



Australian Capital Territory

# **Veterinary Surgeons Regulation 2015**

**SL2015-39**

made under the

**Veterinary Surgeons Act 2015**

**Republication No 1**

**Effective: 1 December 2015 – 26 April 2016**

Republication date: 1 December 2015

Regulation not amended

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Veterinary Surgeons Regulation 2015*, made under the *Veterinary Surgeons Act 2015* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 December 2015. It also includes any commencement, repeal or expiry affecting this republished law.

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 amendments

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 \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Veterinary Surgeons Regulation 2015

made under the

**Veterinary Surgeons Act 2015**

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Australian Capital Territory

# Veterinary Surgeons Regulation 2015

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made under the

**Veterinary Surgeons Act 2015**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Veterinary Surgeons Regulation 2015*.

### 3 Dictionary

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

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

For example, the signpost definition '*prohibited substance*—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 13.' means that the term 'prohibited substance' is defined in that section and the definition applies to this regulation.

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

### 4 Notes

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

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

## Part 2 Registration of veterinary surgeons

*Note* Application of the *Mutual Recognition Act 1992* (Cwlth) and the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth) (the *Commonwealth Acts*)

The Commonwealth Acts allow people registered in certain occupations in a State, the ACT, Northern Territory or New Zealand (a *local jurisdiction*) to carry on the occupations in another local jurisdiction and provide another way of applying for registration in the ACT or another local jurisdiction. Because of the *Self-Government Act*, s 28, the requirements for registration under this Act cannot validly require anything of people being registered in accordance with the Commonwealth Acts that would be inconsistent with those Acts. Accordingly, provisions of this part, such as the requirements for applications, do not apply to the registration of people in accordance with the Commonwealth Acts. Also, the Commonwealth Acts set out when conditions may be placed on people registered in accordance with those Acts. For more information, see the Commonwealth Acts.

### 5 Application for registration—Act, s 13 (2) (e)

- (1) The following are prescribed:
  - (a) the person's date of birth;
  - (b) a recent passport-size photograph of the person's head and shoulders, signed by a person before whom a statutory declaration may be made;
  - (c) a statutory declaration stating that the person's right to practise as a veterinary surgeon in the territory or anywhere else is not suspended and has not been cancelled;
  - (d) evidence of the person's qualifications, including relevant training undertaken;

- (e) if the person has been refused registration (however described) as a veterinary surgeon, or the person's registration has been cancelled, including under a corresponding law of a local jurisdiction—details of the refusal or cancellation.

*Note 1* The *Statutory Declarations Act 1959* (Cwlth), s 8 requires a statutory declaration to be made before a prescribed person. The *Statutory Declarations Regulations 1993* (Cwlth) prescribes people for that section.

*Note 2* Section 8 requires the board to take into account a person's convictions when considering whether the person is competent to practise.

- (2) If the person is currently registered (however described) in a local jurisdiction or outside Australia, the following are prescribed:
  - (a) the original, or a certified copy, of the person's current registration certificate (however described);
  - (b) if required by the board—a statutory declaration to the effect that the person has asked the regulatory authority responsible for the registration of the veterinary surgeon in the place where the person is registered for a certificate of standing about the person to be given to the board.
- (3) Also, the person must personally provide to the board 100 points of evidence of identity as prescribed under the *Financial Transaction Reports Regulations 1990* (Cwlth) for general verification.

**Example**

presentation of a combination of a passport or citizenship certificate or photographic licence (such as a drivers licence), with a social security card, employment ID, a letter from an employer, credit or debit card or Medicare card

*Note* An example is part of the regulation, 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) However, if the person is currently registered (however described) in a local jurisdiction, subsections (1) and (3) do not apply to the person if the person consents, in writing, to the release of information about the person's registration to the board.

(5) In this section:

***certificate of standing*** about a person, given by a regulatory authority of a place, means a certificate stating—

(a) that the person is registered in the place; and

*Note* ***Register***, a person, includes renew the person's registration (see [Act](#), dict).

(b) whether any condition or restriction applies to the person's registration; and

(c) if a condition or restriction applies to the registration—the condition or restriction; and

(d) whether any disciplinary action has been taken in relation to the person.

***regulatory authority*** means an authority established under a corresponding law of a local jurisdiction or a place outside Australia to regulate the conduct of veterinary surgeons in the jurisdiction or place.

*Note* A ***local jurisdiction*** is a State or New Zealand (see dict).

## 6 **General area of operation**

The practice of veterinary surgery by a person who is suitable to practise as a veterinary surgeon under section 7 involves the following:

(a) attending to the health of animals;

(b) giving advice on the health and welfare of animals, public health and the safety of food derived from animals;

(c) the study of the health and welfare of animals;

(d) the prevention of animal diseases;

- (e) diagnosis, and medical or surgical treatment, of disease or injury in animals;
- (f) prescribing medicines for veterinary purposes;
- (g) providing veterinary certificates.

## 7 Suitability to practise requirements

A person is suitable to practise as a veterinary surgeon, or a specialist area of the profession, if the person—

- (a) for a veterinary surgeon generally—has the qualifications set out in section 9; and
- (b) for a veterinary surgeon practising in a specialist area—has the qualifications set out in section 9 and section 10; and
- (c) is generally competent.

*Note 1* General competence is dealt with in s 8.

*Note 2* An individual is also suitable to practise as a veterinary surgeon if the individual is unconditionally registered in another jurisdiction and is entitled to be registered in the ACT under the *Mutual Recognition Act 1992* (Cwlth) or the *Trans-Tasman Mutual Recognition Act 1997* (Cwlth).

## 8 General competence to practise

- (1) The board, in deciding whether a person is generally competent to practise as a veterinary surgeon, must consider the following:
  - (a) whether the person is mentally and physically healthy enough to practise;
  - (b) whether the person has communication skills that allow the person to practise effectively without endangering animals;

*Note* Under the [Act](#), s 12 (b), the person must have knowledge of written and spoken English that is adequate to allow the person to practise.

- (c) whether the person has an addiction to a substance (whether alcohol, a medicine, a prohibited substance or another substance) that may affect the person's ability to practise;

*Note* **Prohibited substance**—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, s 13.

- (d) whether the person has been convicted, or found guilty, in the ACT, a local jurisdiction or elsewhere of an offence that indicates that the person may not be competent to practise;
- (e) whether the person's practice experience is recent enough and sufficient to allow the person to practise safely, taking into account any requirements about recency of practice under section 32.

- (2) The board may also consider any other relevant matter.

**Example—other relevant matter**

whether the person has previously had his or her registration cancelled, either in the ACT or a local jurisdiction

*Note* An example is part of the regulation, 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).

## 9 Qualifications

- (1) To practise as a veterinary surgeon, a person—
- (a) must be a graduate of a course of education offered by an Australian or New Zealand institution that is accredited by AVBC or approved by the board; or
- (b) must have completed a course of education in veterinary surgery or veterinary science outside Australia and New Zealand that is accredited by AVBC or approved by the board;
- or

- (c) must have—
  - (i) completed a course of education in veterinary medicine, veterinary surgery or veterinary science outside Australia and New Zealand; and
  - (ii) passed an examination held by AVBC.
- (2) An approval by the board of a course of education mentioned in subsection (1) is a notifiable instrument.

