

THE VETERINARY SURGEONS ACT, 1971

No. 35



of 1971

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AN ACT TO PROVIDE FOR THE REGISTRATION AND CONTROL OF VETERINARY SURGEONS AND FOR OTHER MATTERS INCIDENTAL THERETO AND CONNECTED WITH THE PRACTICE OF VETERINARY SURGERY AND VETERINARY MEDICINE.

Date of Assent: 13.10.1971

Date of Commencement:

ENACTED by the Parliament of Botswana.

PART I
PRELIMINARY

1. This Act may be cited as the Veterinary Surgeons Act, 1971, and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Short Title
and
Commence-
ment

2. In this Act, unless the context otherwise requires —

Inter-
pretation

“Board” means the Board of Veterinary Surgeons established by section 3;

“Chairman” means the Chairman of the Board designated by subsection (2) of section 3 and except for the purposes of section 6, does not include any person deemed to be Chairman in terms of the proviso to subsection (2) of section 3;

“Director” means the Director of Veterinary Services;

“practise veterinary surgery” includes the practice of veterinary medicine and the performance of any operation and the giving or providing of any treatment, test, advice, diagnosis or attention such as is usually performed, given or provided by veterinary surgeons;

“register” means the Register of Veterinary Surgeons prescribed by section 8;

“veterinary surgeon” means a person whose name appears in the register as a veterinary surgeon.

PART II
THE BOARD OF VETERINARY SURGEONS

3. (1) There is hereby established a Board to be known as the Board of Veterinary Surgeons which shall consist of the following members —

Establishment
and
Constitution
of Board

(a) the Director or, whenever the Director is not available to act, the Acting Director of Veterinary Services;

(b) the Attorney-General or, whenever the Attorney-General is not available to act, the Deputy Attorney-General;

(c) a veterinary surgeon appointed by the Minister:

Provided that the Minister shall appoint such person as he deems fit to be a member of the Board for the period of three months immediately following the commencement of this Act in place of the member to be appointed under paragraph (c)

(2) The Director shall be Chairman of the Board:

Provided that whenever the Director is not available to convene or preside at a meeting of the Board, the Acting Director of Veterinary Services shall with respect to such meeting and any matter transacted thereat have all the powers of, and be deemed to be, the Chairman.

Tenure of
Office

4. (1) The member of the Board appointed under paragraph (c) of subsection (1) of section 3 shall, without prejudice to the power of the Minister earlier to terminate his appointment, and unless his office becomes vacant under subsection (2), hold office for two years and be eligible for reappointment.

(2) The office of such member shall become vacant —

- (a) one month after the date on which he gives notice in writing to the Minister of his intention to resign from office;
- (b) if he becomes, in the opinion of the Minister, mentally or physically incapable of performing his duties as a member;
- (c) if his estate is surrendered or sequestrated as insolvent;
- (d) if he suspends payment of his debts or compounds with his creditors;
- (e) if he is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
- (f) if he is absent from two consecutive meetings of the Board without leave of the Chairman;
- (g) if he ceases to be registered as a veterinary surgeon.

Temporary
Members

5. Where the Minister is satisfied that a member appointed under paragraph (c) of subsection (1) of section 3 is incapacitated by illness, absence or other sufficient cause from satisfactorily performing the duties of his office, the Minister may appoint a veterinary surgeon temporarily to act in the place of such member during such incapacity and such veterinary surgeon shall, while so acting, be deemed to be a member of the Board.

Meetings and
Proceedings of
the Board

6. (1) Meetings of the Board shall be held at such times and places as the Chairman may determine, and shall be convened by notice given by him.

(2) The Chairman and any one other member of the Board shall form a quorum at any meeting of the Board.

(3) All decisions of the Board shall be made by a majority vote of the members present at a meeting of the Board; in the event of an equality of votes the Chairman shall have a casting vote in addition to his deliberative vote.

