

Veterinary Surgeons Registration (Amendment) Bill 2014

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A BILL

To

Amend the Veterinary Surgeons Registration Ordinance to broaden the membership of the Veterinary Surgeons Board; to provide for the constitution of, and other matters relating to, the inquiry committees established for disciplinary offences, and for the establishment of a panel of assessors and preliminary investigation committees for those offences; to streamline the procedure for handling complaints; and to provide for incidental and related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Veterinary Surgeons Registration (Amendment) Ordinance 2014.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

2. Veterinary Surgeons Registration Ordinance amended

The Veterinary Surgeons Registration Ordinance (Cap. 529) is amended as set out in Part 2.

Part 2

Amendments to Veterinary Surgeons Registration Ordinance

3. Section 2 amended (interpretation)

- (1) Section 2, definition of *inquiry committee*—

Repeal

“section 18(1)”

Substitute

“section 18(1A)”.

- (2) Section 2—

Repeal the definition of *Chairman*.

- (3) Section 2—

Add in alphabetical order

“*appoint* (委任) includes reappoint;

appointed member (委任成員) means a member of the Board appointed under section 3A(1)(b) or 3D(2);

assessor (評審員) means a person appointed under section 17A(2) to the panel of assessors established under section 17A(1);

Chairperson (主席) means the chairperson of the Board appointed under section 3A(1)(a) or 3C(2);

elected member (選任成員) means a member of the Board referred to in section 3A(1)(c);

election (選舉) means an ordinary election or a by-election held under the Election Regulation;

Election Regulation (《選舉規例》) means a regulation made by the Secretary for Food and Health under section 28(1A);

lay person (業外人士) means a person who is neither—

- (a) a registered veterinary surgeon; nor
- (b) a medical and health professional;

medical and health professional (醫療專業人員) means a medical practitioner, pharmacist or dentist, who is entitled to practise his or her profession in Hong Kong;

member (成員), in relation to the Board, means the Chairperson, an appointed member or an elected member;

preliminary investigation committee (初步調查委員會) means a preliminary investigation committee established under section 17C(1);

qualified candidate (合資格候選人) means a registered veterinary surgeon who is qualified under the Election Regulation to stand for an election to elect an elected member;”.

4. Section 3 substituted

Section 3—

Repeal the section

Substitute

“3. Establishment of the Board

- (1) A board is established with the name “Veterinary Surgeons Board” in English and “獸醫管理局” in Chinese.
- (2) The Board has the purposes and powers that are conferred on it by or under this Ordinance.”.

5. Sections 3A to 3E added

After section 3—

Add

“3A. Membership of the Board

- (1) The Board is to consist of the following persons—
 - (a) a Chairperson to be appointed by the Secretary for Food and Health;
 - (b) 12 members to be appointed by the Secretary for Food and Health;
 - (c) 6 members, who are registered veterinary surgeons, to be elected in an election.
- (2) Of the 12 members referred to in subsection (1)(b)—
 - (a) 6 members must be registered veterinary surgeons;
 - (b) 1 member must be a medical and health professional; and
 - (c) 5 members must be lay persons who, in the opinion of the Secretary for Food and Health, represent the interests of persons utilizing veterinary services.

3B. Notification of appointments and declaration of election results

- (1) As soon as practicable after the appointment of the Chairperson or an appointed member, the Secretary is to arrange to be notified in the Gazette—
 - (a) the appointment;
 - (b) the term of office of the Chairperson or appointed member; and
 - (c) the commencement date of the term.
- (2) As soon as practicable after a qualified candidate is declared under the Election Regulation to be elected as an elected member in an election, the Secretary is to arrange the declaration to be notified in the Gazette.

3C. Term of office of Chairperson

- (1) The Chairperson may be appointed for a term not exceeding 3 years.
- (2) If the office of the Chairperson becomes vacant under section 2B(3) of Schedule 1 before the term of office expires, the Secretary for Food and Health may appoint a person to hold that office for the unexpired term.

