

Serial 174
Veterinarians Amendment Act 1999
Mr Palmer

**A BILL
for
AN ACT**

to amend the *Veterinarians Act*

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NORTHERN TERRITORY OF AUSTRALIA
VETERINARIANS AMENDMENT ACT 1999

No. of 1999

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NORTHERN TERRITORY OF AUSTRALIA

No. of 1999

AN ACT

to amend the *Veterinarians Act*

[Assented to 1999]
[Second reading 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Veterinarians Amendment Act 1999*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Veterinarians Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended—

- (a) by inserting before the definition of "approved" in subsection (1) the following:

"'appointed member' means a member appointed under section 5(1)(c);";

- (b) by inserting after the definition of "Chief Inspector of Stock" in subsection (1) the following:

" 'elected member' means a member elected for the purposes of section 5(1)(b) and includes a person who is to be taken under the Regulations to be elected;"; and

- (c) by inserting after the definition of "misconduct" in subsection (1) the following:

" 'notice of hearing' means a notice served under section 31D(1);

'notice of investigation' means a notice served under section 29(1) or 30(1);".

5. Repeal and substitution

Section 5 of the Principal Act is repealed and the following substituted:

"5. Membership of Board

"(1) The Board consists of the following members:

- (a) the Chief Inspector of Stock or, while a person appointed under subsection (3) is a member, that person;
- (b) 2 registered veterinarians elected by registered veterinarians by postal ballot to represent the interests of registered veterinarians; and
- (c) 2 persons —
 - (i) one of whom is not and never has been a registered veterinarian or a veterinarian registered under an Act of a State or another Territory of the Commonwealth and who is appointed by the Minister to represent the public interest after considering the recommendation, if any, of the Board; and
 - (ii) one of whom may be, but need not be, a registered veterinarian, appointed by the Minister after considering the recommendation, if any, of the Board.

"(2) A person is not eligible to be elected or appointed a member unless he or she is resident in the Territory.

"(3) The Minister may in writing appoint a person to be a member of the Board for the purposes of subsection (1)(a).

"(4) The Minister must, before appointing a person to be a member under subsection (1)(c), notify the Board that the Minister seeks its recommendation as to whom the member should be, unless the Board has already given its recommendation to the Minister.

"(5) The Board may, within 30 days after being notified under subsection (4), recommend to the Minister a person to be appointed a member under subsection (1)(c).

"(6) The Regulations are to provide for the conduct of elections by postal ballot under subsection (1)(b) and may provide for –

- (a) the Registrar to declare a candidate in an election to be an elected member if the number of candidates for the election is equal to or less than the number of vacancies; and
- (b) the Minister to appoint a registered veterinarian to be an elected member if –
 - (i) there are no candidates for an election; or
 - (ii) the number of candidates for an election is less than the number of vacancies.

"(7) The Chief Inspector of Stock or, if a person is appointed under subsection (3) to be a member, that person, is the President of the Board.

"(8) The Minister must appoint one of the members who is a registered veterinarian to be the Vice President of the Board.

"(9) Schedule 1 has effect with respect to members and their deputies."

6. Annual fee

Section 19 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) A registered veterinarian, other than a veterinarian having interim registration, must, on or before 1 January in each year, pay to the Board –

- (a) the prescribed fee for registration as a veterinarian; and
- (b) if he or she is registered as a veterinary specialist – the prescribed fee for registration as a veterinary specialist,

for the calendar year beginning 1 January.

"(1A) Despite subsection (1), if a registered veterinarian, other than a veterinarian having interim registration, applies for registration after 1 October and before 31 December in a year, he or she is not required to pay, in relation to the first calendar year after his or her registration, the fee prescribed under subsection (1)."

7. Complaints against registered veterinarians

Section 26 of the Principal Act is amended –

- (a) by omitting from subsection (1)(c), (d) and (e) "convicted" and substituting "found guilty"; and
- (b) by adding at the end the following:

"(3) A complaint may only be made against a registered veterinarian if the grounds on which the complaint is made arose within the 2 years immediately before the making of the complaint."

8. Meaning of misconduct

Section 28 of the Principal Act is amended by inserting in subsections (1) and (2) "or a person formerly registered under this Act" after "a registered veterinarian".

9. Repeal and substitution

Sections 29, 30 and 31 of the Principal Act are repealed and the following substituted:

"29. Board to investigate complaint

"(1) Subject to subsection (5), if a complaint is made under section 26 or 27, the Board must serve on the person against whom the complaint is made a notice of investigation.