PART III

REGISTRATION OF VETERINARY SURGEONS

7. (1) No person, including a person employed by the Government as a veterinary officer or otherwise, shall ---

Restriction on
Practice of
Veterinary
Surgery

- (a) practise veterinary surgery;
- (b) hold himself out or allow himself to be held out as a veterinary surgeon; or
- (c) hold himself out or allow himself to be held out as qualified to practise veterinary surgery;

unless his name appears on the register as a veterinary surgeon.

(2) Nothing in subsection (1) shall be construed as precluding an unregistered person from providing, performing or giving, in accordance with the provisions of the Schedule, any treatment, test, advice, diagnosis or attendance which is specified in the Schedule.

8. (1) The Chairman shall keep a register to be styled the Register of Veterinary Surgeons in which shall be entered the name, address, qualifications and date of registration of every person whose name the Chairman is required under the provisions of section 11 or section 15 to enter on the register as a veterinary surgeon.

Register of
Veterinary
Surgeons

(2) The Chairman may make to any entry in the register any necessary alterations approved by the Board.

(3) The Chairman shall cause to be published in the Gazette the name, address and date of registration of every veterinary surgeon as soon as practicable after the date of such registration.

9. (1) Any person who wishes to be registered as a veterinary surgeon shall make written application for registration to the Chairman.

Application
for
Registration

(2) Every such application shall be in the prescribed form, or a form approved for the purpose by the Chairman, and shall be accompanied by --

- a. a registration fee of ten rand, save as provided in sub-section (3);
- (b) proof in the form of a degree, diploma, certificate or other document, or a copy thereof certified by or on behalf of the university or institution which granted or issued the original thereof, that the applicant possesses the requisite qualifications for registration as a veterinary surgeon;
- (c) evidence satisfactory to the Chairman that the applicant is a person of good character and a fit and proper person to be registered as a veterinary surgeon;

(d) such other information or documents as may be prescribed.

(3) A person employed as a veterinary officer by the Government who applies for registration as a veterinary surgeon shall be exempt from payment of the fee prescribed in paragraph (a) of subsection (2):

Provided that if any such person at any time after being registered as a veterinary surgeon practises veterinary surgery —

(i) (being then employed by the Government) except as permitted by the Government; or

(ii) after ceasing to be employed by the Government, he shall, subject to subsection (2) of section 7, be deemed to have so practised when his name did not appear on the register, unless before so practising he shall have paid, whether at the time of registration or later, the said fee to the Board.

Qualifications
for
Registration

10. The requisite qualifications for registration as a veterinary surgeon referred to in paragraph (b) of subsection (2) of section 9 shall be such qualifications as the Minister, acting on the advice of the Board, may prescribe.

Registration

11. (1) Where a person has made application under section 9 which satisfies the requirements of subsection (2) thereof the Chairman shall, subject to the provisions of subsection (2) of this section, enter his name on the register as a veterinary surgeon, together with the particulars specified in subsection (1) of section 8.

(2) No person shall be registered if he has been struck off the register, or off the register of any registering authority for veterinary surgeons outside Botswana, and has not been reinstated thereon, or if the Board or the High Court has not ordered that his name be restored to the register.

Registration
of Additional
Qualifications
and of Change
of Address

12. (1) Every veterinary surgeon who shall satisfy the Chairman that he has obtained and possesses any prescribed qualifications additional to the qualifications by virtue of which he was registered shall be entitled to have such additional qualifications inserted in the register in substitution for or in addition to the qualifications previously registered under his name.

(2) Every veterinary surgeon shall notify the Chairman of any change in his address, and the Chairman shall record such change in the register.

Publication of
Annual List

13. (1) During the month of January in each year the Chairman shall cause to be published in the Gazette a list containing the

names of all persons on the register at the end of the previous year together with their addresses and dates of registration.

(2) An entry in the list so published shall be *prima facie* evidence that any person named therein is registered as a veterinary surgeon, and the absence of the name of any person from such list shall be *prima facie* evidence that he is not so registered.

