



Australian Capital Territory

# **Veterinary Surgeons Act 2015 (repealed)**

**A2015-29**

**Republication No 5**

**Effective: 21 December 2018**

Republication date: 21 December 2018

As repealed by [A2018-32](#) s 149 (1)

## About this republication

### The republished law

This is a republication of the *Veterinary Surgeons Act 2015* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any commencement, amendment, repeal or expiry affecting this republished law to 21 December 2018.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Veterinary Surgeons Act 2015 (repealed)

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Australian Capital Territory

# **Veterinary Surgeons Act 2015 (repealed)**

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An Act to regulate veterinary surgeons, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Veterinary Surgeons Act 2015 (repealed)*.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*informed person*, for part 12 (Protection and information)—see section 129.’ means that the term ‘informed person’ is defined in that section for part 12.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

### 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2* *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2                      Objects and important concepts

### 6                      **Objects of Act**

The object of this Act is to regulate the provision of veterinary services by veterinary surgeons to ensure the following:

- (a) the provision of veterinary services is focussed on the welfare and protection of animals;
- (b) veterinary surgeons provide veterinary services professionally and competently;
- (c) occupational discipline mechanisms for a veterinary surgeon found to have acted unprofessionally or incompetently.

### 7                      **Meaning of *veterinary surgeon***

In this Act:

*veterinary surgeon*—

- (a) means a person unconditionally registered as a veterinary surgeon under this Act; and
- (b) for an activity, includes a person conditionally registered as a veterinary surgeon under this Act to the extent that the person is allowed to do the activity under the person's conditional registration.

## 8 **Meaning of *veterinary service***

In this Act:

*veterinary service*—

- (a) means a service provided to an animal in the control or the possession of a person (the *service user*) for any of the following purposes:
  - (i) assessing, recording, maintaining or improving the physical health, comfort or wellbeing of the animal owned or in control of the service user;
  - (ii) diagnosing or treating an illness, disability, disorder or condition of the animal owned or in the control of the service user; and
- (b) includes a service provided by a veterinary surgeon in the surgeon's capacity as a veterinary surgeon.

## 9 **Meaning of *regulated veterinary service***

In this Act:

*regulated veterinary service* means a veterinary service ordinarily provided by a veterinary surgeon in the veterinary surgeon profession.

## 10 **Meaning of *registered veterinary surgeon***

In this Act:

*registered*, in relation to a veterinary surgeon, means registered under this Act.

**11 Meaning of *required standard of practice***

- (1) For this Act, the *required standard of practice*, for a veterinary surgeon, is the exercise of professional judgment, knowledge, skill and conduct at a level that maintains public protection and safety.

**Example**

A veterinary surgeon who falsifies research data would not be exercising professional conduct at a level that maintains public protection and safety.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A regulation may prescribe what behaviour does and does not meet the required standard of practice.

**Example**

A registered veterinary surgeon does something a regulation does not deal with but clearly demonstrates a lack of professional judgment. The veterinary surgeon contravenes the required standard of practice.

- (3) However, if a regulation prescribes something that is inconsistent with the health code under the [Human Rights Commission Act 2005](#), the regulation is ineffective to the extent of the inconsistency.

## Part 3 Registration of veterinary surgeons

### Division 3.1 Veterinary surgeons—registration

#### 12 Veterinary surgeon—registration requirements

A person may be registered as a veterinary surgeon if the person—

- (a) satisfies the suitability to practise requirements; and

*Note* The suitability to practise requirements are prescribed by regulation, and include general competence.

- (b) has a knowledge of written and spoken English that is adequate to allow the person to practise veterinary surgery; and
- (c) is covered by the insurance required by regulation; and
- (d) satisfies a requirement prescribed by regulation.

*Note* **Register** a person includes renew the person's registration (see dict).

#### 13 Application for registration

- (1) A person may apply to the board to be registered as a veterinary surgeon.
- (2) The application must be in writing and must contain—
- (a) the applicant's name; and
- (b) if the applicant has previously practised veterinary surgery—any other name used by the applicant when practising; and
- (c) the applicant's business address, or intended business address; and



- (d) the applicant's postal address; and
- (e) anything else prescribed by regulation.

*Note 1* If a form is approved under s 138 for an application, the form must be used.

*Note 2* A fee may be determined under s 136 for an application.

#### **14 Decision on application for registration**

- (1) On application by a person under section 13, the board must—
  - (a) register the person unconditionally; or
  - (b) register the person conditionally; or
  - (c) refuse to register the person.

*Note* For conditional registration of veterinary surgeons, see div 3.2.

- (2) However, the board must only register an individual if the individual may be registered as a veterinary surgeon under section 12 (Veterinary surgeon—registration requirements).
- (3) Also, the board may refuse to register the individual as a veterinary surgeon if the individual's registration has been suspended or cancelled in another jurisdiction, whether before or after the person applies for registration in the ACT.
- (4) If the board registers a person, whether unconditionally or conditionally, the board must give the person a unique registration number.

#### **15 Board may ask for further information**

- (1) The board may, before making a decision in relation to an application for registration of a person, ask the applicant, in writing—
  - (a) for stated information in relation to something relevant to the applicant's entitlement to registration; or

- (b) to appear personally before the board to give information about the person's application.

*Note* The board may delegate its power to take information under par (b) (see s 125).

- (2) Subsection (1) (b) does not apply if the application for registration is made under the *Mutual Recognition Act 1992* (Cwlth).
- (3) If the board asks an applicant to give information (whether in person or otherwise) to the board, the board may refuse to consider the application for registration further if the applicant does not give the information.

## **16 Conditions on registration**

- (1) A person's registration as a veterinary surgeon is subject to the condition that the veterinary surgeon must comply with this Act.
- (2) A veterinary surgeon is also subject to any other condition—
- (a) prescribed by regulation; or
- (b) imposed by the board when the person is registered as a veterinary surgeon or when the person's registration is renewed or amended.

### **Example—condition**

requirement for professional indemnity insurance

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**17 Term of registration**

- (1) A person's registration as a veterinary surgeon comes into force on the day it is issued.
- (2) Subject to section 18, a person's registration as a veterinary surgeon expires on 30 June following the day of registration.

**Division 3.2 Veterinary surgeons—special registrations**

**18 Short-term registration**

- (1) On application by a person under section 13, the executive officer may, on behalf of the board, register the person if satisfied that—
  - (a) if the board were to consider the person's application, it would—
    - (i) register the person unconditionally; or
    - (ii) register the person conditionally because the person would be entitled to apply for unconditional registration if a degree or award to which the person is entitled had been conferred or granted by the institution concerned; and
  - (b) it is appropriate to conditionally register the person because the board will not meet to consider the application soon.
- (2) Registration under this section is subject to—
  - (a) the condition that it ends on the earlier of—
    - (i) the day the board decides the application for registration; or
    - (ii) the day 3 months after the day the executive officer registers the person under this section; and
  - (b) any other condition the executive officer considers appropriate.

- (3) However, if the board decides to register the person, the registration is taken to have started on the day the executive officer of the board conditionally registered the person.

## **19 Conditional registration**

- (1) The board may register a person conditionally if satisfied that—
- (a) the conditional registration of the person is in the public interest; and
- Note* Section 20 sets out when conditional registration is in the public interest.
- (b) the conditional registration of the person will not endanger public safety.
- (2) The board may place conditions on a person's registration if satisfied on reasonable grounds that it is in the public interest to do so.

## **20 When conditional registration is in public interest**

- (1) It is in the public interest to register a person conditionally if—
- (a) the person would be entitled to apply for unconditional registration if the person had completed a period of supervised training (which may include internship) that the person has started; or
- (b) the person's registration in another jurisdiction is subject to a condition; or
- (c) the person is a graduate from an institution other than an institution approved by a national organisation that represents the veterinary profession, and registration would allow the person to undertake postgraduate training that the board considers suitable for the person; or

- (d) the person is a candidate for an examination required under this Act and the board has approved the person to undertake a period of supervised training to help the person become unconditionally registered; or
  - (e) the person wishes to take up a teaching or research position; or
  - (f) the person is approved by the board to fill a position that is in an area of unmet need; or
  - (g) the person is not trained in another jurisdiction and, if registered, the person could undertake additional training before the person is examined or assessed in the ACT or another jurisdiction; or
  - (h) the person's general competence or competence to practise as a veterinary surgeon is limited and conditional registration is required in the public interest.
- (2) This section does not limit when it is in the public interest to register a person conditionally.

## **21 Conditional registration not limited**

This Act does not limit when a veterinary surgeon may be conditionally registered or the conditions that may be imposed on registration.

## **22 Specialist area registration**

A person may only practise in a specialist area if the person is registered to practise in the area.

### **Examples—specialist area registration**

- small animal surgery
- large animal surgery

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## Division 3.3 Veterinary surgeons—performance review

### 23 Review of veterinary surgeon's professional practice

- (1) The board may review a veterinary surgeon's professional practice under this division—
  - (a) with the veterinary surgeon's agreement; or
  - (b) if the veterinary surgeon has been required to take part in the review by the ACAT or a professional standards panel.
- (2) The person reviewing the professional practice of a veterinary surgeon on behalf of the board may—
  - (a) ask the veterinary surgeon questions; and
  - (b) ask the veterinary surgeon to take a test; and
  - (c) review the veterinary surgeon's patient records.