"(2) A notice of investigation under subsection (1) is to –

- (a) inform the person on whom it is served –
 - (i) that a complaint has been made against him or her;
 - (ii) of the grounds of the complaint; and
 - (iii) of the particulars contained in the complaint;
- (b) state that the Board proposes to carry out an investigation into the complaint;

- (c) specify a date, being a date not earlier than 28 days after the notice is served, by which the Board is to complete the investigation; and
- (d) inform the person of the right conferred on him or her by section 31A(2) and the date, being a date not earlier than 7 days after the notice is served, by which the person must make his or her submission to the Board.

"(3) If the Board serves a notice of investigation on a person, it must –

- (a) send a copy of the notice to the complainant; and
- (b) inform the complainant in writing that the notice has been served.

"(4) If the Board serves a notice of investigation on a person, the Board must –

- (a) carry out an investigation into the complaint; and
- (b) complete the investigation by the date specified in the notice or by a later date fixed by the Board.

"(5) If the Board fixes a later date under subsection (4)(b) it must serve written notice of the date on the complainant and the person on whom the notice of investigation was served.

"(6) If a complaint appears to the Board to be frivolous, vexatious or minor, the Board must dismiss the complaint and serve the complainant with written notice of its dismissal.

"30. Board may carry out investigation on own initiative

"(1) If the Board is, otherwise than by reason of a complaint made to it under this Part, of the opinion –

- (a) in the case of a registered veterinarian – that a complaint may lie against him or her on a ground specified in section 26(1); or
- (b) in the case of a person formerly registered under this Act – that the person may have been guilty of misconduct when he or she was a registered veterinarian,

the Board may serve on him or her a notice of investigation in accordance with subsection (3).

"(2) A notice of investigation served on a person formerly registered under this Act may relate only to misconduct during the period of 2 years immediately before the date on which the notice is served.

"(3) A notice of investigation under this section is to –

- (a) inform the person on whom it is served of the Board's opinion and the reason for the Board's opinion and, in a case to which subsection (1)(a) refers, is to specify the ground of complaint;
- (b) state that the Board proposes to carry out an investigation into the matter;
- (c) specify the date, being a date not earlier than 28 days after the notice is served, by which the Board is to complete the investigation; and
- (d) inform the person of the right conferred on him or her by section 31A(2) and the date, being a date not earlier than 7 days after the notice is served, by which the person must make his or her submission to the Board.

"(4) If the Board serves a notice of investigation under this section, it must –

- (a) carry out an investigation; and
- (b) complete the investigation by the date specified in the notice or by a later date fixed by the Board.

"(5) If the Board fixes a later date under subsection (4)(b) it must serve written notice of the date on the person on whom the notice of investigation was served.

"31. Board may suspend registration

"(1) If the Board serves a notice of investigation on a registered veterinarian, it may, if it considers it in the public interest –

- (a) in the notice; or
- (b) by another notice served on the registered veterinarian,

suspend the registered veterinarian's registration from the date of service of the notice.

"(2) A notice under subsection (1)(b) may be served at any stage during the Board's proceedings in relation to the notice of investigation.

"(3) The suspension remains in force –

- (a) until the Board certifies, by notice served on the registered veterinarian, that his or her suspension is cancelled; or

- (b) in relation to a matter under investigation that proceeds to a hearing—until the hearing is concluded and a notice is served on the registered veterinarian under section 33(1),

whichever is the earlier.

"31A. Procedure of investigation

"(1) An investigation under this Part is to be conducted by the Board in the manner the Board thinks fit.

"(2) The person in relation to whom the investigation is to be carried out is entitled to make written submissions to the Board for the purposes of the investigation.

"31B. Completion of investigation

"(1) If a complaint was made under section 26 or 27, the Board must complete an investigation by determining—

- (a) that the complaint is dismissed and take no further action;
- (b) if satisfied that there is prima facie evidence to substantiate the complaint—that the Board will proceed to a hearing; or
- (c) if satisfied that a ground specified in section 26(1) has been established against a registered veterinarian—that the Board will reprimand or caution the veterinarian and take no further action.

"(2) If the Board served a notice under section 30, the Board must complete an investigation by determining that the Board—

- (a) will take no further action;
- (b) will proceed to a hearing; or
- (c) will reprimand or caution the person to whom the notice relates and take no further action.

"(3) The Board must, not later than 28 days after completing an investigation, serve notice of the determination on the complainant, if any, and the person in relation to whom the investigation was carried out.

"(4) If the Board determines to reprimand or caution a person, a notice under subsection (3) is to contain—

- (a) the reprimand or caution; and
- (b) the reasons for the Board's decision.

"(5) If—

- (a) the registration of a person in relation to whom an investigation was carried out was suspended under section 31; and
- (b) the Board determines that it will not take further action,

the Board must certify that the suspension is cancelled.