14. (1) The Chairman shall strike off the register the name of any veterinary surgeon which the Board has directed to be struck off under section 30, but shall restore such name to the register if the Board or the High Court so directs. Removal of
Names from
Register

(2) The Chairman shall remove from the register the name of any veterinary surgeon —

- (a) who makes written application to the Chairman to have his name removed from the register;
- (b) who the Chairman is satisfied is dead;
- (c) who the Chairman is satisfied has ceased to practise veterinary surgery in Botswana.

(3) For the purpose of satisfying himself that a veterinary surgeon has ceased to practise veterinary surgery in Botswana the Chairman shall —

- (a) publish in the Gazette notification of his intention to remove the name of such veterinary surgeon, on the ground of such cessation, from the register; and
- (b) at the same time send a copy of such notification to the address of the said veterinary surgeon recorded in the register and to any later address of which he has knowledge or notice;

and if no objection to the removal of the name is received within thirty days of the publication of the said notification in the Gazette the Chairman shall remove the name from the register.

15. Where the Board has ordered that the name of a veterinary surgeon be struck off the register permanently or for a specified period the Board may, either of its own motion or on the application of the person concerned and in either case after holding such investigation (if any) as it sees fit, order the name of that person to be restored to the register either without fee or on payment of such fee, not exceeding the registration fee, as the Board may determine, and the Chairman shall give effect to any such order. Restoration of
Names by
Board

PART IV
EFFECT OF REGISTRATION

Use of Title

16. Every veterinary surgeon —

- (a) shall, by virtue of being registered as such, be entitled to take and use the title and description of veterinary surgeon;
- (b) shall not take or use, or affix to or use in connection with his premises, any title or description in addition to that of veterinary surgeon save such as is warranted by the particulars relating to his qualifications entered in the register:

Provided that a veterinary surgeon employed by the Government may use the title “veterinary officer”.

Right to Practise and Recover Charges

17. (1) Every veterinary surgeon shall be entitled to practise veterinary surgery and, unless precluded from so doing by the terms of his employment by the Government or by any other person by whom he may be employed, shall be entitled to demand, sue for and recover in any court reasonable charges for professional services rendered and the value of any veterinary medicines or veterinary appliances supplied by him when registered.

(2) A person shall not be entitled to recover in any court any charge for professional services of a veterinary character or the value of any medicine or appliance supplied in connection therewith if —

- (a) at the time when such services were rendered or such medicine or appliance supplied there was legislation in force in Botswana providing for the registration of veterinary surgeons; and
- (b) he was not registered as a veterinary surgeon in accordance with such legislation.

Rights to Possess and Supply etc.

18. Every veterinary surgeon may purchase, keep, use, prescribe or supply without licence any goods, poisons or habit-forming drugs required solely for the treatment of animals under his care in the course of his practice.

Validity of Certificates

19. No certificate or document required to be signed by a qualified veterinary surgeon shall, if it was given or issued after the commencement of this Act, be valid unless signed by a person registered as a veterinary surgeon under this Act.

PART V

PROVISIONS RELATING TO DISCIPLINE

Inquiry into Misconduct

20. If there comes to the notice of the Board an allegation, or evidence indicating, that a veterinary surgeon —

- (a) has procured his registration under this Act by any false representation or declaration;
- (b) has been convicted of an offence under this Act;
- (c) has been sentenced for any offence to imprisonment without the option of a fine;
- (d) has in Botswana or elsewhere committed an act, or conducted himself in a manner, whether in his professional character or otherwise, unbecoming a veterinary surgeon, whether or not such act or conduct constitutes or involves the commission of a criminal offence and whether or not he has been convicted or acquitted by any court of any offence so constituted or the commission of which is so involved;

and the Board is satisfied that there is a *prima facie* case for inquiry, it shall hold an inquiry into the said allegation or evidence.