### 24 Initial and final review reports

- (1) The person reviewing the professional practice of a veterinary surgeon (the *reviewer*) on behalf of the board must—
  - (a) prepare a written report (the *initial review report*) of the results of the review; and
  - (b) give a copy of the initial review report to the veterinary surgeon; and
  - (c) tell the veterinary surgeon, in writing, that the veterinary surgeon may make representations about the initial review report within 30 days after the day the veterinary surgeon receives the report.

- (2) After considering any representation made by the veterinary surgeon within the 30 days, the reviewer must prepare a further report (the *final review report*) and give a copy to—
  - (a) the veterinary surgeon; and
  - (b) the board.
- (3) The board may, but need not, treat the final review report as a report made under section 50 (Who may complain?) by the reviewer.

## **Division 3.4                      Veterinary surgeons—practising certificates**

### **25                      Practising certificates**

If the board registers someone as a veterinary surgeon, the board must give the person a certificate that states—

- (a) the name the person is allowed to practise under; and
- (b) the specialist area within the profession (if any) the person is registered in; and
- (c) the date the registration ends (the *registration end date*); and
- (d) if the registration is conditional—that the person’s registration is conditional and that the conditions on registration may be obtained from the board unless the board decides otherwise under section 37 (3) (Access to register).

### **26                      Replacement practising certificates**

- (1) This section applies if a person’s practising certificate is damaged, lost, stolen or destroyed.
- (2) On application, the board may issue a replacement practising certificate to the person if satisfied that the practising certificate has been damaged, lost, stolen or destroyed.

- (3) To help the board decide whether the practising certificate has been damaged, lost, stolen or destroyed, the board may, in writing, ask the person to give the board a written statement confirming, and explaining the circumstances of, the damage, loss, theft or destruction.

*Note* A fee may be determined under s 136 for this provision.

## **27 Return of practising certificates**

- (1) For this section, the following are *relevant circumstances* for a veterinary surgeon:
- (a) the veterinary surgeon's registration is cancelled;
  - (b) the veterinary surgeon's registration is suspended;
  - (c) a condition has been placed on the veterinary surgeon's registration since the practising certificate was issued;
  - (d) the details included on the veterinary surgeon's practising certificate are not, or are no longer, accurate.
- (2) If a relevant circumstance applies to the veterinary surgeon, the board may, in writing, mention the circumstance and ask the veterinary surgeon to give the practising certificate to the board.
- (3) Within 14 days after the day the veterinary surgeon receives a notice under subsection (2), the veterinary surgeon must give the veterinary surgeon's practising certificate to the board.

Maximum penalty: 5 penalty units.

- (4) If the relevant circumstance is a circumstance mentioned in subsection (1) (c) or (d), the board must give the veterinary surgeon an accurate practising certificate.



- (5) The board must return the practising certificate of a veterinary surgeon if—
- (a) the certificate was given to the board because the veterinary surgeon's registration was suspended; and
  - (b) the suspension has ended; and
  - (c) the veterinary surgeon is still registered.

### **Division 3.5                      Veterinary surgeons—end of registration and renewal**

#### **28                      When does registration end?**

- (1) A veterinary surgeon's registration ends if—
- (a) the registration has not been renewed 2 weeks after the registration end date; or
  - (b) the ACAT cancels the person's registration; or
  - (c) the person dies.
- (2) If registration ends under subsection (1) (a), the registration is taken to have ended on the registration end date.
- (3) If registration ends under subsection (1) (b), the registration ends on cancellation.

#### **29                      Failure to meet insurance requirement**

- (1) The board may ask a veterinary surgeon to produce to the board a certificate of insurance for any insurance required to be held by the veterinary surgeon under this Act.
- (2) The board may require production of the certificate of insurance within a stated period that is at least 7 days after the day the veterinary surgeon receives the request.

- (3) If the veterinary surgeon does not produce the certificate within the stated period, the board may apply to the ACAT for the cancellation of the veterinary surgeon's registration.

### **30 Renewal notice for registration**

- (1) For this Act, a *renewal notice* for the registration of a registered veterinary surgeon, is a notice, addressed to the veterinary surgeon, that states that the veterinary surgeon's registration will end if it is not renewed on or before a date stated in the notice.
- (2) The board must send a renewal notice to a registered veterinary surgeon not later than 4 weeks, and not earlier than 8 weeks, before the registration end date.
- (3) If the board fails to send a renewal notice to a registered veterinary surgeon, or the notice is not received by the veterinary surgeon, the failure or nonreceipt does not affect—
- (a) the end of the veterinary surgeon's registration; or
  - (b) the obligation of the veterinary surgeon to renew the registration if the veterinary surgeon intends to practise after the end of the existing registration.

### **31 Late payment of registration**

- (1) This section applies if—
- (a) a veterinary surgeon's registration ends without being renewed (the *expired registration*); and
  - (b) the veterinary surgeon pays the registration fee for renewal of the registration within 2 weeks after the registration end date for the expired registration.
- (2) The board may renew the veterinary surgeon's registration with effect from the registration end date for the expired registration.

*Note* A fee may be determined under s 136 for this provision.

## **32 Retrospective registration**

- (1) This section applies if—
  - (a) a veterinary surgeon's registration (the *expired registration*) ends without being renewed; and
  - (b) the veterinary surgeon does not pay the registration fee for renewal of the registration within 2 weeks after the registration end date for the expired registration.
- (2) The board may renew the veterinary surgeon's registration.

*Note* A fee may be determined under s 136 for this provision.
- (3) The renewal may be made effective from the day the expired registration ended or from a later day, as the board considers appropriate.

## **Division 3.6 Veterinary surgeons—register**

### **33 Veterinary surgeon register**

- (1) The board must keep a register of veterinary surgeons.
- (2) The register may be kept in the form of 1 or more registers, or 1 or more parts, as long as the register complies with this Act.
- (3) The board must ensure that the information in the register is as accurate and current as practicable.
- (4) The board must on application, and may on its own initiative, make the changes necessary to the register to give effect to subsection (3).
- (5) If a court or the ACAT orders the board to make a change to the register, the board must make the change.

### 34 Contents of register

- (1) The register kept by the board must contain the registration details of each person registered as a veterinary surgeon.
- (2) The register may also contain other information in relation to a registered veterinary surgeon that the board considers necessary or desirable.
- (3) In this section:

*registration details*, for a person, means the following:

- (a) the details required to be included in the person's application for registration under section 13;
- (b) the provision under which the person was registered;
- (c) the registration number given to the person;
- (d) the registration date and, if the registration has been renewed, the latest renewal date;
- (e) any condition on registration;
- (f) if the person's registration is suspended—the date the suspension began and is to end.

**Examples—par (b)**

- s 14 (1) (a) for unconditional registration
- s 14 (1) (b) for conditional registration

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

### 35 Information in register to be accessible and extractable

The register kept by the board must be kept in a way that allows the information about a registered veterinary surgeon to be readily reproduced in an easily readable form.

**36 Executive officer responsible for register**

- (1) The executive officer must keep the register on behalf of the board.
- (2) Without limiting how the executive officer may keep the register, the executive officer may do the following in relation to the register:
  - (a) include the details of a newly registered veterinary surgeon;
  - (b) remove the details of a veterinary surgeon who is no longer registered;
  - (c) correct information in the register that is not, or is no longer, accurate.
- (3) To remove any doubt, the removal of details of a veterinary surgeon who is no longer registered does not prevent the executive officer from keeping a record of details removed.

**37 Access to register**

- (1) The register kept by a board must be open for inspection by the public at reasonable times.
- (2) However, information that is not required to be included in the register under section 34 (Contents of register) need not be available to the public.
- (3) Also, the board need not allow public inspection of a condition on the registration of a person if—
  - (a) the condition contains information about someone other than the registered person that the board is satisfied is, or may be, confidential; or
  - (b) in the board's opinion, the benefit to the public of knowing the condition is outweighed by the personal or prejudicial nature of the condition.

- (4) The board may, if asked, give someone a copy of, or extract from, the register.

*Note* A fee may determined under s 136 for a request under s (4).

**38 Requests for changes of details in register**

- (1) A person may apply to the board for a change to be made to the information in the register kept by the board.
- (2) If someone applies for a change, the board must consider whether the change is necessary and tell the applicant, in writing, whether the board considers the change necessary.

*Note* Because the board is required to keep the register current and accurate, if the board considers the change necessary the board must make the change under s 33 (4).

**39 When board must not charge fees etc for register corrections**

The board may not charge a fee, or must refund any fee paid, on application for a change in the register kept by the board if the change is necessary because of a mistake of the board.

## Part 4                      Offences

### 40            **Meaning of *registered*—pt 4**

For this part, a person is not *registered* if the person's registration is suspended.

### 41            **Person not registered**

- (1) A person commits an offence if—
- (a) the person either—
    - (i) practises as a veterinary surgeon; or
    - (ii) provides a regulated veterinary service; and
  - (b) the person is not a registered veterinary surgeon.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Strict liability applies to subsection (1) (b).

### 42            **Person pretending to be registered**

- (1) A person commits an offence if—
- (a) the person intentionally pretends to be registered as a veterinary surgeon; and
  - (b) the person is not a registered veterinary surgeon.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Strict liability applies to subsection (1) (b).

**43 False representation of person as veterinary surgeon**

A registered veterinary surgeon commits an offence if—

- (a) the veterinary surgeon represents that someone employed or engaged by the veterinary surgeon is a registered veterinary surgeon; and
- (b) the representation is false; and
- (c) the representation was made in the course of practising as a veterinary surgeon.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**44 Conditions on practice**

- (1) A registered veterinary surgeon commits an offence if the veterinary surgeon—
  - (a) knowingly provides a regulated veterinary service; and
  - (b) fails to comply with a requirement of a condition on the veterinary surgeon's registration while providing the service.