"(6) A decision by the Board under subsection (1) or (2) to take no further action in relation to an investigation of a matter does not prevent the Board from reinvestigating the matter at a later date if—

- (a) the circumstances of the matter have changed; or
- (b) the Board receives new information in relation to the matter.

"31C. Person who is reprimanded or cautioned may require hearing

"(1) If the person to whom an investigation relates receives a notice under section 31B(3) reprimanding or cautioning him or her, he or she may in writing request the Board to proceed to a hearing.

"(2) The Board must proceed to a hearing if it receives a request under subsection (1).

"31D. Notice of hearing

"(1) If—

- (a) the Board has determined under section 31B(1) that it is to proceed to a hearing; or
- (b) the Board must proceed to a hearing under section 31C(2),

the Board must serve a notice of hearing on the person in relation to whom the hearing is to be held.

"(2) A notice of hearing is to—

- (a) specify the time and place of the hearing; and
- (b) inform the person of the rights conferred on him or her by section 32(5).

"(3) The time specified in the notice of hearing is not, without the consent of the person on whom the notice is served, to be less than 14 days after the date of service of the notice.

"(4) If—

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- (a) the Board has served a notice of hearing; and
- (b) the hearing is a result of a complaint made to the Board under section 26 or 27,

the Board must –

- (c) send a copy of the notice to the complainant; and
- (d) inform the complainant in writing that he or she is entitled to attend the hearing and of the rights conferred by section 32(5) on the person on whom the notice of hearing was served.

"(5) The Board must hold the hearing –

- (a) at the time and place specified in the notice of hearing; or
- (b) at a later time or other place fixed by the Board.

"(6) If the Board fixes a later date or other place under subsection (5)(b) it must serve written notice of the date or place on the complainant, if any, and the person on whom the notice of hearing was served."

10. Board's findings at hearing

Section 33 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) The Board must, at the conclusion of a hearing –

- (a) record its findings in writing;
- (b) not later than 28 days after the conclusion – serve on the person in relation to whom the hearing was held a written notice stating the findings; and
- (c) specify in the notice the disciplinary action, if any, to be taken under section 34.;"

- (b) by omitting subsection (2);

- (c) by omitting from subsection (3) –

- (i) "inquiry" and substituting "hearing"; and
- (ii) all words after "subsection (1)(b)"; and

- (d) by omitting from subsection (4) "an inquiry" and substituting "a hearing".

11. Disciplinary action

Section 34 of the Principal Act is amended –

- (a) by omitting from subsection (1) –
 - (i) "an inquiry" and substituting "a hearing"; and
 - (ii) "by a notice under section 33(2)" and substituting "in a notice under section 33(1)";
- (b) by omitting from subsection (1)(g)(i) "the inquiry" and substituting "the hearing";
- (c) by omitting from subsection (1)(g)(ii) "the inquiry" and substituting "the hearing";
- (d) by omitting from subsection (2) –
 - (i) "an inquiry" and substituting "a hearing";
 - (ii) "section 33(2)" and substituting "section 33(1)"; and
 - (iii) "subsection (1)(c)" and substituting "subsection (1)(a), (1)(c)"; and
- (e) by omitting subsection (3) and substituting the following:
 - "(3) If the Board in a notice under section 33(1) –
 - (a) cancels a veterinarian's registration; or
 - (b) takes action under subsection (2),

it may, by the notice, specify a date before which the person to whom the notice relates is not eligible to make an application for registration and the Board is not obliged to consider an application made by the person before that date."

12. Appeal to Local Court

Section 36 of the *Veterinarians Act* is amended by omitting subsection (1)(c) and substituting the following:

- "(c) a person in relation to whom a hearing is held under Part 5 may, within 28 days after the service on him or her of a notice under section 33(1), appeal against any or all of the following:
 - (i) a finding stated in the notice;
 - (ii) a requirement of, or action, if any, effected by the notice."

13. Schedule 1

Schedule 1 to the Principal Act is amended –

- (a) by omitting "Section 5(4)" and substituting "Section 5(8)";
- (b) by inserting in the heading to the Schedule "AND ELECTED MEMBERS" after "APPOINTED MEMBERS";
- (c) by omitting from clause 1(1) "a member" and substituting "an appointed member";
- (d) by omitting clause 1(2) and substituting the following:

"(2) Subject to this Schedule, an elected member holds office for 3 years on and from the date on which the person's election is declared and is eligible for re-election.