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

## 10 Specialist areas and suitability to practise requirements

An individual meets the requirements for registration in a specialist area of veterinary surgery if the individual—

- (a) is a veterinary surgeon; and
- (b) holds a qualification in a specialist area of veterinary surgery that is approved, in writing, by the AVBC.



## **Part 3**

# **Maintaining competence and continuing professional development**

### **11** **Obligation to maintain competence and continue professional development**

A registered veterinary surgeon must ensure that he or she remains suitable to practise as a registered veterinary surgeon.

*Note* Section 7 sets out the suitability to practise requirements for a veterinary surgeon.

### **12** **Programs for maintenance of competence**

The board must, in writing, establish, or facilitate the establishment of, programs to support, promote and assess veterinary surgeons' general and professional competence.

### **13** **Standards for maintenance of competence**

- (1) The standards under this section are part of the suitability to practise standards relating to the maintenance of competence.
- (2) The board must, in consultation with professional representative bodies, develop or endorse written standards about the action registered veterinary surgeons need to take to maintain competence and continue professional development.
- (3) The board must ensure, as far as practicable, that the standards developed or endorsed are consistent with any standards developed by professional representative bodies for registered veterinary surgeons.
- (4) An endorsement of standards may be an endorsement of standards as in force from time to time.

- (5) A standard, or an endorsement of standards, is a notifiable instrument.

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

- (6) The standards must include the following:
- (a) requirements for maintaining professional competence and professional development;
  - (b) how the requirements are satisfied and demonstrated, including—
    - (i) the frequency and extent of any required training, instruction or practical experience; and
    - (ii) the time within which the training, instruction or practical experience must be completed; and
    - (iii) detail of any examination required; and
    - (iv) the reporting requirements.
- (7) The standards may provide that membership of a named organisation or participation in a named course or program is sufficient evidence of maintenance of competence to practise and professional development.
- (8) The board may establish a committee to assist in overseeing the board's continuing competence and professional development program.

#### **14 Use of information about continuing competence etc**

- (1) The board may use information it receives about a registered veterinary surgeon's continuing competence or professional development to take action to protect public safety or in the public interest.

- (2) The action the board may take includes the following:
- (a) reporting annually to the Minister, using non-identifying information, on the general performance or achievement of registered veterinary surgeons as a whole or within specialist areas;
  - (b) providing information or advice to registered veterinary surgeons about their performance, including comparisons to best practice;
  - (c) providing information about a veterinary surgeon to someone else with the consent of the registered veterinary surgeon.
- (3) Also, if information received under this part in relation to a veterinary surgeon indicates a potential risk to public safety, the board may treat the matter as a complaint about the veterinary surgeon.

## Part 4 Required standard of practice

### Division 4.1 General

#### 15 Purpose—pt 4

This part—

- (a) allows the board to decide what behaviour does and does not meet the required standard of practice in relation to veterinary surgeons, so that the veterinary surgeons can tell what they should, and should not, be doing to be competent to practise; and
- (b) sets out how a veterinary surgeon may be judged against the standard; and
- (c) sets out the required standard of practice that, if breached, will mean the veterinary surgeon is not competent to practise.

#### 16 Standards and standards statements

- (1) A *standards statement* is a statement designed to raise awareness of the standard of practice required from a veterinary surgeon for the veterinary surgeon to be competent to practise, or to help the veterinary surgeon improve his or her suitability to practise.
- (2) The board may develop standards to make up the required standard of practice for veterinary surgeons.

##### Example—standard

a code of professional conduct

*Note* An example is part of the regulation, 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) The board may approve standards developed by the board or another entity.

- (4) However, the board must not approve standards that are inconsistent with standards approved by a professional body representing veterinary surgeons unless satisfied that the inconsistent standard is necessary to protect the public.
- (5) If the board approves a standards statement developed by another entity, it may approve the standard as in force from time to time.

*Note 1* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disappplied (see s 47 (7)).

*Note 2* A notifiable instrument must be notified under the [Legislation Act](#).

*Note 3* See s 115 (5) in relation to the application of the [Legislation Act](#), s 47.

- (6) An approval is a notifiable instrument.

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

## **17 Pattern of practice or particular acts**

In deciding whether a registered veterinary surgeon's standard of practice meets the required standard of practice, the ACAT, the board or a panel formed by the board may consider the veterinary surgeon's act or acts and the veterinary surgeon's pattern of practice.

*Note* *Act* includes fail to act (see dict).

## **18 Endangering public**

A registered veterinary surgeon breaches the required standard of practice if the veterinary surgeon engages in a standard of practice that endangers public health and safety.

**19 Lack of competence to practise etc**

A registered veterinary surgeon breaches the required standard of practice if the veterinary surgeon engages in a standard of practice that demonstrates a lack of competence to practise, knowledge, skill, judgment or care by the veterinary surgeon.

**Division 4.2 Specific breaches of the required standard of practice**

**20 Purpose—div 4.2**

- (1) The purpose of this division is to prescribe a minimum for the required standard of practice.
- (2) If a veterinary surgeon breaches this part, the veterinary surgeon breaches the required standard of practice and is not competent to practise unless the board decides otherwise.

**21 Breach of standards statements**

A registered veterinary surgeon must not breach a standards statement that applies to the veterinary surgeon.

**22 Telling board about proceedings relating to veterinary surgeon**

- (1) A registered veterinary surgeon must tell the board if the veterinary surgeon is charged with an offence.
- (2) A notice under subsection (1) must—
  - (a) identify the charge sufficiently to allow the board to decide whether the charge indicates that the veterinary surgeon may be contravening the Act; and

- (b) be made as soon as practicable after the day the veterinary surgeon is charged, but in any case within 7 days after that day.

*Note* 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).

## **23 Biosecurity, infection control and notifiable diseases**

A registered veterinary surgeon must comply with legislation that prescribes requirements for biosecurity, infection control and reporting of notifiable disease.

## **24 Substances that affect veterinary surgeon's abilities**

- (1) A registered veterinary surgeon must not practise while under the influence of a substance (whether alcohol, a medicine, a prohibited substance or another substance) if the substance affects the veterinary surgeon's ability to practise.

*Note* **Prohibited substance**—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, s 13.

- (2) A registered veterinary surgeon must not practise while dependent on a substance (whether alcohol, a medicine, a prohibited substance or another substance) that may adversely affect the veterinary surgeon's ability to practise.

## **25 Reporting other veterinary surgeons**

A registered veterinary surgeon is taken to have contravened the required standard of practice if—

- (a) the veterinary surgeon believes on reasonable grounds that—
- (i) another registered veterinary surgeon has contravened or is contravening a required standard of practice or a suitability to practice requirement; and
  - (ii) the contravention has had, or is likely to have, a substantial effect on a member of the public; and

- (b) the contravention does not relate to an administrative matter;  
and
- (c) the veterinary surgeon does not tell the board about the belief;  
and
- (d) the contravention has, or has had, a substantial effect on a  
member of the public.

**26 Clinical records**

- (1) A registered veterinary surgeon must maintain adequate clinical records.
- (2) A registered veterinary surgeon must not change a clinical record to deceive anyone.

**27 Misrepresenting facts in certificates**

A registered veterinary surgeon must not, while practising as a veterinary surgeon, sign a certificate that misrepresents a fact.