Maximum penalty: 50 penalty units.

- (2) In this section, a condition on the veterinary surgeon's registration includes a condition on the veterinary surgeon's registration under a corresponding law of another jurisdiction.

**45 Direction to engage in unprofessional conduct**

A person commits an offence if—

- (a) the person—
  - (i) employs a registered veterinary surgeon; or
  - (ii) provides premises where the registered veterinary surgeon practises veterinary surgery; and



- (b) the person directs the veterinary surgeon to engage in conduct that, if engaged in, would contravene a standard of practice that applies to the veterinary surgeon.

Maximum penalty: 50 penalty units.

#### **46 Change of registered details**

- (1) A registered veterinary surgeon commits an offence if—
  - (a) the veterinary surgeon's name or address changes; and
  - (b) the veterinary surgeon fails to promptly (but in any case not later than 1 month after the day the change happens) tell the board, in writing, about the change.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **47 No insurance**

- (1) This section applies if, while registered, a veterinary surgeon ceases to have insurance.
- (2) The veterinary surgeon commits an offence if, as soon as practicable (but in any case within 1 month) after ceasing to have the insurance, the veterinary surgeon fails to tell the board, in writing, about the insurance ceasing.

Maximum penalty: 5 penalty units.

- (3) Strict liability applies to subsection (2).

## Part 5                           Complaints

### Division 5.1                Objects

#### 48            Objects of pt 5

- (1) The objects of this part are to—
  - (a) protect the public; and
  - (b) assist in the arranging of rehabilitation and retraining for registered veterinary surgeons who are not meeting the required standard of practice.
- (2) The objects are achieved by encouraging, and in some circumstances requiring, the managing of complaints about—
  - (a) the registered veterinary surgeons that contravene, or may contravene, the required standard of practice; and
  - (b) registered veterinary surgeons who do not, or may not, satisfy the suitability to practise requirements.

### Division 5.2                Complaints

#### 49            Meaning of *registered* veterinary surgeon—div 5.2

For this division, a veterinary surgeon is a *registered* veterinary surgeon in relation to an act or omission of the veterinary surgeon if he or she was registered at the time of the act or omission.

## 50 Who may complain?

- (1) Anyone who believes on reasonable grounds that a registered veterinary surgeon has contravened, or is contravening, the required standard of practice, or does not satisfy the suitability to practise requirements, may make a complaint about the veterinary surgeon.

### Examples—people who may make complaint

- 1 a member of the public
- 2 a member of the veterinary profession
- 3 the Minister
- 4 a coroner
- 5 a registrar of a court
- 6 a police officer
- 7 a member of the office of the director of public prosecutions

*Note 1* People may also be able to make complaints to the commission under the [Human Rights Commission Act 2005](#).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A veterinary surgeon or health practitioner may make a complaint under subsection (1) despite any other territory law.
- (3) If a veterinary surgeon or health practitioner makes a complaint under subsection (1)—
- (a) making the complaint is not a breach of—
    - (i) confidence; or
    - (ii) professional etiquette; or
    - (iii) professional ethics; or
    - (iv) a rule of professional conduct; and
  - (b) no civil or criminal liability is incurred only because of the making of the complaint.

- (4) Subsection (3) (b) does not apply to a complaint that the veterinary surgeon or health practitioner knows is false or misleading.

*Note*     A person must not make a complaint that is materially false or misleading (see s 52).

**51           Who may be given a complaint?**

- (1) A complaint may be given to the board.
- (2) The board must—
- (a) refer the complaint to the commission; and
  - (b) give a copy of the complaint, and all documents in its possession that relate to the report, to the commission.

**52           False or misleading complaint**

A person must not make a complaint that is materially false or misleading.

Maximum penalty: 30 penalty units.

**53           How must complaint be made?**

- (1) A complaint must—
- (a) be in writing; and
  - (b) include the person's name and address.
- (2) However, the board may accept a complaint that does not comply with subsection (1).
- (3) If the board accepts an oral complaint, the board must require the person making the complaint to put the complaint in writing, unless satisfied that there is a good reason for not doing so.
- (4) If the person fails to comply with the requirement under subsection (3), the board need not take any further action on the complaint.

- (5) The Minister may make guidelines for the exercise of a discretion by the board under subsection (2).
- (6) A guideline is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

#### **54 Help in making complaint**

The executive officer of the board may, but is not required to, help someone make a complaint.

#### **55 Further information about complaint etc**

- (1) The board may require a person making a complaint to give the board—
  - (a) further information about the complaint; or
  - (b) a statement verifying all or part of the complaint.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) When making a requirement under this section, the board must set a reasonable period of time within which the requirement is to be satisfied, and may extend that period, whether before or after its expiry.
- (3) If the person fails to give a statement verifying all or part of the complaint—
  - (a) the failure does not affect the making of the complaint; but
  - (b) the board need not take any further action on the complaint.

## 56           **Notice to veterinary surgeon complained about**

- (1) This section applies if a complaint is made under this Act to the board about a registered veterinary surgeon.

*Note 1*    The requirements for a complaint are set out in s 53.

*Note 2*    For this div, **report** does not include a complaint made under the *Human Rights Commission Act 2005* that is referred to the board by the commission (see dict, def **report**).

- (2) The board must, in writing, tell the registered veterinary surgeon—
- (a) that a complaint has been made about the veterinary surgeon; and
  - (b) that the complaint is to be considered by the board; and
  - (c) what the complaint is about in general terms; and
  - (d) unless section 132 (Nondisclosure of complaints) prevents the disclosure—the name of the person making the complaint; and
  - (e) that the veterinary surgeon may make written representations in relation to the complaint within a stated maximum period after receiving notice of the complaint.

*Note*       Section 132 prevents the disclosure of a report if there is reason to believe the disclosure would put someone's health or safety at risk, cause someone to receive a lowered standard of service or prejudice the management of the report or its consideration.

- (3) The maximum period under subsection (2) (e) must not be less than 1 month.



## Part 6 Occupational discipline

### 58 Meaning of *veterinary surgeon*—pt 6

In this part:

*veterinary surgeon* means—

- (a) a registered veterinary surgeon; or
- (b) a person who was, but is no longer, a registered veterinary surgeon.

### 59 Grounds for occupational discipline

- (1) For this Act, each of the following is a *ground for occupational discipline* in relation to a veterinary surgeon:
  - (a) the veterinary surgeon has contravened, or is contravening, a standard of practice that applies to the veterinary surgeon;
  - (b) the veterinary surgeon has put, or is putting, public safety at risk;
  - (c) the veterinary surgeon does not satisfy the suitability to practise requirements.
- (2) A ground for occupational discipline applies to a veterinary surgeon who is no longer registered if the ground applied to the veterinary surgeon while registered.

### 60 Applications to ACAT for occupational discipline

If the board believes on reasonable grounds that a ground for occupational discipline exists in relation to a veterinary surgeon, the board may apply to the ACAT for an occupational discipline order in relation to the veterinary surgeon.



**61 Considerations before making occupational discipline orders—suspensions of cancellation of registration**

- (1) This section applies if the ACAT is considering whether to suspend or cancel the veterinary surgeon's registration.
- (2) The ACAT must consider the following:
  - (a) whether the veterinary surgeon has contravened a standard of practice that applied to the veterinary surgeon;
  - (b) whether the veterinary surgeon has put, or is putting, public safety at risk.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out considerations for the ACAT when considering what other occupational discipline orders to make.

**62 Occupational discipline orders**

- (1) This section applies if the ACAT may make an order for occupational discipline in relation to a veterinary surgeon.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 65 sets out when the ACAT may make an order.
- (2) In addition to any other occupational discipline order the ACAT may make, the ACAT may make 1 or more of the following orders for occupational discipline in relation to the veterinary surgeon:
  - (a) require the person to undergo stated medical, psychiatric or psychological assessment, counselling or both;
  - (b) require the person to take part in a review of the person's professional practice;
  - (c) require the person to report on the person's practice at stated times, in the way stated and to a named person;

- (d) require the person to seek and take advice from a stated entity about the management of the person's practice;
- (e) require the supervision, monitoring or reporting about the effect of something the person is required to do by the ACAT;
- (f) if the person is not registered—declare that, if the person had been registered, the ACAT would have found that the person had contravened the required standard of practice or did not satisfy the suitability to practise requirements.

*Note* The *ACT Civil and Administrative Tribunal Act 2008*, s 66 sets out other occupational discipline orders the ACAT may make.

### **63 Emergency orders**

- (1) The ACAT may make an occupational discipline order in relation to a veterinary surgeon as an emergency order.
- (2) However, the ACAT may only make an emergency order if satisfied that it is necessary to make the order to protect the public or the wellbeing of the veterinary surgeon.
- (3) An emergency order has effect—
  - (a) for the period stated in the order; or
  - (b) until an order made at the end of an application comes into force; or
  - (c) until the ACAT otherwise orders.

**64 Referral to panel by ACAT**

- (1) The ACAT may refer an application, or part of an application, to the board for consideration by a personal assessment panel or professional standards panel.
- (2) If the board gives a report (the *referral report*) to the ACAT on the application or part of the application, the ACAT must consider the referral report.
- (3) The ACAT may adopt the referral report or a decision made in the report as its own decision in relation to the application, or part of the application.