3D. Term of office of appointed members

- (1) An appointed member may be appointed for a term not exceeding 3 years.
- (2) If the office of an appointed member becomes vacant under section 2C(3) of Schedule 1 before the term of office expires, the Secretary for Food and Health may appoint a person who is of the same category under section 3A(2) as that member to hold that office for the unexpired term.

3E. Term of office of elected members

- (1) The term of office of an elected member is 3 years from the first day of the month immediately following the date of the notification under section 3B(2).
- (2) If—
 - (a) the office of an elected member becomes vacant under section 2D(3) of Schedule 1; and
 - (b) the unexpired term of office at the time the vacancy arises is not less than 9 months,the Board must, as soon as practicable, hold a by-election under the Election Regulation to elect a qualified candidate to hold that office for the unexpired term.”.

6. Section 4 amended (provisions as respects the Board and its members)

(1) Section 4, heading—

Repeal

“Provisions as respects the Board and its members”

Substitute

“Schedule 1 applies to the Board, its members and assessors”.

(2) Section 4—

Repeal subsection (1)

Substitute

“(1) Schedule 1 has effect as respects the Board, its members and assessors.”.

(3) Section 4(2), Chinese text—

Repeal

“食物及衛生局”.

(4) Section 4(3), English text—

Repeal

“shall apply”

Substitute

“applies”.

7. Section 5 amended (functions of the Board)

Section 5(h), Chinese text—

Repeal

“食物及衛生局”.

8. Section 7 amended (appointment of Secretary and Legal Adviser)

Section 7(1), Chinese text—

Repeal

“食物及衛生局”.

9. Section 9 amended (qualifications for registration)

(1) Section 9(3), English text—

Repeal

“shall”

Substitute

“must”.

(2) Section 9(3)—

Repeal

“section 18(1)”

Substitute

“section 17D(3)”.

10. Section 17 amended (disciplinary offences)

Section 17—

Repeal subsections (3) and (4).

11. Sections 17A to 17D added

After section 17—

Add

“17A. Establishment and membership of panel of assessors

(1) The Board is to establish a panel of assessors from whom members of a preliminary investigation committee or inquiry committee may be appointed.

- (2) The panel is to consist of the following persons to be appointed by the Board to the panel on the nomination of the Director of Agriculture, Fisheries and Conservation—
 - (a) not more than 12 registered veterinary surgeons;
 - (b) not more than 6 other persons.
- (3) If one or more than one person is appointed under subsection (2)(b)—
 - (a) the person or at least one of the persons must be a medical and health professional; and
 - (b) the other person or each of the other persons (if any) must either be a lay person who, in the opinion of the Board, represents the interests of persons utilizing veterinary services or a medical and health professional.
- (4) A member of the Board is not eligible to be appointed to the panel.
- (5) As soon as practicable after the appointment of an assessor, the Secretary is to arrange to be notified in the Gazette—
 - (a) the appointment;
 - (b) the term of office of the assessor; and
 - (c) the commencement date of the term.

17B. Term of office of assessors

- (1) A person may be appointed to the panel of assessors for a term not exceeding 3 years.
- (2) If the office of an assessor becomes vacant under section 2E(3) of Schedule 1 before the term of office expires, the Board may appoint, on the nomination of the Director of Agriculture, Fisheries and Conservation, a person who is of the same category under section 17A(2) or (3) as that assessor to hold that office for the unexpired term.

17C. Establishment of preliminary investigation committee

- (1) The Board may establish a preliminary investigation committee to consider whether a complaint alleging a disciplinary offence should be referred to an inquiry committee.
- (2) A preliminary investigation committee is to consist of the following persons appointed by the Board—
 - (a) 3 members of the Board, of whom—
 - (i) 2 members must be registered veterinary surgeons; and
 - (ii) 1 member must either be a lay person who, in the opinion of the Board, represents the interests of persons utilizing veterinary services or a medical and health professional; or
 - (b) 2 members of the Board and 1 assessor, of whom—
 - (i) 2 persons must be registered veterinary surgeons; and
 - (ii) 1 person must either be a lay person who, in the opinion of the Board, represents the interests of persons utilizing veterinary services or a medical and health professional.