**28 Treatment by assistants**

- (1) A registered veterinary surgeon must not allow someone else (an *assistant*) to provide a service or treatment provided by or on behalf of the veterinary surgeon, or perform a procedure on the veterinary surgeon's behalf if the treatment or procedure requires professional discretion or skill.
- (2) Subsection (1) does not apply if—
  - (a) the service or treatment is given, or the procedure performed, as part of a program to train the assistant to become a registered veterinary surgeon; or
  - (b) the assistant is a registered veterinary surgeon.
- (3) A registered veterinary surgeon must adequately supervise anyone providing services on behalf of the veterinary surgeon.



**29 Misleading advertising**

A registered veterinary surgeon must not advertise a service in a way that is misleading.

**30 Practising under allowed name**

A registered veterinary surgeon must not practise under a name other than the name the veterinary surgeon is allowed to practise under (see [Act](#), section 25 (a)).

**31 Behaviour that contravenes another law**

- (1) A registered veterinary surgeon must not engage in behaviour that contravenes another law in a way that reflects on the ability or commitment of the veterinary surgeon to provide an adequate standard of care.
- (2) Without limiting the behaviour mentioned in subsection (1), a veterinary surgeon engages in behaviour of that kind if, while registered—
  - (a) the veterinary surgeon is convicted, or found guilty, of an offence punishable by imprisonment for 6 months or longer; and
  - (b) the behaviour on which the conviction, or finding of guilt, is based reflects adversely on the veterinary surgeon's suitability to practise.

**32 Maintenance and demonstration of professional development continued competence and recency of practice for veterinary surgeons**

- (1) To demonstrate adequate professional development at the time of application for registration as a veterinary surgeon, the applicant must, if required by the board, give the board written evidence—
  - (a) that the applicant has practised as a veterinary surgeon under the supervision of a veterinary surgeon and is competent to practise; or
  - (b) that the applicant attended and satisfactorily completed a training program approved by the board; or
  - (c) that the applicant has undertaken professional development activities; or
  - (d) that the applicant otherwise demonstrates professional development the board considers adequate.
- (2) To demonstrate continuing competence at the time of application for registration as a veterinary surgeon, the applicant must, if required by the board, give the board written evidence of the applicant's competence assessed against the board's standards statement.
- (3) To demonstrate recency of practice at the time of application for registration as a veterinary surgeon, the applicant must, if required by the board, give the board written evidence—
  - (a) that the applicant has practised as a veterinary surgeon in the 5 years before the day the application is made; or
  - (b) that the applicant attended and satisfactorily completed a training course approved by the board; or
  - (c) that the applicant otherwise demonstrates recency of practice the board considers adequate.

(4) In this section:

***professional development activity***—an activity is a ***professional development activity*** if it complies with a standard about professional development for a veterinary surgeon developed or endorsed under section 13.

*Note 1* **Register**, a person, includes renew the person's registration (see [Act](#), dict).

*Note 2* For application requirements, see s 5.

## Part 5 Election of board members

### Division 5.1 General

#### 33 Definitions—pt 5

In this part:

***ballot paper envelope*** means an envelope addressed to the electoral commissioner on which is printed a declaration to be filled out by an elector.

*Note* If a form is approved under the [Act](#), s 138 for the envelope and declaration, the form must be used.

***close of poll day***, for an election—see section 34 (1) (d).

***election***, for the board—

- (a) means an election of members of the board; and
- (b) includes a recount under division 5.2 (Casual and temporary vacancies in elected positions) for an election of members of the board.

***election start day***, for an election—see section 34 (1) (a).

***elector***, for an election—see section 46.

***eligible*** means eligible to be a member of the board under section 37.

***hour of nomination***, for an election for the board—see section 39.

***issue of papers day***, for an election—see section 34 (1) (c).

***list of veterinary surgeons***, for an election—see section 35.

*nomination close day*, for an election—see section 34 (1) (b).

*officer* means an officer appointed under the *Electoral Act 1992*, section 33, and includes the electoral commissioner.

*preliminary scrutiny* means action by the electoral commissioner under section 53 (2).

*scrutiny centre*, for an election for the board, means a scrutiny centre declared for the election under section 60.

### **34 Dates for elections**

- (1) For an election to the board, the board president must, in writing, fix the following days for the election:
  - (a) the day from which candidates for election may be nominated (the *election start day*);
  - (b) the last day when candidates for election may be nominated (the *nomination close day*);
  - (c) the last day when voting papers may be issued (the *issue of papers day*);
  - (d) the day for the close of the poll (the *close of poll day*).
- (2) The election start day for the election must be at least 1 week after the day the board president fixes the days under subsection (1) for the election.
- (3) The nomination close day for the election must be at least 21 days after the election start day.

- (4) The issue of papers day for the election must be—
  - (a) at least 21 days before the close of poll day; and
  - (b) at least 14 days after nomination close day.
- (5) The close of poll day for the election must be at least 70 days and at most 90 days after the election start day.
- (6) After fixing the days under subsection (1), the board president must promptly send a copy of the instrument to the electoral commissioner.
- (7) A failure to comply with this section in relation to an election does not invalidate the election.

**35 List of veterinary surgeons**

- (1) As soon as practicable after the election start day for an election for the board, the board president must give the electoral commissioner a list (the *list of veterinary surgeons*).
- (2) The list of veterinary surgeons must state the following:
  - (a) the name of each person who was a registered veterinary surgeon on election start day;
  - (b) the postal address of each person mentioned in paragraph (a).
- (3) The list of veterinary surgeons must be certified correct by the board president.

- (4) The electoral commissioner must—
- (a) make a copy of the list of veterinary surgeons for the election available for public inspection at the office of the electoral commissioner during ordinary business hours as soon as practicable after the commissioner receives the list; and
  - (b) continue to make the list available for public inspection until—
    - (i) the end of the period when the election result may be disputed; or
    - (ii) if the election result is disputed—the dispute is decided or otherwise ends.
- (5) A failure to comply with this section in relation to an election does not invalidate the election.

**36 Registered veterinary surgeons to be notified of dates**

- (1) After receiving the list of veterinary surgeons for an election, the electoral commissioner must send by post to each person on the list, at the address shown in the list, a written notice—
- (a) telling the person about the days fixed under section 34 (1); and
  - (b) telling the person about the requirements for eligibility for nomination in section 37; and
  - (c) inviting the person to seek nomination for the election.
- (2) The electoral commissioner must send each notice under subsection (1) not later than 2 weeks before the nomination close day for the election.
- (3) A failure to comply with this section in relation to an election does not invalidate the election.

### 37 Eligibility for nominations etc

- (1) A person is eligible to be a member of the board if the person—
  - (a) is a registered veterinary surgeon; and
  - (b) has been continuously registered, or continuously registered under a corresponding law of a local jurisdiction and the Act, for at least 3 years before election start day.

#### Example

Stephanie was registered under a corresponding law of a local jurisdiction (New Zealand) for 2 years and 9 months. Since coming to the ACT, she has been registered under the Act. There was no break in registration between the time she was registered in New Zealand and being registered under the Act. Once she has been registered for 3 months in the ACT, she will have been continuously registered under a corresponding law of a local jurisdiction and the Act for 3 years, and will be eligible for nomination.

*Note* An example is part of the regulation, 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 person is not eligible to be nominated for election as a member of the board unless the person is, on election start day, eligible to be a member of the board.

### 38 Nominations

- (1) The nomination of a person (the *nominee*) for election as a member of the board must be signed by the person and 2 other veterinary surgeons (the *nominators*).
- (2) The nominee must be eligible to be nominated for the election under section 37.
- (3) Each nominator must be a registered veterinary surgeon on the election start day.



