated in the regulations.*

## Reprints notes

### **1** *General*

This is a reprint of the Veterinarians Act 2005 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Food Act 2014 (2014 No 32): section 447

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Legislation Act 2012 (2012 No 119): section 77(3)

Veterinarians Amendment Act 2012 (2012 No 116)

Criminal Procedure Act 2011 (2011 No 81): section 413

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Veterinarians Amendment Act 2008 (2008 No 19)