## **Part 7 Joint consideration with commission**

### **65 Application—pt 7**

This part applies to the following matters in relation to a registered veterinary surgeon:

- (a) a complaint that the board considers indicates that the veterinary surgeon may be contravening, or may have contravened, the required standard of practice or does not satisfy the suitability to practise requirements;
- (b) a report mentioned in section 81 (3) (Board consideration of referral by personal assessment panel);
- (c) an application for review of a condition on registration mentioned in section 86 (3) (b) (Action by board on recommendations by personal assessment panel);
- (d) a report referred back to the board under section 93 (Inappropriate referral to professional standards panel).

### **66 Consultation with commission etc**

- (1) The board must—
  - (a) consult with the commission when it is considering what to do in relation to a complaint or report to which this part applies; and
  - (b) attempt to agree with the commission about the action to be taken in relation to the complaint or report.

- (2) If the board and the commission cannot agree about the action to be taken in relation to the complaint or report, the most serious action chosen by the board or commission prevails.
- (3) The action that may be taken in relation to a complaint or report, from most serious to least serious, is as follows:
  - (a) apply to the ACAT for an emergency order in relation to the registered veterinary surgeon to whom the complaint or report relates;
  - (b) apply to the ACAT for—
    - (i) the suspension or cancellation of the registration of the veterinary surgeon to whom the complaint or report relates; or
    - (ii) if the veterinary surgeon is not registered—a declaration under section 62 (2) (Occupational discipline orders) in relation to the veterinary surgeon;
  - (c) consideration under the *Human Rights Commission Act 2005*;
  - (d) refer the veterinary surgeon to whom the complaint or report relates to a professional standards panel;
  - (e) refer the veterinary surgeon to whom the complaint or report relates to a personal assessment panel;
  - (f) refuse to investigate the report further.
- (4) Also, the board must take action under section 67 (Indication that offence committed) if, after consultation with the commission, either the board, commission or both consider that the section applies to the complaint or report.

- (5) The board may take action under this section even if it has already taken action in relation to the report.

**Example**

If the board decides that a complaint about a veterinary surgeon does not suggest that the veterinary surgeon may be contravening, or may have contravened, the required standard of practice, the board may refer the complaint to a personal assessment panel. If the personal assessment panel recommends that the complaint be referred to a professional standards panel because, on further examination, the complaint raises the possibility that the veterinary surgeon may be contravening, or may have contravened, the required standard of practice, the board would then consult with the commission under this section, even though the board has already taken action in relation to the complaint.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**67 Indication that offence committed**

- (1) This section applies if a complaint or report to which this part applies that relates to a veterinary surgeon indicates that the veterinary surgeon may have committed, or be committing, an offence against a territory law.
- (2) The board may give the chief police officer a copy of the complaint or report, with any other information the board has in relation to the complaint or report.
- (3) Giving the chief police officer a copy of the report does not prevent the board and commission from taking further action under section 66 in relation to the report.

## **Part 8**                      **Personal assessment panel**

### **Division 8.1**                **Establishment and purpose**

#### **68**                      **Personal assessment panel—establishment**

- (1) The board may establish 1 or more personal assessment panels.
- (2) The board may refer a complaint about a registered veterinary surgeon to a personal assessment panel if—
  - (a) the complaint suggests that the state of the veterinary surgeon’s mental or physical health, or both, may be affecting the veterinary surgeon’s ability to meet the required standard of practice; and
  - (b) the board is satisfied that there are grounds for believing that, if the veterinary surgeon’s mental or physical health, or both, is affecting the veterinary surgeon’s ability to meet the required standard of practice or the suitability to practise requirements, the veterinary surgeon may be rehabilitated.
- (3) The board must refer a complaint about a veterinary surgeon to a personal assessment panel if the commission asks it to refer the report.

#### **69**                      **Referral of application by ACAT**

- (1) The board must refer an application, or part of an application, to a personal assessment panel if the ACAT refers the application, or part, under section 64 (Referral to panel by ACAT).
- (2) The personal assessment panel must inquire into the application, or part of the application, as if it were a complaint.
- (3) After inquiring into the application, or part of the application, the personal assessment panel must give a report (the *referral report*) to the ACAT about the application, or part of the application.

- (4) The referral report may include—
  - (a) any recommendation about the application, or part of the application, that the personal assessment panel could make to the board under section 78 (Action of personal assessment panel after inquiry) in relation to a complaint; or
  - (b) a recommendation that the veterinary surgeon be counselled.
- (5) However, if the personal assessment panel can make no appropriate recommendation, the referral report must state that the panel cannot make an appropriate recommendation.

## **70 Personal assessment panel—functions**

- (1) A personal assessment panel—
  - (a) assesses whether the mental or physical health, or both, of a registered veterinary surgeon are affecting the veterinary surgeon's ability to meet the required standard of practice or satisfy the suitability to practise requirements; and
  - (b) if the panel is satisfied that the veterinary surgeon's mental or physical health, or both, are affecting the veterinary surgeon's ability to meet the required standard of practice or satisfy the suitability to practise requirements—decides whether and how the veterinary surgeon may be rehabilitated.
- (2) A personal assessment panel also considers applications under section 84 to review the imposition of a condition on registration when referred to the panel.
- (3) The personal assessment panel may only assess a veterinary surgeon if a complaint about the veterinary surgeon is referred to the panel.



**71 Personal assessment panel—members**

- (1) A personal assessment panel established by the board consists of 3 members appointed by the board.
- (2) At least 1 member of the personal assessment panel must be a registered veterinary surgeon, or a veterinary surgeon registered under a corresponding law of another jurisdiction, but need not be registered by the board that established the panel.
- (3) At least 1 member of the personal assessment panel must not be a registered veterinary surgeon or a veterinary surgeon registered under a corresponding law of another jurisdiction.
- (4) Members making up the personal assessment panel may be from the ACT or elsewhere.
- (5) The board must appoint 1 member of the personal assessment panel as the chairperson.
- (6) The personal assessment panel may consider 1 or more complaints referred to it.

**Division 8.2 Assessments by personal assessment panels**

**72 Natural justice**

A personal assessment panel must observe natural justice.

**73 Assessment by personal assessment panel**

- (1) In assessing a veterinary surgeon, a personal assessment panel may consider the information available to it, including the following:
  - (a) the complaint;

- (b) information about the veterinary surgeon;
  - (c) any information provided by the commission or the person who made the complaint;
  - (d) any other relevant information collected by the panel.
- (2) In assessing a veterinary surgeon, the personal assessment panel must consider any information provided by the veterinary surgeon.

#### **74 Powers of personal assessment panel on inquiry**

- (1) This section applies if a complaint about a veterinary surgeon, or an application by the veterinary surgeon for a condition review, is referred to a personal assessment panel.
- (2) The personal assessment panel must—
- (a) take reasonable steps to talk to the veterinary surgeon about the complaint or application; and
  - (b) give the veterinary surgeon an opportunity to respond to information given to the panel.
- (3) The personal assessment panel may make the inquiries, and obtain the information the panel needs, from anywhere the panel considers appropriate.

*Note* The personal assessment panel must consider any information provided by the veterinary surgeon to whom the matter relates (see s 73 (2)).

- (4) The personal assessment panel may ask the veterinary surgeon to undergo a medical, psychiatric or psychological examination or test for the assessment and, if the veterinary surgeon undergoes the examination or test, must consider the results.
- (5) If the veterinary surgeon undergoes a medical, psychiatric or psychological examination or test when asked to do so by the personal assessment panel, the board must pay any fee for the examination or test, but is not liable to pay any fee for further consultation or services the veterinary surgeon is referred to.

**75 Lawyer assisting personal assessment panel**

The board, in establishing a personal assessment panel may appoint a lawyer to assist the panel for an inquiry.

**76 Legal representation before personal assessment panel**

A person may be represented by a lawyer at an inquiry by a personal assessment panel.

**77 Personal assessment panel—decisions**

- (1) A decision of a personal assessment panel is a decision of the majority of panel members.
- (2) If, for any reason, a personal assessment panel cannot reach a majority decision, the decision of the chair is the decision of the panel.

**78 Action of personal assessment panel after inquiry**

- (1) After inquiring about a veterinary surgeon under section 74, the personal assessment panel may, with the veterinary surgeon's agreement, do 1 or more of the following:
  - (a) counsel the veterinary surgeon;
  - (b) recommend that the veterinary surgeon attend counselling or a rehabilitative program;
  - (c) recommend to the board that the board take no further action in relation to the veterinary surgeon;
  - (d) recommend to the board that the board accept a stated voluntary undertaking from the veterinary surgeon;
  - (e) recommend that a stated condition be placed on the veterinary surgeon's registration.
- (2) A recommendation under subsection (1) (b) may name the counsellor or program or may indicate the kind of counsellor or program to be attended.

- (3) A recommendation under subsection (1) (e) may include a recommendation that the veterinary surgeon's registration, or a condition placed on the registration, be reconsidered by a personal assessment panel at or within a stated time.
- (4) The personal assessment panel need not take action under this section if no appropriate action is available.

## **79 Inappropriate referral to personal assessment panel**

- (1) This section applies to a complaint, or an application for a condition review, if the personal assessment panel believes, on reasonable grounds, that the report or application (the *matter*) has been inappropriately referred to the panel.
- (2) The personal assessment panel must refer the matter back to the board.
- (3) If the personal assessment panel refers the matter back under subsection (2), the panel must state the reason for the referral.