- (4) The nomination must include, or be accompanied by, a signed statement by the nominee that the nominee consents to the nomination.
- (5) The nomination must be given to the electoral commissioner before the hour of nomination.

**39 Hour of nomination**

The *hour of nomination*, for an election for the board, is 12 noon on the nomination close day.

**40 Withdrawal of nomination**

A person nominated to be a candidate may withdraw his or her consent to the nomination by giving the electoral commissioner written notice of withdrawal before the hour of nomination.

**41 Application of Electoral Act 1992, s 110**

- (1) The *Electoral Act 1992*, section 110 (Rejection of nominations), applies to an election under this part.
- (2) In applying the *Electoral Act 1992*, section 110 in relation to this part—
  - (a) a reference in the *Electoral Act 1992*, section 110 (1) to section 105 is taken to be a reference to this regulation, section 38 (Nominations); and
  - (b) any other necessary changes are taken to have been made.
- (3) The electoral commissioner may ask the executive officer for any information the commissioner needs to work out whether a nominee is eligible to be nominated as a member of the board.
- (4) The executive officer must comply with a request made to the officer under subsection (3).

## **42 Declaration of candidates**

- (1) As soon as practicable after the hour of nomination for an election, the electoral commissioner must declare the name and postal address of each candidate.
- (2) A declaration is a notifiable instrument.

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

## **43 If no more candidates than positions**

- (1) This section applies to an election for the board if, at the hour of nomination—
  - (a) at least 1 candidate has been nominated; and
  - (b) there are no more candidates nominated than are required to be elected at the election.
- (2) The electoral commissioner must, in writing—
  - (a) declare the nominated candidate or candidates elected; and
  - (b) tell the board president about the election of each person elected; and
  - (c) if fewer candidates are nominated for election than are required to be elected—tell the board president the number of candidates required to be elected who were not elected.
- (3) A declaration is a notifiable instrument.

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

- (4) If the electoral commissioner tells the Minister a number under subsection (2) (c), the Minister must appoint that number of people as members of the board under the [Act](#), section 107.

**44 If no candidates**

- (1) If no candidate is nominated for an election to the board, the election is taken to have failed and the electoral commissioner must, in writing, tell the board president and the Minister about the failure of the election.
- (2) If the electoral commissioner tells the Minister about the failure of the election, the Minister must, under the [Act](#), section 107, appoint as members of the board the number of people who would otherwise be required to be elected.

**45 If more candidates than positions**

If more candidates are nominated for an election to the board than are required to be elected, the electoral commissioner must conduct a poll under this part to decide the election.

**46 Eligibility to vote**

A person (an *elector*) may vote in an election to the board if, on the election start day, the person is a registered veterinary surgeon.

**47 Number of votes**

Each elector is entitled to only 1 vote at the election.

**48 Position on ballot paper**

- (1) The electoral commissioner must determine by lot the positions in which the candidates for an election are to appear on the ballot paper.
- (2) The electoral commissioner determines positions by lot if the commissioner determines the positions in accordance with an approval under the [Electoral Act 1992](#), section 125.

## **49 Distribution of ballot papers**

- (1) The electoral commissioner must, on or before the issue of papers day, send each person whose name appears on the list of veterinary surgeons for the election—
  - (a) a ballot paper; and
  - (b) a ballot paper envelope; and
  - (c) an envelope addressed to the commissioner.

*Note* If a form is approved under s 61 for a ballot paper, the form must be used.

- (2) Things sent to a person under subsection (1)—
  - (a) must be in a covering envelope addressed to the person that is sent to the postal address for the person in the list of veterinary surgeons; and
  - (b) may be sent to the person's business address if they are returned unclaimed to the electoral commission before the close of poll day.

## **50 Manner of voting**

The *Electoral Act 1992*, section 132 (Manner of recording vote) applies to the manner of voting under this part.

## **51 Replacement of ballot papers**

- (1) This section applies if, before close of poll day for an election to the board, a person eligible to vote at the election makes and gives the electoral commissioner a written statement—
  - (a) setting out his or her full name and postal address; and
  - (b) stating that he or she has not received a ballot paper or ballot paper envelope or that a ballot paper or ballot paper envelope received by him or her has been lost or destroyed; and

- (c) stating that he or she has not already voted at the election.
- (2) This section also applies if, before an election to the board, a person eligible to vote at the election—
  - (a) makes and gives to the electoral commissioner a written statement—
    - (i) setting out his or her full name and postal address; and
    - (ii) stating that a ballot paper or ballot paper envelope received by him or her has, by mistake or accident, been spoilt; and
  - (b) gives the electoral commissioner the spoilt ballot paper or ballot paper envelope.
- (3) The electoral commissioner must give the person a ballot paper or ballot paper envelope, or a further ballot paper or ballot paper envelope and, if relevant, cancel the spoilt ballot paper or envelope.

## **52 After voting**

An elector for an election to the board must, after recording his or her vote—

- (a) place the ballot paper in the ballot paper envelope and seal the envelope; and
- (b) fill in and sign the declaration printed on the ballot paper envelope, place the envelope in the envelope addressed to the electoral commissioner (the *returning envelope*) and seal the returning envelope; and
- (c) send the returning envelope to the commissioner so that it reaches the commissioner not later than 12 noon on the close of poll day.

### **53 Scrutiny**

- (1) The *Electoral Act 1992*, part 12 (The scrutiny) (other than section 189 (Declaration of result of election)) applies to an election as if—
  - (a) a reference to declaration voting papers were a reference to votes cast in the election; and
  - (b) a reference to preliminary scrutiny for the election were a reference to scrutiny under subsection (2); and
  - (c) all other necessary changes were made.
- (2) If the electoral commissioner is satisfied that the declaration on a ballot paper envelope has been signed by the elector named in the declaration, the ballot paper must be admitted to further scrutiny.

### **54 Appointment of scrutineers**

- (1) A candidate for an election may appoint a scrutineer to represent the candidate during the scrutiny for the election.
- (2) An appointment may be made by giving the electoral commissioner—
  - (a) written notice, signed by the candidate, stating the name and address of the scrutineer; and
  - (b) an undertaking signed by the scrutineer.

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

**55 Conduct of scrutineers**

- (1) A scrutineer representing a candidate for an election may enter, be present in or leave a scrutiny centre for the election during the conduct of the scrutiny for the election at the centre.
- (2) However, at any time during the conduct of the scrutiny at the centre, there must not be more scrutineers at the centre representing a particular candidate than there are officers at the centre.
- (3) A scrutineer at a scrutiny centre must wear a badge, supplied by the electoral commissioner, that identifies the person as a scrutineer.

**56 Candidates not to participate in conduct of election**

A candidate must not take any part in the conduct of an election.

**57 Declaration etc of results**

- (1) As soon as practicable after the result of an election to the board has been decided, the electoral commissioner must—
  - (a) declare each successful candidate elected; and
  - (b) tell the board president, in writing, about the election of each person elected.
- (2) A declaration is a notifiable instrument.

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

**58 Term of elected board members**

The term of a person declared elected under section 57—

- (a) begins on the day the person is declared elected; and
- (b) is 4 years.

**59 Destruction of election material**

The electoral commissioner must destroy the ballot papers and ballot paper envelopes for an election on the election start day for the next election.

**60 Scrutiny centres**

- (1) The electoral commissioner may declare a stated place to be a scrutiny centre for an election.
- (2) A declaration is a notifiable instrument.