17D. Referral of complaints by preliminary investigation committees

- (1) On receipt of a complaint alleging a disciplinary offence, the Secretary must submit the complaint to a preliminary investigation committee.
- (2) The committee may request one or more of the following persons to provide information to facilitate the committee's consideration of the complaint—
 - (a) the complainant;

- (b) the registered veterinary surgeon being complained of (*subject person*);
 - (c) any other person whom the committee considers appropriate.
- (3) The committee may refer the complaint to an inquiry committee.
 - (4) If the committee refers the complaint to an inquiry committee, the Secretary must, as soon as practicable, send to the subject person—
 - (a) a notice of the referral; and
 - (b) a statement of the substance of the complaint.
 - (5) The notice and statement must be sent by prepaid registered post to the last known address of the subject person.
 - (6) If the committee decides not to refer the complaint to an inquiry committee, the Secretary must, as soon as practicable, notify the complainant of the decision by prepaid registered post.”.

12. Section 18 amended (inquiry committee and rules of conduct)

- (1) Section 18—

Repeal subsection (1).

- (2) Section 18—

Add

- “(1A) The Board may establish an inquiry committee to consider a complaint referred to the committee under section 17D(3).
- (1B) The committee is to determine whether a registered veterinary surgeon who is the subject of the complaint has committed a disciplinary offence.

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- (1C) The committee is to consist of the following persons appointed by the Board—
- (a) 3 members of the Board, of whom—
 - (i) 2 members must be registered veterinary surgeons; and
 - (ii) 1 member must either be a lay person who, in the opinion of the Board, represents the interests of persons utilizing veterinary services or a medical and health professional; or
 - (b) 2 members of the Board and 1 assessor, of whom—
 - (i) 2 persons must be registered veterinary surgeons; and
 - (ii) 1 person must either be a lay person who, in the opinion of the Board, represents the interests of persons utilizing veterinary services or a medical and health professional.”.
- (3) Section 18—
Repeal subsection (2).
- (4) Section 18(4), English text—
Repeal
“shall”
Substitute
“must”.
- (5) Section 18(5), English text—
Repeal
“shall”
Substitute

“must”.

- (6) Section 18(5)—

Repeal

“subsection (2)”

Substitute

“section 17D(4)”.

- (7) Section 18(6), English text—

Repeal

“shall be entitled”

Substitute

“is entitled”.

- (8) Section 18(6), English text—

Repeal

“shall be provided”

Substitute

“must be provided”.

- (9) Section 18(8)(a), English text—

Repeal

“shall not be required to inquire whether he”

Substitute

“must not be required to inquire whether the registered veterinary surgeon”.

- (10) Section 18(10), English text—

Repeal

“shall” (wherever appearing)

Substitute

“must”.

13. Section 28 amended (regulations)

(1) Section 28(1), Chinese text—

Repeal

“食物及衛生局”.

(2) After section 28(1)—

Add

“(1A) Without limiting subsection (1), the Secretary for Food and Health may by regulation provide for matters concerning an election of members to the Board, including—

- (a) the date, time and place and the procedure, of the election;
- (b) matters concerning the qualification or disqualification of the electors of the election;
- (c) matters concerning the qualification, disqualification or nomination of the candidates of the election;
- (d) the appointment of persons to assist in the holding of the election;
- (e) the particulars of the voting or vote counting system of the election;
- (f) the determination, notification or questioning of election results; and
- (g) other matters concerning the election.”.

14. Section 29 amended (exemptions)

Section 29(2), Chinese text—

Repeal

“食物及衛生局”.

15. Section 30 repealed (transitional)

Section 30—

Repeal the section.

16. Schedule 1 amended (provisions as respects the Board and its members)

(1) Schedule 1—

Repeal

“[ss. 4 & 28]”

Substitute

“[ss. 3C, 3D, 3E, 4, 17B & 28]”.

(2) Schedule 1—

Repeal sections 1 and 2.