## **80 Referral to board**

After deciding what to do (including a decision to do nothing) in relation to a complaint, or an application for a condition review, the personal assessment panel must refer the matter to the board, and include in the referral—

- (a) the information obtained by the panel; and
- (b) a description of the assessment of the veterinary surgeon; and
- (c) what the panel decided to do and why; and
- (d) whether the veterinary surgeon agreed to the action proposed to be taken by the panel.

## **Division 8.3                      Action by board after inquiry by personal assessment panel**

### **81                      Board consideration of referral by personal assessment panel**

- (1) This section applies to the referral of a complaint, or an application for a condition review, to the board under division 8.2 (Assessments by personal assessment panels).
- (2) The board must consider the referral, including any recommendations made, and decide what to do in relation to the matter referred (the *matter*).
- (3) If the board considers that the matter indicates that the veterinary surgeon may be contravening, or may have contravened, the required standard of practice, the board—
  - (a) must take action in relation to the matter under part 7 (Joint consideration with commission); and
  - (b) may apply to the ACAT for an emergency order if satisfied that the safety of the public or the wellbeing of the veterinary surgeon may be adversely affected if an emergency order is not made.
- (4) The board may, unless subsection (3) applies, do 1 or more of the following in relation to the matter:
  - (a) if section 82 applies—take action under that section;
  - (b) refer the matter to a professional standards panel;
  - (c) ask the ACAT to suspend or cancel the veterinary surgeon's registration;

- (d) ask the ACAT to make any other occupational discipline order the ACAT considers appropriate in relation to the veterinary surgeon or matter;
- (e) take no further action in relation to the veterinary surgeon or matter.

## **82 Acceptance of condition**

- (1) This section applies if—
  - (a) a personal assessment panel established by the board has recommended that a veterinary surgeon’s registration have a condition placed on it; and
  - (b) the veterinary surgeon agrees to the condition.
- (2) If the board considers the condition appropriate, the board may place the agreed condition on the veterinary surgeon’s registration.

## **83 Decision on referred veterinary surgeon**

- (1) This section applies after a board makes a decision about the action to take in relation to a complaint, or application for a condition review, relating to a veterinary surgeon referred to the board under division 8.2 (Assessments by personal assessment panels).
- (2) The board must give—
  - (a) the veterinary surgeon written notice of the decision, including the reasons for the decision; and
  - (b) the commission written notice of the decision.

**84 Applications for condition review**

- (1) This section applies if a condition has been placed on a veterinary surgeon's registration because of a complaint, whether or not the condition was placed with the veterinary surgeon's agreement.
- (2) The veterinary surgeon may apply, in writing, to the board to have the condition removed or changed.

**85 Review of application**

- (1) If an application is made under section 84 by a veterinary surgeon to the board, the board must refer the application to a personal assessment panel.
- (2) If the imposition of the condition was recommended by a personal assessment panel, the board must endeavour to ensure that the application is considered by that personal assessment panel.
- (3) The personal assessment panel must recommend to the board 1 of the following after considering the application:
  - (a) that the application be granted;
  - (b) that stated parts of the application be granted and the rest rejected;
  - (c) that the application be rejected.
- (4) If the personal assessment panel recommends to the board that all or part of the application be rejected, the panel may also recommend that other action be taken in relation to the veterinary surgeon and, if the panel does make such a recommendation, must explain why the action recommended is appropriate.
- (5) A recommendation must be given to the board in writing.

**86 Action by board on recommendations by personal assessment panel**

- (1) This section applies if a personal assessment panel makes a recommendation under section 85 (3) to a board in relation to an application.
- (2) If the board accepts the recommendation, the recommendation is the decision on the application and the board must tell the veterinary surgeon, in writing, about the decision and give reasons for the decision.
- (3) If the board rejects the recommendation, the board must—
  - (a) make a decision on the application and tell the veterinary surgeon, in writing, about the decision, giving reasons for the decision; or
  - (b) if the board considers that the application relates to whether the veterinary surgeon is contravening, has contravened or is likely to contravene the required standard of practice—consider the application under part 7 (Joint consideration with commission).
- (4) If the board makes a decision without consulting the commission, the board must tell the commission about the decision.



## **Part 9 Professional standards panel**

### **Division 9.1 Establishment of professional standards panel**

#### **87 Professional standards panel—establishment**

The board may establish 1 or more professional standards panels.

#### **88 Professional standards panel—functions**

- (1) A professional standards panel decides whether a registered veterinary surgeon is contravening, or has contravened, the required standard of practice or does not satisfy the suitability to practise requirements.
- (2) In making a decision under this section, the professional standards panel may consider the information available to it, including the following:
  - (a) any complaint provided to the board;
  - (b) any information provided by the commission or the person who made the complaint;
  - (c) any other relevant information given to the panel.
- (3) In making a decision under this section, the professional standards panel must consider any information provided by the veterinary surgeon.
- (4) The professional standards panel may only make a decision under this section in relation to a veterinary surgeon if a complaint relating to the veterinary surgeon is referred to the panel.

## 89 Professional standards panel—members

- (1) A professional standards panel consists of 3 members appointed by the board.
- (2) At least 1 member of the professional standards panel must be a registered veterinary surgeon or a veterinary surgeon registered under a corresponding law of another jurisdiction.
- (3) At least 1 member of the professional standards panel must not be a registered veterinary surgeon or a veterinary surgeon registered under a corresponding law of another jurisdiction.
- (4) The board must appoint 1 member of the professional standards panel as the chairperson.
- (5) The people making up the professional standards panel may be from the ACT or elsewhere.
- (6) The professional standards panel may consider 1 or more matters referred to it.

## 90 Referral of application by ACAT

- (1) The board must refer an application, or part of an application, to a professional standards panel if the ACAT refers the application, or part, under section 64 (Referral to panel by ACAT).
- (2) The professional standards panel must conduct an inquiry into the application, or part of the application, as if it were a complaint, but may not take interim action under section 98 (Interim actions) in relation to it.
- (3) After inquiring into the application, or part of the application, the professional standards panel must give a report (the *referral report*) to the ACAT about the application, or part of the application.
- (4) The referral report about an application relating to a veterinary surgeon may recommend that the ACAT make a stated occupational discipline order in relation to a complaint.

- (5) However, if the professional standards panel cannot make an appropriate recommendation, the referral report must state that the panel cannot make an appropriate recommendation.

## **Division 9.2                      Inquiries by professional standards panel**

### **91                      When may professional standards panel choose not to inquire?**

- (1) This section applies if—
- (a) a complaint about a veterinary surgeon is referred to a professional standards panel; and
  - (b) the veterinary surgeon admits something mentioned in the complaint.
- (2) The professional standards panel may choose not to inquire into whether the veterinary surgeon is contravening, or has contravened, the required standard of practice, or does not satisfy the suitability to practise requirements, if the panel is satisfied, on reasonable grounds, that it is appropriate to make a decision about the complaint without an inquiry.

### **92                      Professional standards panel—decisions**

- (1) A decision of a professional standards panel is a decision of the majority of panel members.
- (2) If, for any reason, a professional standards panel cannot reach a majority decision, the decision of the chairperson is the decision of the panel.

**93 Inappropriate referral to professional standards panel**

- (1) This section applies to a complaint relating to a veterinary surgeon that is referred to a professional standards panel if—
  - (a) the panel believes on reasonable grounds that the complaint, if substantiated, may provide grounds for the suspension or cancellation of the veterinary surgeon’s registration; or
  - (b) the panel believes on reasonable grounds that the veterinary surgeon would be more appropriately dealt with by a personal assessment panel; or
  - (c) the panel believes that emergency action is necessary in relation to the veterinary surgeon.
- (2) The professional standards panel must refer the complaint back to the board, and take no further action in relation to the veterinary surgeon.
- (3) If the professional standards panel refers a matter back under subsection (2), the panel must state the reason for the referral.
- (4) The board must consider the referral under part 7 (Joint consideration with commission).

**Division 9.3 Procedural requirements for inquiry hearings**

**94 Setting inquiry hearing times**

- (1) If a complaint about a veterinary surgeon is referred to a professional standards panel, the panel must—
  - (a) set a time and place to hold an inquiry (a *standards inquiry*) about the veterinary surgeon; and

- (b) at least 1 month before the day of the inquiry, give written notice of the time and place to—
  - (i) the veterinary surgeon; and
  - (ii) the board; and
  - (iii) the commission.
- (2) The board may also give written notice of the inquiry to the person who made the complaint.

## **95 Conduct of inquiry hearing**

- (1) A professional standards panel may conduct a standards inquiry hearing about a veterinary surgeon in any way the panel considers appropriate.
- (2) However, the professional standards panel must observe natural justice.

## **96 Inquiry by professional standards panel**

At a standards inquiry about a veterinary surgeon, a professional standards panel may—

- (a) make the inquiries and obtain any information the panel needs from any source the panel considers appropriate (including by talking to the veterinary surgeon) to decide whether the veterinary surgeon is contravening, or has contravened, the required standard of practice or does not satisfy the suitability to practise requirements; and
- (b) arrange for a performance review to be conducted on the veterinary surgeon, either generally or in relation to particular areas; and
- (c) consider patterns of practice by the veterinary surgeon.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

**97 Role of commission**

At a standards inquiry, the commission may—

- (a) be represented; and
- (b) give evidence about the consideration of a complaint under the *Human Rights Commission Act 2005*; and
- (c) be present at the inquiry even if not giving evidence.