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

**61 Approved forms for elections**

- (1) The electoral commissioner may approve forms for this part.
- (2) If the electoral commissioner 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](#).

**Division 5.2 Casual and temporary vacancies in elected positions**

**62 Definitions—div 5.2**

In this division:

*casual vacancy* means a vacancy in a position on the board to which a board member is elected rather than appointed if the vacancy has happened otherwise than because—

- (a) the board has been discharged; or



- (b) the term for which the board member was elected has ended; or
- (c) there has been a complete or partial failure of an election.

*closing time for applications*—see section 65 (2) (Candidates for casual vacancy).

*former board member*, in relation to a casual vacancy in a position on the board, means the person who was elected to the position at the last election before the vacancy happened.

*partial failure*, of an election, means that fewer candidates were nominated for the election than were required to be elected.

### **63 Notice of casual vacancy**

- (1) This section applies if—
  - (a) there is a casual vacancy for a position on the board; and
  - (b) the former board member's term had more than 1 year to run.
- (2) The board president must tell the electoral commissioner, in writing, about the casual vacancy.

### **64 Publication of notice about casual vacancy**

- (1) This section applies if the board president tells the electoral commissioner, in writing, about a casual vacancy under section 63.
- (2) If the electoral commissioner is satisfied that it is practicable to fill the vacancy under section 67, the commissioner must, so far as practicable, give a copy of the notice to anyone who, in the commissioner's opinion, may be entitled to make an application under section 65 in relation to the vacancy.

- (3) A notice under subsection (2) must—
- (a) contain a statement to the effect that—
    - (i) there is a casual vacancy in the health profession board; and
    - (ii) a person may apply to be a candidate under section 66; and
  - (b) state the closing time for applications.
- (4) If the electoral commissioner is not satisfied that it is practicable to fill the vacancy under section 67, the commissioner must tell the board president, in writing, that it is not practicable.

## **65 Candidates for casual vacancy**

- (1) A person may apply to be a candidate for a position on the board for which a casual vacancy has happened if the person—
- (a) was a candidate in the last election for the position; and
  - (b) was not elected at that election; and
  - (c) is eligible to be elected to the position.
- (2) An application under subsection (1) must reach the electoral commissioner before 12 noon on the 10th day after the day when notice of the vacancy is given under section 64 (2) (the ***closing time for applications***).
- Note* If a form is approved under the [Act](#), s 138 for an application, the form must be used.
- (3) An applicant may withdraw his or her application by giving the electoral commissioner written notice of the withdrawal before applications close.

- (4) The electoral commissioner must reject a purported application that is not in accordance with subsection (2) and give the person in relation to whom it was made written notice setting out the reasons for the rejection.

## **66 Publication of candidate's details**

- (1) If 1 or more people have applied to be a candidate under section 65, the electoral commissioner must declare the name and postal address of each candidate.
- (2) If there are no candidates for a casual vacancy, the electoral commissioner must declare that there are no candidates and tell the board president, in writing, that there are no candidates.
- (3) A declaration under subsection (1) is a notifiable instrument.

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

## **67 Determination of candidates to fill vacancy**

- (1) If there is only 1 candidate for a casual vacancy, the electoral commissioner must declare the candidate elected.
- (2) If there is more than 1 candidate for a casual vacancy, the electoral commissioner must, as soon as practicable after making a declaration under section 66 (1)—
  - (a) fix a time and place for a recount of the ballot papers counted at the last election at which the former board member was elected; and
  - (b) give each candidate written notice of the time and place fixed; and
  - (c) recount the ballot papers in accordance with the [Electoral Act 1992](#), schedule 4, part 4.3 (with necessary changes).

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) The electoral commissioner must—
  - (a) declare the successful candidate elected; and
  - (b) tell the board president, in writing, about the election of the successful candidate.

**68 Board nominees**

- (1) This section applies if—
  - (a) there is a casual vacancy for a position on the board; and
  - (b) either—
    - (i) the former board member's term had not more than 1 year to run; or
    - (ii) the electoral commissioner tells the board president under section 64 (4) that it is not practicable to fill the vacancy; or
    - (iii) the commissioner tells the board president under section 66 (2) that there are no candidates for the vacancy.
- (2) If the board is satisfied that, because of the size of the board, it is not practicable for the board to exercise its functions without filling the vacancy, the board may ask the Minister to nominate a person to fill the vacancy.
- (3) If the board asks the Minister to fill the vacancy, the Minister must, after consulting the board, nominate a person who is eligible to be elected to the vacant position and tell the electoral commissioner about the nomination.
- (4) The electoral commissioner must—
  - (a) declare the person elected; and
  - (b) tell the board president, in writing, about the person's election.

- (5) To remove any doubt, the board may exercise functions under this section even if it does not have a quorum.

*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*).

## **69 Term of board member declared elected under div 5.2**

- (1) This section applies to a person declared elected under this division.
- (2) The term of the person's appointment begins at the end of the day the election of the person is declared and, unless sooner ended, ends on the day the original board member's appointment would have ended.

## **70 Temporary vacancies**

- (1) This section applies if—
- (a) an elected board member cannot for any reason exercise the functions of the position to which the member was elected; and
- (b) the period for which the member cannot exercise the functions is shorter than 1 year; and
- (c) the board member's inability to exercise the functions is temporary.

### **Examples—par (a)**

- 1 The board member is ill or on leave.
- 2 The board member is outside the ACT or Australia.

*Note 1* **Function** is defined in the [Legislation Act](#), dict, pt 1 to include authority, duty and power.

*Note 2* An example is part of the regulation, 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) If the board is satisfied that, because of the size of the board, it is not practicable for the board to exercise its functions without filling the position of the elected board member, the board may ask the Minister to appoint a person to fill the position temporarily.
- (3) If asked to do so under subsection (2) and after consulting the board, the Minister may, in writing, appoint to the board a person who is eligible to be a member of the board for the period while the elected member is unable to exercise the functions of the position.
- (4) To remove any doubt, the board may exercise functions under this section even if it does not have a quorum.

## Division 5.3 Disputed elections

### 71 Definitions—div 5.3

In this division:

*bribery* means a contravention of the [Criminal Code](#), section 356 (Bribery) in relation to an election.

*contravention*, of a section of the Act or the [Crimes Act 1914](#) (Cwlth), includes—

- (a) attempting or conspiring to contravene that section; or
- (b) aiding, abetting, counselling or procuring the contravention of that section.

*Court of Disputed Elections*—see section 72 (2).

*disputed election application* means an application disputing the validity of an election.

*election*—

- (a) means an election under this part; and
- (b) includes the election of a person to fill a casual vacancy.

*file* means file in the registrar's office.

*leave application* means an application under section 81 for leave to withdraw a disputed election application.

*proceeding* means a proceeding before the Court of Disputed Elections.

*registrar* means the registrar of the Supreme Court.

*undue influence* means a contravention of the [Crimes Act 1914](#) (Cwlth), section 28 (Interfering with political liberty).

## **72 Court of Disputed Elections**

- (1) The Supreme Court has jurisdiction to hear and decide—
  - (a) disputed election applications; and
  - (b) questions referred to the court by the board about—
    - (i) the eligibility of people who have been declared elected to be members of the board; or
    - (ii) vacancies in the membership of the board.
- (2) When exercising jurisdiction under subsection (1), the Supreme Court is known as the *Court of Disputed Elections*.