21. The Chairman may require any person who has made any allegation of a character specified in section 20 against a veterinary surgeon to support such allegation by an affidavit setting out the facts on which he relies in proof of his allegation.

Affidavit of
Allegations of
Misconduct

22. (1) The veterinary surgeon the allegation or evidence concerning whom is the subject of inquiry shall be given an opportunity to appear before the Board for the purpose of meeting or dealing with the allegation or evidence.

Appearance of
Veterinary
Surgeon

(2) Twenty-one days at least before the date appointed for the inquiry the veterinary surgeon concerned shall be informed in writing of the substance of the allegation made against him or the nature of the evidence concerning him and be furnished with a copy of any affidavit made under the provisions of section 21, and he shall also be furnished with copies of any other relevant documents or be given an opportunity of inspecting them.

23. (1) The Board may in the course of its inquiry hear such witnesses and receive such documentary evidence as in its opinion may assist it in coming to a conclusion as to the truth or otherwise of the allegation, or the correctness or otherwise of the evidence, which forms the subject matter of the inquiry.

Evidence at
Inquiry

(2) The Board may require any witness appearing before it to give his evidence on oath, and the Chairman is empowered to administer oaths for that purpose.

Power to
Summon
Witnesses and
order Pro-
duction of
Documents

24. (1) If the Board is of the opinion that the evidence of any person or the production of any document is necessary for the purposes of the inquiry, the Chairman may issue a summons under his hand in such form as may be prescribed directing the person named therein to attend at the time and place mentioned to give evidence or to produce the documents therein specified or to do both.

(2) The Registrar of the High Court shall at the request of the Chairman take steps to ensure the serving of summonses under this section.

(3) Every person attending at an inquiry in obedience to a summons issued under this section shall be entitled to allowances payable out of public moneys, as though he were attending at a Subordinate Court as a witness in civil proceedings under subpoena.

Disobedience
to Summons
and Refusal to
give Evidence

25. If any person upon whom a summons has been served under the provisions of the last preceding section refuses or omits without sufficient cause to attend in obedience to such summons, or fails to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board, or refuses or omits without sufficient cause to produce any documents in his possession or under his control which are mentioned in the summons, he shall be liable on conviction to a fine of two hundred rand:

Provided that no person giving evidence before the Board shall be compellable to incriminate himself and every such person shall in respect of any evidence given by him or any document which he is required to produce be entitled to all the privileges to which a witness in a trial before the High Court is entitled in respect of evidence given by him or a document which he is required to produce before such court.

Inquiry in
Absence of
Veterinary
Surgeon

26. The Board, having complied with the requirements of section 22, may proceed to inquire into the allegation or evidence which is the subject matter of inquiry, whether or not the veterinary surgeon concerned appears.

Participation
of Chairman

27. Notwithstanding any functions he may have performed under the provisions of Part III, the Chairman shall not be precluded from participating in any inquiry as Chairman of the Board, nor shall he as Chairman be precluded from testifying to his performance of such functions.

Leading of
Evidence

28. The Chairman may appoint a person employed in the directorate of veterinary services, whether legally qualified or

not, to lead evidence respecting the subject matter of the inquiry; such person shall be entitled, if any person not called by him gives evidence, to cross-examine that person.

29. The veterinary surgeon concerning whom allegations have been made or evidence has come to the Board's notice and the complainant (if there be one) shall be entitled to appear and to be represented at the inquiry by a legal practitioner. Representa-
tion by Legal
Practitioner

30. (1) Where, after the inquiry is completed, the Board is satisfied that any allegation or evidence of a character specified in section 20 has been established against the veterinary surgeon concerned the Board may — Decision of
the Board

- (a) order the name of the veterinary surgeon to be struck off the register permanently; or
- (b) order the name of the veterinary surgeon to be struck off the register for such period as it may specify; or
- (c) make an order reprimanding the veterinary surgeon; or
- (d) caution the veterinary surgeon; or
- (e) suspend the making of an order for a period not exceeding two years.