(3) Schedule 1, before section 3—

Add

“2A. Resignation

(1) A person holding the office of the Chairperson or an appointed member may, by notice in writing to the Secretary for Food and Health, resign from the office.

(2) A person holding the office of an elected member or an assessor may, by notice in writing to the Chairperson, resign from the office.

(3) A resignation under this section takes effect on the date specified in the notice given to the Secretary for Food and Health or the Chairperson or, if a date is not so specified, on the date on which the Secretary for Food and Health or the Chairperson receives the notice.

2B. Office of Chairperson declared to be vacant by Secretary for Food and Health

- (1) The Secretary for Food and Health must declare, by notice published in the Gazette, that the office of the Chairperson becomes vacant if—
 - (a) the Chairperson dies;
 - (b) the Chairperson resigns under section 2A(1) of this Schedule;
 - (c) (if the Chairperson is a registered veterinary surgeon) an order under section 19 is in force in respect of the Chairperson;
 - (d) the Chairperson—
 - (i) is an undischarged bankrupt; or
 - (ii) has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors which is still in force;
 - (e) the Chairperson is sentenced to imprisonment for a term exceeding 3 months; or
 - (f) the Secretary for Food and Health is satisfied that the Chairperson is unable or unfit to perform the duties and exercise the powers of a Chairperson because of physical or mental illness or any other reason.
- (2) For subsection (1)(e), it does not matter—
 - (a) whether the Chairperson is sentenced in Hong Kong or in any other place;
 - (b) whether the sentence is suspended or not; and
 - (c) what name the imprisonment is called.
- (3) The office of the Chairperson becomes vacant on the date on which the notice is published in the Gazette under subsection (1).

2C. Office of appointed member declared to be vacant by Secretary for Food and Health

- (1) The Secretary for Food and Health must declare, by notice published in the Gazette, that the office of an appointed member becomes vacant if—
 - (a) the appointed member dies;
 - (b) the appointed member resigns under section 2A(1) of this Schedule;
 - (c) (if the appointed member is a registered veterinary surgeon) an order under section 19 is in force in respect of the appointed member;
 - (d) (if the appointed member is appointed under section 3A(1)(b) being a person of a category under section 3A(2)) the appointed member ceases to be of that category;
 - (e) the appointed member—
 - (i) is an undischarged bankrupt; or
 - (ii) has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors which is still in force;
 - (f) the appointed member is sentenced to imprisonment for a term exceeding 3 months; or
 - (g) the Secretary for Food and Health is satisfied that the appointed member is unable or unfit to perform the duties and exercise the powers of a member because of physical or mental illness or any other reason.
- (2) For subsection (1)(f), it does not matter—
 - (a) whether the appointed member is sentenced in Hong Kong or in any other place;
 - (b) whether the sentence is suspended or not; and

- (c) what name the imprisonment is called.
- (3) The office of an appointed member becomes vacant on the date on which the notice is published in the Gazette under subsection (1).

2D. Office of elected member declared to be vacant by the Board

- (1) The Board must declare, by notice published in the Gazette, that the office of an elected member becomes vacant if, after the elected member was declared under the Election Regulation as being elected in an election—
 - (a) the elected member dies;
 - (b) the elected member resigns under section 2A(2) of this Schedule;
 - (c) an order under section 19 is in force in respect of the elected member;
 - (d) the elected member ceases to be a registered veterinary surgeon;
 - (e) the elected member—
 - (i) is an undischarged bankrupt; or
 - (ii) has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors which is still in force;
 - (f) the elected member is sentenced to imprisonment for a term exceeding 3 months; or
 - (g) the Board is satisfied that the elected member is unable or unfit to perform the duties and exercise the powers of a member because of physical or mental illness.
- (2) For subsection (1)(f), it does not matter—

- (a) whether the elected member is sentenced in Hong Kong or in any other place;
 - (b) whether the sentence is suspended or not; and
 - (c) what name the imprisonment is called.
- (3) The office of an elected member becomes vacant on the date on which the notice is published in the Gazette under subsection (1).