## **73 Powers of the court**

The Supreme Court has the same powers (so far as they are applicable) when exercising jurisdiction under this part as it has when exercising its original jurisdiction.

## **74 Court's decisions are final**

A decision of the Court of Disputed Elections is final and conclusive, is not subject to appeal and must not be called into question.

**75 Validity may be disputed after election**

- (1) The validity of an election must not be disputed except by application to the Court of Disputed Elections after the result of the election is declared.
- (2) Without limiting subsection (1), if any of the following matters in relation to an election is called into question, the validity of the election is to be taken to be in dispute:
  - (a) the acceptance or rejection of the nomination of a candidate by the electoral commissioner;
  - (b) the eligibility of a person to be nominated as a candidate or to be elected;
  - (c) any matter connected with the distribution, or scrutiny, of ballot papers;
  - (d) any matter connected with the admission or rejection of votes by the electoral commissioner at the preliminary scrutiny.

**76 People entitled to dispute elections**

The following people are entitled to dispute the validity of an election for the board:

- (a) a candidate in the election;
- (b) an elector for the election;
- (c) the electoral commissioner.

**77 Form of disputed election application**

- (1) A disputed election application must—
  - (a) state the declarations sought; and
  - (b) set out the facts relied on to invalidate the election with sufficient detail to identify the matters on which the applicant relies to justify each declaration; and



- (c) set out the applicant's full name and address and the capacity in which the applicant is making the application; and
  - (d) be signed by the applicant.
- (2) The signature of an applicant other than the electoral commissioner must be witnessed by someone else.
  - (3) The witness's signature, full name, address and occupation must be set out in the disputed election application.

**78 Time for filing disputed election application**

A disputed election application must be filed within 40 days after the day the result of the election is notified.

**79 Registrar to serve copies of disputed election application**

If a disputed election application is filed under section 78, the registrar must serve a sealed copy of the application on—

- (a) the person whose election is being disputed; and
- (b) the board president; and
- (c) if the electoral commissioner is not the applicant—the commissioner.

**80 Parties to disputed election application**

- (1) The following people are entitled to appear in a proceeding under this division:
  - (a) the applicant;
  - (b) the electoral commissioner;
  - (c) if the person whose election is being disputed files a notice of appearance within 7 days after the day the person is served with a copy of the application under section 79—the person;
  - (d) anyone else with the leave of the Court of Disputed Elections.

- (2) A person other than the applicant who appears under subsection (1) is taken to be a respondent to the disputed election application.
- (3) This section does not apply to a leave application.

**81 Withdrawal of disputed election application**

- (1) The applicant for a disputed election application may withdraw the application only with the leave of the Court of Disputed Elections.
- (2) An applicant is not entitled to make a leave application unless notice of the applicant's intention to do so has been given to the electoral commissioner and to each of the respondents to the disputed election application.
- (3) If there are 2 or more applicants to the disputed election application, the leave application must not be made without the consent of each applicant to the disputed election application.
- (4) If the disputed election application is withdrawn, the applicant is liable to pay the costs of the respondent in relation to that application and the leave application unless the Court of Disputed Elections orders otherwise.

**82 Hearing and decision on leave application**

- (1) This section applies to a leave application made under section 81 in relation to a disputed election application.
- (2) The electoral commissioner, and each respondent to the disputed election application, are entitled to appear as respondents to the leave application.
- (3) Anyone else may appear as a respondent to the leave application only with the leave of the Court of Disputed Elections.

- (4) In deciding the leave application, the Court of Disputed Elections must inquire into the reasons for the application and decide whether it was—
- (a) the result of an agreement, arrangement or understanding; or
  - (b) in consideration of—
    - (i) the position on the board that is in issue being vacated in the future; or
    - (ii) the withdrawal of another disputed election application; or
    - (iii) anything else.
- (5) The Court of Disputed Elections must publish its reasons for a decision as if it were a judgment and give a copy of them to the electoral commissioner.

**83 Person ceasing to be respondent to disputed election application**

- (1) This section applies to a person (other than the electoral commissioner) who is a respondent to a disputed election application if, before the hearing of a disputed election application, the respondent—
- (a) dies or gives written notice that he or she does not intend to oppose the application; or
  - (b) resigns from, or otherwise ceases to hold, the position on the board.
- (2) If this section applies to a person—
- (a) the person stops being a respondent; and

- (b) the person, or his or her personal representative, must—
    - (i) give the registrar written notice explaining why the person has stopped being a respondent; and
    - (ii) give each person who might have been an applicant in relation to the election application notice that the person has stopped being a respondent; and
  - (c) if a person who might have been an applicant in relation to the election application files a notice of appearance within 7 days after the day the person receives the notice under paragraph (b) (ii)—that person is entitled to appear as a respondent to the application.
- (3) A person who has stopped being a respondent to a disputed election application is not entitled to appear as a party in a proceeding in relation to the application.
  - (4) The registrar must tell the electoral commissioner of the receipt of a notice mentioned in subsection (2) (b).

#### **84 End of disputed election application**

- (1) The death of a sole applicant or the last survivor of several applicants ends a disputed election application.
- (2) The ending of a disputed election application does not affect the liability of the applicant or anyone else for costs awarded against the applicant or anyone else.

#### **85 Hearing disputed election applications**

- (1) As soon as practicable after the time for filing a disputed election application under section 78 in relation to an election has ended, the registrar must prepare a list of the disputed election applications in the order of filing and make a copy of the list available for inspection at the registrar's office.

- (2) A disputed election application must, as far as practicable, be heard in the order in which it appears in the list.
- (3) However, all disputed election applications in relation to an election for a particular position on the board must be heard together.

## **86 Declarations and orders of court**

- (1) The Court of Disputed Elections must hear and decide a disputed election application and may—
  - (a) declare the election void; or
  - (b) declare that a person who has been declared elected was not properly elected; or
  - (c) declare that a person who has not been declared elected was properly elected; or
  - (d) dismiss the application completely or partly.
- (2) The Court of Disputed Elections may make any other order in relation to the disputed election application that the court considers appropriate.

## **87 Illegal election practices**

- (1) The Court of Disputed Elections may make a declaration under section 86 (1) (a) or (b)—
  - (a) on the ground of an illegal practice in relation to the election; or
  - (b) on any other ground the court considers appropriate.
- (2) However, the Court of Disputed Elections must not make a prescribed declaration unless satisfied that—
  - (a) the result of the election was, or was likely to have been, affected by the illegal practice; and
  - (b) it is just to make the declaration.

- (3) If the Court of Disputed Elections finds an illegal practice in relation to an election (whether or not the court makes a declaration under section 86 (1) (a) or (b) on that ground), the registrar must report the finding to—
- (a) the electoral commissioner; and
  - (b) the director of public prosecutions; and
  - (c) the board president.
- (4) A finding by the Court of Disputed Elections in relation to an illegal practice in relation to an election does not bar, or prejudice in any way, any prosecution in relation to the act claimed before the court to have been the illegal practice.
- (5) In this section:

*illegal practice* means a contravention of the [Criminal Code](#), section 356 (Bribery) or part 3.6 (Forgery and related offences), and includes undue influence.

*prescribed declaration* means a declaration under section 86 (1) (a) or (b)—

- (a) on the ground of an illegal practice (other than bribery or undue influence); or
- (b) on the ground of bribery or undue influence by a person who was not a candidate for the election without the knowledge or consent of a candidate in the election.