(2) Where the Board suspends the making of an order under the provisions of paragraph (e) of subsection (1) of this section it may at any time during the period of suspension, and shall on the expiry of that period if the matter has not been sooner concluded, make such further inquiry as it may think fit in relation to the conduct of the veterinary surgeon, and thereupon make an order under any of the other provisions of that subsection or make no order, but shall in no case further suspend the making of an order.

31. (1) The Chairman shall cause a copy of any order made under the provisions of section 30 to be served forthwith upon the veterinary surgeon to whom it relates. Procedure
after Order

(2) Such service may be effected personally or by registered post, and if effected by registered post shall be deemed, notwithstanding anything in section 5 of the Interpretation and General Provisions Law, 1966, to have been effected on the fourteenth day after the day on which the order was posted.

(3) The Chairman shall not strike off the register the name of the veterinary surgeon in pursuance of an order made under the provisions of section 30 until —

- (a) thirty days have elapsed from the date of service of a copy of the order; and

- (b) he shall have ascertained that no appeal has been lodged under the provisions of section 32, or, if such appeal has been lodged, that it has been finally determined in such a manner as to require striking off of the name.

Appeals

32. Any veterinary surgeon in respect of whom an order has been made under the provisions of paragraph (a), (b), (c) or (d) of subsection (1) of section 30 may by notice served within thirty days after service upon him of a copy of the order, appeal to the High Court, and the High Court after hearing such evidence as the appellant or the Board may adduce may affirm, reverse or vary the order.

PART VI GENERAL

Penalties

33. Any person who —

- (a) contravenes the provisions of section 7(1); or
- (b) contravenes the provisions of section 16(b); or
- (c) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof; or
- (d) fraudulently procures or attempts to procure himself or any other person to be registered; or
- (e) being a veterinary surgeon, allows a person whose name is not entered on the register to practise veterinary surgery on, or from an office in, the premises used by such veterinary surgeon in the performance of his professional duties;

shall be guilty of an offence and liable on conviction to a fine of two hundred rand and imprisonment for twelve months.

Regulations

34. The Minister may make regulations for the better carrying out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may by regulation —

- (a) prescribe any matter or thing required to be prescribed;
- (b) prescribe the procedure to be followed in relation to inquiries in so far as it is not provided for in this Act;
- (c) prescribe the procedure to be followed in relation to appeals to the High Court;
- (d) prescribe fees to be paid for any matter or thing to be done under the provisions of this Act or any regulation made under this section.

SCHEDULE

(section 7(2))

Treatments, Tests, Advice, Diagnosis and Attendance which may be provided, performed or given by unregistered persons

- (1) Any non-surgical treatment given to an animal by —
 - (a) its owner;
 - (b) a member of the household of which the owner is a member;
 - (c) a person in the employment of a person referred to in paragraph (a) or (b).
- (2) Any non-surgical treatment provided or advice given, otherwise than for personal gain or material advantage, by persons engaged or employed in farming other than persons referred to in paragraph (1), in relation to any animal owned for the purpose of agriculture.
- (3) Any non-surgical treatment, test, advice, diagnosis or attendance provided, performed or given in the course of his duties, otherwise than for personal gain or advantage, by a person employed by the Government.
- (4) The rendering in an emergency of first-aid for the purpose of saving life or relieving pain.
- (5) The performance of the following operations —
 - (a) castration of bovines, equines, sheep, goats and pigs;
 - (b) the tailing of a lamb;
 - (c) the docking of the tail of a dog before its eyes are open;
 - (d) the amputation of the dew claws of a dog before its eyes are open;
 - (e) the disbudding of calves up to weaning age;
 - (f) the giving of injections.

Passed by the National Assembly this day, the 24th June, 1971.

G.T. MATENGE,
Clerk of the National Assembly.