2E. Office of assessor declared to be vacant by the Board

- (1) The Board must declare, by notice published in the Gazette, that the office of an assessor becomes vacant if—
- (a) the assessor dies;
 - (b) the assessor resigns under section 2A(2) of this Schedule;
 - (c) (if the assessor is a registered veterinary surgeon) an order under section 19 is in force in respect of the assessor;
 - (d) (if the assessor is appointed under section 17A(2)(b) being a person of a category under section 17A(3)) the assessor ceases to be of that category;
 - (e) the assessor—
 - (i) is an undischarged bankrupt; or
 - (ii) has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his or her creditors which is still in force;
 - (f) the assessor is sentenced to imprisonment for a term exceeding 3 months; or
 - (g) the Board is satisfied that the assessor is unable or unfit to perform the duties and exercise the powers of an assessor because of physical or mental illness or any other reason.

- (2) For subsection (1)(f), it does not matter—
- (a) whether the assessor is sentenced in Hong Kong or in any other place;
 - (b) whether the sentence is suspended or not; and
 - (c) what name the imprisonment is called.
- (3) The office of an assessor becomes vacant on the date on which the notice is published in the Gazette under subsection (1).”.

- (4) Schedule 1, section 3—

Repeal everything before subsection (2)

Substitute

“3. Procedures of meetings

- (1) The Chairperson may appoint the time and place for the Board to meet.”.

- (5) Schedule 1, English text, section 3(2)—

Repeal

“shall”

Substitute

“must”.

- (6) Schedule 1, English text, section 3(3)—

Repeal

“shall”

Substitute

“is to”.

- (7) Schedule 1, English text, section 3(4)—

Repeal

“shall”

Substitute

“must”.

- (8) Schedule 1, English text, section 3(6)—

Repeal

“shall”

Substitute

“must”.

- (9) Schedule 1, Chinese text, section 3(6)—

Repeal

“食物及衛生局”.

- (10) Schedule 1, section 4—

Repeal

everything before “The Board”

Substitute

“4. Transaction of business by circulation of papers”.

- (11) Schedule 1, English text, section 4—

Repeal

“shall be”

Substitute

“is”.

- (12) Schedule 1, section 5—

Repeal

everything before “A certificate”

Substitute

“5. Certificates signed by Secretary”.

- (13) Schedule 1, English text, section 5—

Repeal

“shall be”

Substitute

“is”.

- (14) Schedule 1, section 6—

Repeal

everything before “Every”

Substitute

“6. Instruments made or issued by or on behalf of the Board”.

- (15) Schedule 1, English text, section 6—

Repeal

“shall”

Substitute

“must”.

Part 3

Savings and Transitional Provisions

17. Interpretation

In this Part—

amended Ordinance (《經修訂條例》) means the Veterinary Surgeons Registration Ordinance (Cap. 529) as amended by this Ordinance;

Board (管理局) has the meaning given by section 3 of the pre-amended Ordinance;

commencement date (生效日期) means the commencement date of this Part;

new inquiry committee (新研訊委員會) means an inquiry committee established under section 18(1A) of the amended Ordinance;

old inquiry committee (舊研訊委員會) means an inquiry committee established under section 18(1) of the pre-amended Ordinance;

pre-amended Ordinance (《原有條例》) means the Veterinary Surgeons Registration Ordinance (Cap. 529) as in force immediately before the commencement date;

preliminary investigation committee (初步調查委員會) means a preliminary investigation committee established under section 17C(1) of the amended Ordinance.

18. Complaints not yet referred to the Board under section 17(3) of pre-amended Ordinance

A complaint alleging a disciplinary offence is to be dealt with by a preliminary investigation committee under section 17D of the amended Ordinance as if it were a complaint submitted to the committee under section 17D(1) of that Ordinance if, before the commencement date—

- (a) the complaint was submitted to 2 members of the Board under section 17(3) of the pre-amended Ordinance; and
- (b) those members had not yet made a determination for the complaint under that section.