**98 Interim actions**

- (1) At a standards inquiry about a veterinary surgeon, a professional standards panel may take action under section 103 (2) (Action of professional standards panel after inquiry) (other than section 103 (2) (a)) in relation to the veterinary surgeon if satisfied that it is necessary to take action to protect the public, even though the panel has not finished the inquiry.
- (2) Action under subsection (1) has effect only until a decision is made by the professional standards panel at the end of the standards inquiry.

**99 Adjournment**

A professional standards panel may adjourn a standards inquiry for a stated time if, taking into consideration the need to deal with inquiries promptly, the panel is satisfied that it is appropriate to adjourn the inquiry.

**100 Lawyer assisting professional standards panel**

The board may appoint a lawyer to assist the panel for a standards inquiry (including the inquiry hearing).

**101 Representation at inquiry hearing**

- (1) This section applies to the following people at a standards inquiry about a veterinary surgeon:
  - (a) the veterinary surgeon;

- (b) the commission;
  - (c) a witness allowed to attend the standards inquiry.
- (2) A person to whom this section applies may be accompanied by, or represented at, the standards inquiry hearing by a legal adviser or other support person.

**102 Record of standards inquiry**

A professional standards panel must keep a record, in electronic or written form, of a standards inquiry (including the inquiry hearing).

**103 Action of professional standards panel after inquiry**

- (1) After an inquiry about a veterinary surgeon, a professional standards panel must decide whether—
- (a) the veterinary surgeon is contravening, or has contravened, the required standard of practice or does not satisfy the suitability to practise requirements; or
  - (b) the veterinary surgeon is putting, or has put, public safety at risk.
- (2) If the professional standards panel is satisfied that the veterinary surgeon has done something mentioned in subsection (1), the panel may do 1 or more of the following:
- (a) counsel, caution or reprimand the veterinary surgeon;
  - (b) require the veterinary surgeon to undergo stated medical, psychiatric or psychological assessment, counselling or both;
  - (c) impose on the veterinary surgeon's registration a condition that the panel considers appropriate to protect the public;
  - (d) require the veterinary surgeon to take part in a review of the veterinary surgeon's professional practice;
  - (e) require the veterinary surgeon to complete a stated educational or other stated professional development course;

- (f) require the veterinary surgeon to report on the veterinary surgeon's practice at stated times, in the way stated and to a named person;
  - (g) require the veterinary surgeon to seek and take advice from stated entities in relation to the management of the veterinary surgeon's practice;
  - (h) require the supervision, monitoring or reporting about the effect of something the veterinary surgeon is required to do by the panel;
  - (i) refer the report or application for a condition review, to the board with—
    - (i) a recommendation that an application be made to the ACAT for the suspension or cancellation of the veterinary surgeon's registration; and
    - (ii) the standards inquiry report on which the recommendation is based;
  - (j) refer the report or complaint to the board with—
    - (i) a recommendation that an application be made to the ACAT for a declaration under section 62 (2) (f) in relation to the veterinary surgeon; and
    - (ii) the standards inquiry report on which the recommendation is based;
  - (k) accept a stated voluntary undertaking from the veterinary surgeon.
- (3) If the professional standards panel acts under subsection (2) (other than under paragraph (i) or (j)), the act is an act of the board.



## **104 Inquiry report**

- (1) As soon as practicable after finishing a standards inquiry about a veterinary surgeon, the professional standards panel must prepare a written report (the *standards inquiry report*) that includes the following:
  - (a) if the standards inquiry found that the veterinary surgeon is contravening, or has contravened, the required standard of practice—how the standard is being, or was, contravened;
  - (b) if the standards inquiry found that the veterinary surgeon does not satisfy the suitability to practise requirements—which suitability to practise requirements are not satisfied;
  - (c) whether there is, or was, a risk to the public from the veterinary surgeon's practice and, if there is or was, what the risk is or was;
  - (d) the action taken by the panel and reasons for the action.
- (2) Within 28 days after the end of the standards inquiry, the professional standards panel must give the standards inquiry report to—
  - (a) the veterinary surgeon; and
  - (b) the board; and
  - (c) the commission.
- (3) The professional standards panel may also give the standards inquiry report to anyone else.
- (4) However, the professional standards panel may omit material from a copy of the standards inquiry report given to a person under subsection (3) if the panel considers it appropriate to do so to protect someone's confidentiality.

## **Part 10**                            **Veterinary surgeons board**

### **Division 10.1**                    **Establishment and functions of board**

#### **105**            **Veterinary surgeons board—establishment**

- (1) The ACT Veterinary Surgeons Board (the *board*) is established.
- (2) The board—
  - (a) is a body corporate; and
  - (b) must have a seal; and
  - (c) may sue and be sued, and hold property, in its corporate name.

#### **106**            **Board—functions**

- (1) The board has the following functions:
  - (a) administering a scheme of registration for, and of continuous review of the standard of practice of, veterinary surgeons;
  - (b) setting fees for administration by the board;
  - (c) giving advice to the Minister, veterinary surgeons and the public about matters relevant to veterinary surgeons;
  - (d) setting standards of practice for veterinary surgeons;
  - (e) taking part in any entity responsible for the development of policies for the promotion and maintenance of standards of practice for veterinary surgeons;
  - (f) approving educational and training courses related to professional qualifications for veterinary surgeons;
  - (g) promoting and monitoring continuing competence of registered veterinary surgeons and their professional development;

- (h) dealing with registered veterinary surgeons who contravene the required standard of practice or who do not satisfy the suitability to practise requirements;
  - (i) providing information to allow the laying of charges against people who commit offences against this Act;
  - (j) assisting in the development of the required standard of practice;
  - (k) promoting the required standard of practice;
  - (l) developing and promoting best practice standards to which registered veterinary surgeons should aspire;
  - (m) developing supportive relationships with individuals or entities that have a shared interest in public protection and regulation of veterinary surgeons;
  - (n) providing information to confirm whether or not someone is a registered veterinary surgeon.
- (2) The board may exercise any other function given to the board under this Act or another Territory law.
- Note* A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).
- (3) If the board wants a veterinary surgeon's registration suspended or cancelled, the board cannot suspend or cancel the registration itself, but may apply to the ACAT for suspension or cancellation.

## **Division 10.2 Board membership**

### **107 Membership of board**

- (1) The board is made up of the president and the following people:
- (a) 3 elected members;
  - (b) 3 appointed members, 1 of whom is a community representative.

- (2) A regulation may prescribe how the election for a board member takes place.

### 108 Appointment of board president

- (1) The Minister must appoint a person as president of the board (the *board president*).

*Note 1* The Minister must consult the board, and may consult other people, before appointing the board president (see s 111).

*Note 2* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) However, the Minister may appoint a person under subsection (1) only if the person—
- (a) is a registered veterinary surgeon; and
  - (b) has been registered for a continuous period of at least 3 years immediately before the day of appointment.
- (3) An appointment must be for a term of not longer than 4 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

### 109 Board deputy president

- (1) The board must, by majority vote, elect a board member (other than the board president) as deputy president of the board (the *board deputy president*).
- (2) The board deputy president may exercise a function of the board president at any time when the president cannot for any reason exercise the function.
- (3) The board deputy president is elected for 1 year, but may be re-elected if still eligible to be elected.

- (4) The board deputy president may resign as deputy president by written notice given to the board president or, if there is no president, the board.

## **110 Appointment of board members**

- (1) The Minister may appoint a person as a member of the board.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) However, the Minister may appoint a person under subsection (1) (other than the community representative) only if the person—

- (a) is a registered veterinary surgeon; and
- (b) has been registered for a continuous period of at least 3 years immediately before the day of the appointment.

- (3) An appointment must be for not longer than 4 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

- (4) The Minister must appoint the community representative from the community representative list prepared by the board.

- (5) The Minister may appoint a person as a community representative to the board only if—

- (a) satisfied that the person has interests, skills or qualifications that will help the board in carrying out the objects of this Act; and
- (b) the person is not a veterinary surgeon.

- (6) If a position on the board to which someone was appointed under this section becomes free, the Minister must fill the position by appointing someone who satisfies the requirements for the position.

### 111            **Consultation about appointment to board**

- (1) Before appointing someone, other than a community representative, to the board the Minister must consult the board.
- (2) The Minister may also seek advice, and nominations, from an entity the Minister considers suitable to give advice, and make nominations, in relation to the board.
- (3) Also, if the Minister considers it appropriate to do so, the Minister may appoint members to the board at intervals, instead of at the same time.

#### **Example**

to avoid the loss of corporate knowledge that might happen if a large number of members were appointed at the same time and, because of that, left the board at the same time

*Note*        An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (4) Subsection (1) does not apply if the board is suspended.

### 112            **Disclosure of interests by board members**

- (1) If a board member has a material interest in an issue being considered, or about to be considered, by the board, the member must disclose the nature of the interest at a board meeting as soon as practicable after the relevant facts come to the member's knowledge.

*Note*        **Material interest** is defined in s (4). The definition of **indirect interest** in s (4) applies to the definition of **material interest**.

- (2) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the member must not—
- (a) be present when the board considers the issue; or

- (b) take part in a decision of the board on the issue.

**Example**

Albert, Boris and Chloe are members of the board. They have an interest in an issue being considered at a board meeting and they disclose the interest as soon as they become aware of it. Albert's and Boris's interests are minor but Chloe has a direct financial interest in the issue.