"(3) On the expiry of an elected member's or an appointed member's period of office, the member continues to hold office until the commencement of another appointment or election, as the case may be, to that office.";

- (e) by omitting from clause 2 "(1) A member" and substituting "A member";
- (f) by omitting clause 2(2);
- (g) by omitting from clause 3 "The Minister" and substituting "(1) The Minister";
- (h) by omitting from clause 3(d) "satisfactorily; or" and substituting "satisfactorily;";
- (j) by omitting clause 3(e) and substituting the following:
 - "(e) is found by the Board, after it has held a hearing under Part 5, to be guilty of misconduct; or
 - (f) has failed, without reasonable excuse or the permission of the Board, to attend 3 consecutive meetings of the Board.";
- (k) by adding at the end of clause 3 the following:

"(2) The Minister must notify the Board of the removal from office of an elected member.

"(3) A person ceases to be a member if he or she ceases to reside in the Territory.

"(4) An elected member ceases to be a member on ceasing to be a registered veterinarian.

"(5) A member who is a registered veterinarian ceases to be a member if he or she is found by the Board to not be a fit and proper person to provide veterinary services in the Territory.

"(6) The Board may regard a person as not a fit and proper person to provide veterinary services in the Territory if the Board holds an opinion in relation to the person of a kind specified in section 13(2).

"(7) The Registrar must notify the Minister if a member ceases to be a member under subclause (4) or (5).

"(8) If—

- (a) a vacancy occurs in the office of an elected member otherwise than by the expiry of the term for which the member was elected; and
- (b) the balance of the term is less than 6 months,

the Registrar must request the Minister to advise whether the Minister intends to appoint a person to the office under clause 4(1).

"(9) The Minister must, within 14 days after receiving a request under subclause (8), notify the Registrar that—

- (a) the Minister intends to appoint a person to the office under clause 4(1); or
 - (b) an election is required to be held.;"
- (m) by omitting clause 4 and substituting the following:

"4. Filling of casual vacancies

"(1) Subject to subclause (5), if a vacancy occurs in the office of a member other than by the expiry of the term for which the member was appointed or elected, the Minister may appoint a person who is resident in the Territory to the vacant office for the balance of that term.

"(2) A person appointed under subclause (1) must, in the case of a vacancy in the office of—

- (a) a member elected for the purposes of section 5(1)(b) — be a registered veterinarian; or

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- (b) a member appointed under section 5(1)(c)(i) – be a person who, in the opinion of the Minister, is capable of representing the interests of users of veterinary services.

"(3) The Minister must, before appointing a person to be a member under subclause (1), seek the recommendation of the Board as to the person who should be appointed under this clause, unless the Board has already given its recommendation to the Minister.

"(4) A person appointed under subclause (1) –

- (a) in the place of a person who was appointed to be a member – is to be taken to be an appointed member; or
- (b) in the place of a person who was elected to be a member – is to be taken to be an elected member,

for the purposes of this Act.

"(5) If –

- (a) a vacancy occurs in the office of an elected member otherwise than by the expiry of the term for which the member was elected; and
- (b) the balance of the term is more than 6 months,

an election is to be held for the purposes of section 5(1)(b) to fill the vacant office of the member."; and

- (n) by omitting from subclause (2) of clause 6 "for appointment" and substituting "for membership".

14. Further amendments

The Principal Act is amended as set out in the Schedule.

15. Existing members to continue in office

A person who was, immediately before the commencement of this Act, a member of the Board under a provision of the Principal Act as in force before the commencement, continues after the commencement to be a member of the Board elected or appointed, as the case may be, under that provision, until he or she ceases to hold office under the Principal Act as amended by this Act.

SCHEDULE

Section 14

Provision	Amendment	
	omit	substitute
Section 13(2)(e) and (f)	"convicted"	"found guilty"
Section 14	"(1) The Board"	"The Board"
Section 32(1)	"an inquiry"	"a hearing"
	"the inquiry"	"the hearing"
Section 32(3) and (4)	"an inquiry"	"a hearing"
Section 32(5)(a) and (b)	"the inquiry"	"the hearing"
Section 32(6)	"an inquiry"	"a hearing"
	"the inquiry"	"the hearing"
Section 32(7)(a) and (8)	"an inquiry"	"a hearing"
Section 32(9)	"an inquiry"	"a hearing"
	"section 29 or 30"	"section 31D"
Section 32(10)	"the inquiry"	"a hearing"
	"a hearing"	"the hearing"
Section 35(1)	"section 34(1)"	"section 33(1)"
Section 35(2)	"section 34(1) or (2)"	"section 33(1)"
Section 37(3)(a)	"section 33(1)(b) or section 34(1) or (2)"	"section 33(1)"
Section 37(3)(b)	"section 34(1) or (2)"	"section 33(1)"
Section 40(1)(b)	"an inquiry"	"an investigation or hearing"