19. Complaints referred to the Board under section 17(3) of pre-amended Ordinance

A complaint alleging a disciplinary offence is to be dealt with by a new inquiry committee as if it were a complaint referred to the committee under section 17D(3) of the amended Ordinance if, before the commencement date—

- (a) the complaint was referred to the Board under section 17(3) of the pre-amended Ordinance; and
- (b) the Board had not yet referred the complaint to an old inquiry committee.

20. Complaints referred to old inquiry committee under section 18(1) of pre-amended Ordinance

A complaint alleging a disciplinary offence is to be dealt with by a new inquiry committee under section 18 of the amended Ordinance if, before the commencement date, the complaint—

- (a) was referred to an old inquiry committee under section 18(1) of the pre-amended Ordinance; and
- (b) remained pending on that date.

21. New inquiry committee to make disciplinary order for old inquiry committee's finding

If, before the commencement date, an old inquiry committee—

- (a) found that a registered veterinary surgeon had committed a disciplinary offence; and

(b) had not made an order under section 19 of the pre-amended Ordinance for the finding,

a new inquiry committee may make one or more orders under section 19 of the amended Ordinance for that finding as if it were the new inquiry committee's finding.

Explanatory Memorandum

The main objects of this Bill are to amend the Veterinary Surgeons Registration Ordinance (Cap. 529) (***Ordinance***) to broaden the membership of the Veterinary Surgeons Board (***Board***), to establish the preliminary investigation committees, to provide for matters concerning the inquiry committees and the establishment of a panel of assessors, and to streamline the procedure for handling complaints against registered veterinary surgeons. The Bill also provides for the grounds for declaring vacant the office of the Chairperson or members of the Board, or persons who are appointed to the panel of assessors.

Part 1—Preliminary

2. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to the Ordinance

3. Part 2 (clauses 3 to 16) sets out the amendments made to the Ordinance.
4. Clause 3 amends section 2 of the Ordinance by adding new definitions to the Ordinance.
5. Clause 4 substitutes new section 3 for the existing section 3 of the Ordinance to enhance the drafting of the provision, and to move the provisions concerning membership of the Board to a new section.

6. Clause 5 adds new sections 3A to 3E to the Ordinance. New section 3A increases the number of members of the Board (including the Chairperson) from 10 persons to 19 persons, and broadens the membership of the Board by including the representatives of registered veterinary surgeons (***elected members***) who are elected by persons from their profession. New section 3B provides that the Secretary to the Board is to arrange to be notified in the Gazette matters concerning the appointment of the Chairperson or members of the Board, and also to arrange to be notified in the Gazette the result of the election of elected members. New section 3C provides for the term of office of the Chairperson. New section 3D provides for the term of office of members who are appointed by the Secretary for Food and Health (***appointed members***), and new section 3E provides for the term of office of elected members.
7. Clause 11 adds new sections 17A to 17D to the Ordinance. New section 17A provides for the establishment and membership of the panel of assessors and new section 17B provides for the term of office of the assessors. New section 17C broadens the membership of the preliminary investigation committees by including assessors, and the committees are to consider whether complaints against registered veterinary surgeons should be referred to inquiry committees for determination. New section 17D provides for the referral of complaints by the preliminary investigation committees to the inquiry committees.
8. Clause 12(2) adds new section 18(1C) to the Ordinance to broaden the membership of the inquiry committees by including assessors, which determine whether the registered veterinary surgeons being complained of have committed disciplinary offences.
9. Clause 13 adds new section 28(1A) to the Ordinance to empower the Secretary for Food and Health to make an election regulation for the election of elected members to the Board.

10. Clause 16 adds new sections 2A to 2E to Schedule 1 to the Ordinance. New section 2A provides for the manner of resigning from the office of the Chairperson, an appointed member, an elected member and an assessor. New sections 2B, 2C, 2D and 2E provide for, respectively, the declaration of vacancy of the offices of the Chairperson, an appointed member, an elected member and an assessor.

Part 3—Savings and transitional provisions

11. Part 3 (clauses 17 to 21) provides for the transitional arrangements in consequence of the enactment of the Bill.