The board considers the disclosures and decides that because of the nature of the interests—

- (a) Albert may be present when the board considers the issue but not take part in the decision; and
- (b) Boris may be present for the consideration and take part in the decision.

The board does not make a decision allowing Chloe to be present or take part in the board's decision. Accordingly, since Chloe has a material interest she cannot be present for the consideration of the issue or take part in the decision.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) Any other board member who also has a material interest in the issue must not be present when the board is considering its decision under subsection (2).

- (4) In this section:

*associate*, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

*executive officer*, of a corporation, means a person, however described and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

***indirect interest***—without limiting the kinds of indirect interests a person may have, a person has an ***indirect interest*** in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;
- (f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;
- (g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

***material interest***—a board member has a ***material interest*** in an issue if the member has a direct or indirect—

- (a) financial interest in the issue; or
- (b) interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.



### **113 Ending of appointment to board**

- (1) This section applies if the board president believes on reasonable grounds that someone should no longer be a board member.
- (2) The board president must, in writing, tell the person—
  - (a) of the president's belief that the person should no longer be a board member; and
  - (b) why the president holds the belief; and
  - (c) that the person may, within 2 weeks after the day the person receives the notice, make a written submission to the president about why the person believes the person should continue to be a board member.
- (3) If, after considering any submission made within the 2-week period, the board president is satisfied that the person should no longer be a board member, the president may apply, in writing, to the Minister for the person's removal.
- (4) The application must—
  - (a) state the reasons why the board president believes the person should no longer be a board member; and
  - (b) be accompanied by any submission made by the person to the president within the 2-week period.
- (5) If, after considering the application and any submission accompanying it, the Minister is satisfied that the person should no longer be a board member—
  - (a) the Minister may give the board president and the person written notice that the person is no longer a member; and
  - (b) if the Minister gives the person notice—the person is no longer a member from the time the person receives the notice.

- (6) If, after considering the application, the Minister is not satisfied that the person should no longer be a board member, the Minister must give written notice to the board president and the person to the effect that the person remains a board member.

#### **114            Conditions of board appointment generally**

- (1) The Minister may, conditionally or unconditionally, allow the board president to take leave.
- (2) The board president may, conditionally or unconditionally, allow a board member (other than the president) to take leave for not longer than 1 year.

*Note 1*    The board deputy president is a board member and so can be given leave under s (2).

*Note 2*    The Minister may appoint a person to act in the position of someone on leave (see [Legislation Act](#), s 209).

- (3) The board may decide, in writing, the allowances to be paid to board members.
- (4) However, if the remuneration tribunal sets a maximum amount of allowances for board members, the board may not pay its members more than that amount.
- (5) The board may pay anyone who helps the board.

##### **Examples**

- 1    by providing expert opinion to the ACAT in relation to a report about a veterinary surgeon
- 2    by serving on a panel or committee established by the board
- 3    by providing legal advice, or other services, to the board

*Note*      An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (6) The board must, if practicable, seek the Minister's approval before taking action under this Act that the board considers is likely to incur an extraordinary liability.

- (7) The board may apply to the Minister for financial assistance if the board believes on reasonable grounds that it is likely to incur extraordinary expenses in relation to legal fees or damages because of the administration of this Act.

### **115 Reporting on exercise of functions**

- (1) The Minister may, in writing, ask for a written report from the board about the exercise of its functions.
- (2) The request may be for a general report or a report in relation to stated criteria or a stated matter.
- (3) The board must provide a report under subsection (2) within the time the Minister reasonably requires.

### **116 Failure by board to exercise functions diligently**

- (1) If the Minister is not satisfied that the board is exercising its functions diligently, the Minister may, in writing—
- (a) tell the board that the Minister is not satisfied that the board is exercising its functions diligently; and
  - (b) give the board reasons why the Minister is not satisfied; and
  - (c) give the board at least 14 days after the day the notice is given to the board to make representations to the Minister about the matter.

*Note* The functions of the board are set out in s 106.

- (2) If, after considering any representations made by the board within the time set out in the notice, the Minister is not satisfied that the board is exercising its functions diligently, the Minister may, in writing, tell the board what it must do for the Minister to be satisfied.
- (3) A regulation may prescribe matters that the Minister must or may take into consideration in deciding for this section or section 117 whether the board is exercising its functions diligently.

**117        Discharging board**

- (1) This section applies if the Minister—
  - (a) has written to the board under section 116 (2); and
  - (b) is satisfied that a reasonable time has passed since the Minister wrote to the board.
- (2) If the Minister is still not satisfied that the board is exercising its functions diligently, the Minister may, in writing—
  - (a) tell the board that the Minister is not satisfied that the board is exercising its functions diligently; and
  - (b) give the board reasons why the Minister is still not satisfied; and
  - (c) give the board at least 14 days after the day the notice is given to the board to make representations to the Minister about why the board should not be discharged.
- (3) If, after considering any representations made by the board within the time stated in the notice, the Minister is satisfied that the board should be discharged, the Minister may ask the Legislative Assembly to approve the discharge of the board.
- (4) The approval of the Legislative Assembly may be expressed by resolution.
- (5) If the Legislative Assembly approves the discharge of the board, the Minister may discharge the board by written notice.

**118      Effect of discharge—interim board**

- (1) This section applies if the Minister discharges the board.
- (2) The Minister may appoint veterinary surgeons to the board.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

*Note 3* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).
- (3) However, the Minister must not appoint a veterinary surgeon under subsection (2) unless satisfied that the person has the experience or expertise as a veterinary surgeon to exercise the functions of a board member.
- (4) An appointment under subsection (2) is for 6 months and may not be extended.
- (5) An appointment under subsection (2) ends if a veterinary surgeon is appointed or elected to the board under another section of this Act.

**Division 10.3      Board administration**

**119      Banking and investment of money of board**

- (1) The board must—
  - (a) maintain at least 1 account; and
  - (b) pay all amounts it receives into an account; and
  - (c) pay all amounts it spends out of an account.
- (2) The board may invest its money as it considers appropriate.

(3) In this section:

**account** means an account with an authorised deposit-taking institution.

*Note* **Authorised deposit-taking institution**—see the [Legislation Act](#), dictionary, pt 1.

## 120 Offence—prohibition on business

A member of the board must not authorise the board to carry on business except in the exercise of its functions.

Maximum penalty: 50 penalty units.

## 121 Borrowing powers

(1) The board may, if authorised by an unopposed resolution, do either or both of the following:

- (a) borrow amounts needed for the exercise of its functions;
- (b) secure the repayment of an amount borrowed by it and the payment of interest on an amount borrowed by it.

(2) For this section, a resolution of the board is an **unopposed resolution** if—

- (a) no votes are cast against the resolution; and
- (b) at least 1 vote is cast in favour of the resolution.

*Note* An abstention of a member does not (in itself) prevent an unopposed resolution from being passed if at least 1 vote is cast in favour of the resolution.

## **122 Appointment of executive officer**

- (1) The board must, in writing, appoint an executive officer.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) The executive officer may, but need not, be a member of the board.

## **123 Executive officer—functions**

- (1) The executive officer—

(a) is responsible for the management of the board's affairs, subject to any direction given by the board; and

(b) must advise the board; and

(c) has any other function given to the executive officer under a territory law.

- (2) The executive officer may delegate a function given to the officer under a territory law to a public servant, including the registrar of the board.

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

## **124 Employment of staff**

- (1) The board may engage the people, or buy the services, that are necessary or desirable to help it to exercise its functions.

- (2) Without limiting subsection (1), the board may engage a person on a fee or contractual basis to provide advice or other assistance.

*Note* **Person** includes a corporation (see [Legislation Act](#), dict, pt 1).

**125            Delegation by board**

The board may delegate a function to—

- (a) a board member; or
- (b) the board’s executive officer; or
- (c) a committee of the board; or
- (d) anyone else the board considers appropriate.

*Note*            For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.



## Part 11 Notification and review of decisions

### 126 Meaning of *reviewable decision*—pt 11

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 127 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity prescribed by regulation in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 128 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Part 12 Protection and information

### 129 Meaning of *informed person*—pt 12

In this part:

*informed person* means anyone who is, or has been—

- (a) a member of the board; or
- (b) a member of a personal assessment panel or professional standards panel; or
- (c) a member of the staff of the board; or
- (d) acting under the direction or authority of the board.

### 130 Protection of participants and people reporting

- (1) This section applies to a person who—
  - (a) is or has been a participant in a proceeding about a complaint, or an application for a condition review, before the board, a personal assessment panel or a professional standards panel; or
  - (b) has made a report.
- (2) An action or proceeding does not lie against a person to whom this section applies in relation to an act done, or omitted to be done, honestly in that capacity.

### 131 Protection of informed people

- (1) An informed person is not civilly liable for conduct engaged in honestly and without recklessness—
  - (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

- (2) An informed person is, in any legal proceeding, competent but not compellable to give evidence or produce documents in relation to any matter in which the person was involved in the course of exercising the person's functions.
- (3) A civil liability that would, apart from this section, attach to an informed person, attaches instead to the territory.

### **132 Nondisclosure of complaints**

- (1) This section applies in relation to a complaint made about a veterinary surgeon.
- (2) An informed person must not disclose information to the veterinary surgeon that allows the person who made the complaint (the *complainant*) to be identified if the informed person has reason to believe that the disclosure would, directly or indirectly—
  - (a) put at risk the health or safety of anyone; or
  - (b) cause anyone to receive a lower standard of service than the person would have received if the complainant had not been identified; or
  - (c) prejudice the management of the complaint or its consideration by the commission or the board.