*Note Undue influence*—see s 71.

## 88 Bribery or undue influence by person elected

If the Court of Disputed Elections finds that a person who was declared elected committed, or attempted to commit, bribery or undue influence in relation to any election, the court must declare the election of the person void.

**89 Immaterial delays and errors in relation to elections**

- (1) The Court of Disputed Elections must not make a declaration under section 86 (1) (a), (b) or (c) on the ground that there was a delay in—
  - (a) declaring the nominations for the election; or
  - (b) declaring the result of the election.
- (2) The Court of Disputed Elections must not make a declaration under section 86 (1) (a), (b) or (c) on the ground of an absence of, or error or omission by, the electoral commissioner or an officer unless the absence, error or omission affected, or was likely to have affected, the result of the election.
- (3) In deciding whether an absence, error or omission that prevented an elector from voting affected the result of an election, the Court of Disputed Elections must not have regard to any evidence of the way in which the elector intended to vote.

**90 Inquiries by court**

In deciding a disputed election application, the Court of Disputed Elections may make the inquiries it considers appropriate, including—

- (a) an inquiry about the identity of people who voted; and
- (b) an inquiry about whether ballot papers were improperly admitted or rejected.

**91 Rejected ballot papers**

In deciding a disputed election application, the Court of Disputed Elections may have regard to any ballot papers rejected at the preliminary scrutiny if the court forms the opinion that the ballot papers should not have been rejected.

**92 Evidence that people were not allowed to vote**

In deciding a disputed election application, the Court of Disputed Elections must not have regard to any evidence that a person was not allowed to cast a vote in an election unless the court is satisfied that the person—

- (a) claimed to vote under this regulation; and
- (b) complied with the requirements of this regulation for voting to the extent that the person was allowed to do so.

**93 Inspection of electoral papers**

- (1) A party to a disputed election application may inspect, and make copies of or take extracts from, the electoral papers (except ballot papers) in the electoral commissioner's possession that were used in relation to the election being disputed.
- (2) However, the party may only do something under subsection (1)—
  - (a) with the leave of the Court of Disputed Elections; and
  - (b) in the presence of the electoral commissioner or a member of staff of the electoral commission.

**94 Commissioner not prevented from accessing documents**

Unless the Court of Disputed Elections otherwise orders, the filing of a disputed election application does not prevent the electoral commissioner, another member of the electoral commission or a member of the staff of the commission from having access to a document to which the person would otherwise be entitled to have access to exercise a function under this regulation.



**95 Registrar to serve copies of court declarations on certain people**

The registrar must, after a disputed election application is decided, serve a sealed copy of the declarations and orders (if any) made by the Court of Disputed Elections on—

- (a) the board president; and
- (b) each party to the application.

**96 Effect of court declarations**

- (1) If the Court of Disputed Elections declares an election void, another election must be held under this part.
- (2) If the Court of Disputed Elections declares that a person who has been declared elected was not properly elected, the person is taken not to have been properly elected.
- (3) If the Court of Disputed Elections declares that a person who has not been declared elected was properly elected, the person is taken to have been properly elected.
- (4) A declaration by the Court of Disputed Elections mentioned in subsection (1), (2) or (3) takes effect at the end of the day the declaration by the court is made.

**97 Court procedure**

In a proceeding, the Court of Disputed Elections—

- (a) must be guided by the substantial merits and good conscience of the case; and
- (b) is not bound by technicalities, legal forms or the rules of evidence, but may inform itself in the way it considers appropriate.

**98 Legal representation limited in court proceeding**

In a proceeding, a party is entitled to be represented by only 1 lawyer appearing as counsel.

**99 Costs may be ordered against Territory**

Even if the Territory is not a party to a proceeding, the Court of Disputed Elections may order the Territory to pay some or all of the costs of the proceeding.

## Part 6 Board membership

### 100 Eligibility to remain in office—board members

If a person who is a board member stops being registered by the board as a veterinary surgeon, the person stops being a board member.

## **Part 7 Board meetings**

### **101 When are board meetings held**

- (1) The board—
  - (a) may hold the meetings it considers appropriate to allow the board to exercise its functions; and
  - (b) must hold at least 1 meeting that is open to the public in each calendar year.
- (2) The board president may, in writing, call a meeting at a stated time and place.
- (3) The board president must call a meeting if a majority of the board members asks the president, in writing, to call a meeting.

### **102 Board meetings usually in public**

- (1) Board meetings must be open to the public unless the board decides otherwise, either for a particular meeting or for a particular kind of meeting.
- (2) A decision of the board that a meeting is not to be open to the public does not prevent the board from allowing someone other than a board member to attend the meeting.
- (3) The board must tell each registered veterinary surgeon that a public board meeting is to be held.

### **103 Ministerial referrals to board**

The Minister may, in writing, refer a matter to the board for consideration if—

- (a) the Minister considers that the matter involves the protection of the public or of the public interest; and
- (b) the matter relates to veterinary surgeons.

**104 Presence at board meetings**

- (1) If the members of the board agree, a board meeting may be held by means of a method of communication, or a combination of a number of methods of communication, that allows everyone taking part in the meeting to hear what anyone else taking part in the meeting says without being in each other's presence.

**Examples**

a phone link, a satellite link, an internet or intranet link

*Note* An example is part of the regulation, 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 board member who takes part in a meeting conducted under subsection (1) is taken, for all purposes, to be present at the meeting.

**105 Presiding member at board meetings**

- (1) The board president must preside at a board meeting at which the president is present.
- (2) If the president is not present but the board deputy president is present, the deputy president must preside at the meeting.
- (3) If neither the board president nor board deputy president is present at a board meeting attended by a quorum of board members, the members present may elect a member present to preside at the meeting.

**106 Board quorum**

- (1) A quorum, for a board meeting, is a majority of the board members.
- (2) For this section, the *board members* include any positions on the board that are vacant.

### **107 Voting at meetings**

- (1) A question arising at a board meeting must be decided by a majority of the votes of board members attending and voting.
- (2) The member presiding at a board meeting may decide a question arising at the meeting if—
  - (a) the member is the board president or board deputy president; and
  - (b) the members attending and voting cannot decide the question by a majority.
- (3) However, a decision on a question arising at a meeting must be postponed until a future board meeting if—
  - (a) the member presiding at the meeting is not the board president or board deputy president; and
  - (b) the members attending and voting cannot decide the question by a majority.
- (4) Voting at a board meeting is by show of hands or, if a board member attending the meeting calls for a vote by ballot, by ballot.

### **108 Records of board meetings**

The board must keep a record of what happens at its meetings.

*Note* Under the *Electronic Transactions Act 2001*, s 9, a requirement in legislation for something to be signed may be satisfied even if the thing is kept in electronic form.

### **109 Board meeting procedures**

If this part does not prescribe a procedure for something the board must or may do at a meeting, the board may decide its own procedures for meetings.

## Part 8 Board functions

### 110 Board to seek to form ties

- (1) The board must actively seek to form ties with relevant entities to further the promotion and achievement of suitability to practise standards and professional development standards for veterinary surgeons.

- (2) In this section:

*relevant entities* means professional entities and entities in local jurisdictions that correspond to the board.

### 111 Performance of board on standards

- (1) In assessing the board's performance, the Minister may consider whether the standards approved by the board under section 16 (Standards statements) benefit, or are likely to benefit, the public.
- (2) The Minister must consider the public benefit of the standards by considering—
  - (a) whether the standards—
    - (i) promote the main object of the Act; and
    - (ii) clearly set out safe practice requirements; and
  - (b) how much the board consulted in the development of the standards; and
  - (c) whether there is public support for the standards; and
  - (d) the public benefit of the standards as compared to alternative approaches.

**112 Performance of board on applications and reports**

- (1) In assessing the board's performance, the Minister may enquire and consider information on whether the board deals with applications under the Act and reports as promptly as possible while allowing for proper consideration of the applications and reports.
- (2) The board is responsible for ensuring that veterinary surgeons referred to panels established by the board are dealt with as promptly as possible, while allowing for proper consideration of the issues.

**113 Community representative list**

- (1) The board must, not earlier than 6 months before the expiry of the appointment of the community representative member of the board, give the Minister the community representative list.

*Note* The Minister must appoint the community representative from the community representative list prepared by the board (see [Act](#), s 110 (4)).

- (2) The community representative list must include not less than 3 candidates.



## Part 9 Miscellaneous

### 114 Inspection of incorporated documents

- (1) This section applies to an incorporated document, or an amendment or replacement of an incorporated document.

*Note* **Incorporated document**—see the dictionary.

- (2) The board must ensure that the incorporated document, amendment or replacement is made available for inspection free of charge to the public on business days at reasonable times at the office of the board.

- (3) In this section:

**amendment**, of an incorporated document—see section 115 (6).

### 115 Notification of certain incorporated documents

- (1) This section applies to—
  - (a) an incorporated document; or
  - (b) an amendment of, or replacement for, an incorporated document.

**Example—replacement standard**

a new edition of the incorporated document

*Note 1* **Incorporated document**—see the dictionary.

*Note 2* An example is part of the regulation, 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) The board may prepare a written notice (an **incorporated document notice**) for the incorporated document, amendment or replacement that contains the following information:

- (a) for an incorporated document—details of the document, including its title, author and date of publication;

- (b) for a replacement of an incorporated document—details of the replacement, including its title, author and date of publication;
  - (c) for an amendment of an incorporated document—the date of publication of the amendment (or of the incorporated document as amended) and a brief summary of the effect of the amendment;
  - (d) for an incorporated document or any amendment or replacement—
    - (i) a date of effect (not earlier than the day after the day of notification of the notice); and
    - (ii) details of how access to inspect the document, amendment or replacement may be obtained under section 114; and
    - (iii) details of how copies may be obtained, including an indication of whether there is a cost involved.
- (3) An incorporated document notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (4) The incorporated document, amendment or replacement has no effect under this regulation unless—
- (a) an incorporated document notice is notified in relation to the document, amendment or replacement; or
  - (b) the document, amendment or replacement is notified under the [Legislation Act](#), section 47 (6).
- (5) The [Legislation Act](#), section 47 (7) does not apply in relation to the incorporated document, amendment or replacement.

(6) In this section:

***amendment***, of an incorporated document, includes an amendment of a replacement for the incorporated document.

***replacement***, for an incorporated document, means—

- (a) a document that replaces the incorporated document; or
- (b) a document (an ***initial replacement***) that replaces a document mentioned in paragraph (a); or
- (c) a document (a ***further replacement***) that replaces an initial replacement or any further replacement.

## Dictionary

(see s 3)

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

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

- correctional centre
- disallowable instrument (see s 9)
- electoral commissioner
- Executive
- function
- penalty unit (see s 133)
- person (see s 160)
- Self-Government Act
- under.

*Note 3* Terms used in this regulation have the same meaning that they have in the [Veterinary Surgeons Act 2015](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Veterinary Surgeons Act 2015](#), dict:

- board
- board deputy president (see s 109)
- board president (see s 108)
- corresponding law
- executive officer.

***act*** includes fail to act.

***AVBC*** means the Australasian Veterinary Boards Council.

***ballot paper envelope***, for part 5 (Election of board members)—see section 33.

**board member**, means each of the following of the board:

- (a) the board president;
- (b) the board deputy president;
- (c) a board member appointed under the [Act](#), section 110 (Appointment of board members);
- (d) a board member elected under part 5 (Election of board members).

**bribery**, for division 5.3 (Disputed elections)—see section 71.

**casual vacancy**, for division 5.2 (Casual and temporary vacancies in elected positions)—see section 62.

**close of poll day**, for an election, for part 5 (Election of board members)—see section 34 (1) (d).

**closing time for applications**, for division 5.2 (Casual and temporary vacancies in elected positions)—see section 65 (2).

**contravention**, of a section of the Act or the [Crimes Act 1914](#) (Cwlth), for division 5.3 (Disputed elections)—see section 71.

**Court of Disputed Elections**, for division 5.3 (Disputed elections)—see section 72 (2).

**disputed election application**, for division 5.3 (Disputed elections)—see section 71.

**election**—

- (a) for the board, for part 5 (Election of board members)—see section 33; and
- (b) for division 5.3 (Disputed elections)—see section 71.

**election start day**, for an election, for part 5 (Election of board members)—see section 34 (1) (a).

**elector**, for an election, for part 5—see section 46.

**eligible**, for part 5 (Election of board members)—see section 33.

**file**, for division 5.3 (Disputed elections)—see section 71.

**former board member**, in relation to a casual vacancy in a position on the board, for division 5.2 (Casual and temporary vacancies in elected positions)—see section 62.

**hour of nomination**, for an election for the board, for part 5 (Election of board members)—see section 39.

**incorporated document** means a standard statement developed by another entity and approved by the board under section 16.

**issue of papers day**, for an election, for part 5 (Election of board members)—see section 34 (1) (c).

**leave application**, for division 5.3 (Disputed elections)—see section 71.

**list of veterinary surgeons**, for an election, for part 5 (Election of board members)—see section 35.

**local jurisdiction** means a State or New Zealand, but does not include the ACT.

**nomination close day**, for an election of a board member, for part 5.3 (Election of board members)—see section 34 (1) (b).

**officer**, for part 5 (Election of board members)—see section 33.

**partial failure**, of an election, for division 5.2 (Casual and temporary vacancies in elected positions)—see section 62.

**preliminary scrutiny**, for part 5 (Election of board members)—see section 33.

**proceeding**, for division 5.3 (Disputed elections)—see section 71.

**prohibited substance**—see the [Medicines, Poisons and Therapeutic Goods Act 2008](#), section 13.

**registrar**, for division 5.3 (Disputed elections)—see section 71.

**scrutiny centre**, for an election for the board, for part 5 (Election of board members)—see section 33.

**specialist area** means an area of practice within veterinary surgery that the AVBC has approved a qualification for.

*Note* A veterinary surgeon may practice in a specialist area if they hold a qualification in the area that is approved, in writing, by the AVBC (see s 10).

**standards statement**—see section 16.

**undue influence**, for division 5.3 (Disputed elections)—see section 71.

## Endnotes

1 About the endnotes

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## 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



### 3 **Legislation history**

#### **Veterinary Surgeons Regulation 2015 SL2015-39**

notified LR 27 November 2015

s 1, s 2 commenced 27 November 2015 (LA s 75 (1))

remainder commenced 1 December 2015 (s 2 and see [Veterinary Surgeons Act 2015](#) A2015-29 s 2)

### 4 **Amendment history**

#### **Commencement**

s 2 om LA s 89 (4)

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