Maximum penalty: 20 penalty units.

**133 Use and disclosure of protected information**

- (1) An information holder commits an offence if—
- (a) the information holder uses information; and
  - (b) the information is protected information about someone else; and
  - (c) the information holder is reckless about whether the information is protected information about someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An information holder commits an offence if—
- (a) the information holder does something that discloses information; and
  - (b) the information is protected information about someone else; and
  - (c) the information holder is reckless about whether—
    - (i) the information is protected information about someone else; and
    - (ii) doing the thing would result in the information being disclosed to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsections (1) and (2) do not apply if the information holder uses or discloses protected information about someone else (the *protected person*)—
- (a) under this Act or another territory law; or

- (b) in relation to the exercise of a function, as an information holder, under this Act or another territory law; or
- (c) in a court proceeding; or
- (d) with the protected person's consent.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

- (4) An information holder need not disclose protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another territory law.
- (5) In this section:

***court*** includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

***disclose*** includes—

- (a) communicate; or
- (b) publish.

***information*** means information, whether true or not, in any form and includes an opinion and advice.

***information holder*** means—

- (a) a person who is or has been a member of the board; or
- (b) anyone else who exercises or has exercised a function under this Act.

***produce*** includes allow access to.

*protected information* means information about a person that is disclosed to, or obtained by, an information holder because of the exercise of a function under this Act by the information holder or someone else.

*use*, in relation to information, includes make a record of the information.

## Part 13                      Miscellaneous

### 134            Exemptions from Act

(1) The Minister may, in writing, exempt a veterinary surgeon from a provision of this Act if satisfied that it is in the public interest to do so.

(2) An exemption is a disallowable instrument.

*Note*     A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(3) An exemption must be made in accordance with the guidelines (if any) made under subsection (4).

(4) The Minister may make guidelines for the giving of exemptions under subsection (1).

(5) A guideline is a disallowable instrument.

*Note*     A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### 135            Costs of supervising protective action

(1) This section applies if—

(a) a veterinary surgeon agrees under section 82 (Acceptance of condition) to having a condition imposed on the veterinary surgeon's registration; or

(b) a requirement made by the professional standards panel under section 103 (Action of professional standards panel after inquiry) involves monitoring the compliance of a veterinary surgeon with a requirement under that section.

(2) The board may charge the veterinary surgeon a fee, or require the veterinary surgeon to pay, for the reasonable cost of monitoring the veterinary surgeon's compliance with the condition or requirement.

**136 Determination of fees by board**

- (1) The board may, in writing, determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (3) A regulation may prescribe when fees may not be charged, or must be refunded, by the board.

**137 Determination of fees by Minister**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) However, the Minister may not determine fees in relation to the board.

- (3) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**138 Approved forms**

- (1) The board may approve forms for this Act.

- (2) If the board approves a form for a particular purpose, the approved form must be used for the purpose.

*Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).



**139 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may impose conditions, including restrictions, on the practice of veterinary surgery to protect the public or the public interest.
- (3) A regulation may prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 30 penalty units for offences against a regulation.
- (4) A regulation may prescribe—
- (a) what an application for registration may require and how it must be made; and
  - (b) when someone who is not required to be registered under section 14 (1) may be registered conditionally; and
  - (c) when (in addition to the circumstances already prescribed under this Act) the board may apply for—
    - (i) the suspension or cancellation of registration; or
    - (ii) a declaration under section 62 (2) (f) (which is about a person who is not registered); and
  - (d) when a veterinary surgeon's registration may be renewed, including when it may be renewed retrospectively.
- (5) Also, a regulation may apply, adopt or incorporate (with or without change) an instrument as in force at a particular time or from time to time.

## Schedule 1      Reviewable decisions

(see pt 11)

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
1	14 (1) (a)	register person	applicant for registration
2	14 (1) (b)	register person conditionally	applicant for registration
3	14 (1) (c)	refuse to register person	applicant for registration
4	88	decision of the professional standards panel	applicant for registration

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## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- authorised deposit-taking institution
- disallowable instrument (see s 9)
- Executive
- function
- occupational discipline order
- penalty unit (see s 133)
- person (see s 160)
- reviewable decision notice
- under.

***application***, for registration, includes an application for renewal of registration.

***board*** means the ACT Veterinary Surgeons Board.

***board deputy president***—see section 109.

***board president***—see section 108.

***commission*** means the human rights commission.

***commissioner*** means the health services commissioner.

***complaint*** means a complaint under division 5.2.

***condition review***, in relation to a veterinary surgeon, means a review, applied for under section 84, of the imposition of a condition on the veterinary surgeon's registration.

***corresponding law***, of another jurisdiction, means a law of that jurisdiction that corresponds to this Act.

***emergency order*** means an emergency order under section 63.

**executive officer**, for the board, means the executive officer appointed by the board under a regulation.

**ground for occupational discipline**—see section 59.

**information** includes documents.

**informed person**, for part 12 (Protection and information)—see section 129.

**president**, of the board, means the president of the board appointed under section 108.

**professional standards panel** means a professional standards panel established under section 87.

**register**, a person, includes renew the person's registration.

**registered**—

- (a) for this Act, in relation to a veterinary surgeon—see section 10; and
- (b) for part 4 (Offences)—see section 40; and
- (c) for division 5.2 (Complaints), in relation to an act or omission of a veterinary surgeon—see section 49.

**required standard of practice**, for a veterinary surgeon—see section 11.

**reviewable decision**, for part 11 (Notification and review of decisions)—see section 126.

**specialist area**—

- (a) means an area prescribed by regulation as a prescribed specialist area for veterinary surgeons; and
- (b) includes a sub-specialist area prescribed by regulation.

**standards inquiry**—see section 94 (1).

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Veterinary Surgeons Act 2005 A2015-29**

notified LR 20 August 2015

s 1, s 2 commenced 20 August 2015 (LA s 75 (1))

sch 3 commenced 1 December 2015 (s 2 (2) and [CN2015-22](#))

remainder commenced 1 December 2015 (s 2 (1) and [CN2015-22](#))

as amended by

#### **[Red Tape Reduction Legislation Amendment Act 2016 A2016-18](#)**

##### **[sch 2 pt 2.7, sch 3 pt 3.47](#)**

notified LR 13 April 2016

s 1, s 2 commenced 13 April 2016 (LA s 75 (1))

sch 2 pt 2.7, sch 3 pt 3.47 commenced 27 April 2016 (s 2)

as modified by

#### **[Veterinary Surgeons \(Transitional Provisions\) Regulation 2016](#)**

##### **[SL2016-13](#)**

notified LR 14 June 2016

s 1, s 2 commenced 14 June 2016 (LA s 75 (1))

remainder commenced 15 June 2016 (s 2)

as repealed by

#### **[Veterinary Practice Act 2018 A2018-32 s 149](#)**

notified LR 30 August 2018

s 1, s 2 commenced 30 August 2018 (LA s 75 (1))

s 149 commenced 21 December 2018 (s 2 and [CN2018-12](#))

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### How must complaint be made?

s 53 am [A2016-18](#) amdt 2.7, amdt 2.8; pars renum R2 LA

### Further information about complaint etc

s 55 am [A2016-18](#) amdt 3.218, amdt 3.219

### Repeals and consequential amendments

pt 14 hdg om LA s 89 (3)

### Legislation repealed

s 140 om LA s 89 (3)

### Legislation amended—schs 2 and 3

s 141 om LA s 89 (3)

### Transitional

pt 20 hdg exp 1 December 2017 (s 208)

### Definitions—pt 20

s 200 exp 1 December 2017 (s 208)  
def **commencement day** exp 1 December 2017 (s 208)  
def **repealed Act** exp 1 December 2017 (s 208)

### Members of board

s 201 exp 1 December 2017 (s 208)

### Veterinary surgeons—registration

s 202 exp 1 December 2017 (s 208)

### Suspended registration

s 203 exp 1 December 2017 (s 208)

### Register

s 204 exp 1 December 2017 (s 208)

### Inquiry under repealed Act

s 205 exp 1 December 2017 (s 208)

### Grounds for occupational discipline

s 205A ins as mod [SL2016-13](#) s 3 (see endnote 6)  
exp 1 December 2017 (s 205A (3) and see [SL2016-13](#) s 4)

### Executive officer

s 206 exp 1 December 2017 (s 208)

### Transitional regulations

s 207 exp 1 December 2017 (s 208)

## Endnotes

4 Amendment history

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**Expiry—pt 20**

s 208 exp 1 December 2017 (s 208)

**Consequential amendments**

sch 2 om LA s 89 (3)

**Human Rights Commission Act 2005—Technical amendments consequential on operation of Health Practitioner Regulation National Law (ACT)**

sch 3 om LA s 89 (3)



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Dec 2015	1 Dec 2015– 26 Apr 2016	not amended	new Act
R2 27 Apr 2016	27 Apr 2016– 14 June 2016	<a href="#">A2016-18</a>	amendments by <a href="#">A2016-18</a>
R3 15 June 2016	15 June 2016– 1 Dec 2017	<a href="#">SL2016-13</a>	amendments by <a href="#">SL2016-13</a>
R4 2 Dec 2017	2 Dec 2017– 20 Dec 2018	<a href="#">A2016-18</a>	expiry of modifications and transitional provisions (pt 20)

## 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see [Legislation Act 2001](#), s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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