

**Bills Committee on Veterinary Surgeons Registration  
(Amendment) Bill 2014**

**Supplementary information requested by Members  
at the meeting on 5 January 2015**

At the meeting held on 5 January 2015, the Bills Committee requested the Administration to provide supplementary information on a number of issues to facilitate further consideration by the Bills Committee. Our response is set out below.

<b>Supplementary information sought</b>	<b>The Administration's response</b>
<p>(a) in connection with the proposed new sections 17C and 18(1C) in the Veterinary Surgeons Registration (Amendment) Bill 2014 (the Bill) under which the proposed ratios of registered veterinary surgeons to non-registered veterinary surgeons on a preliminary investigation committee (PIC) and an inquiry committee (IC) are set at 2:1,</p> <p>(i) how to ensure that under the ratio of registered veterinary surgeons to non-registered veterinary surgeons at 2:1 ,</p>	<p><u>Ratio of veterinary surgeon to non-veterinary surgeon members of PIC and IC</u></p> <p>Under the current arrangement, a PIC consists of two members of the Veterinary Surgeon Board (VSB), one of whom must be a non-veterinary surgeon. A PIC has to decide whether or not the complaint should be referred to the VSB for further action and such a decision must be unanimous. The VSB may subsequently decide to refer the complaint to an IC for inquiry. When such a decision is made, the ratio of veterinary surgeon to non-veterinary surgeon members on the VSB is 2:1.</p> <p>In the Bill, we have recommended that a PIC formed under the proposed newly added section 17C consist of three members, one of whom must be a non-veterinary surgeon. To streamline the complaint handling process, in the future a PIC may refer the complaint to an IC direct without having to route the referral through the VSB. When the PIC makes such a decision, the ratio of veterinary surgeon to non-veterinary surgeon members will be 2:1, the same as that of the VSB's membership. As regards the ratio of</p>

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<p>the non-registered veterinary surgeons serving on PIC/IC will maintain impartiality in handling complaints in which the persons being complained of are registered veterinary surgeons; and</p> <p>(ii) whether the Administration will propose Committee stage amendments (CSAs) to the Bill to the effect that more non-registered veterinary surgeons will be included in a PIC and IC so as to adjust the ratio of registered veterinary surgeons to non-registered veterinary surgeons serving on a PIC and IC to 1:1 or 1:2, or a PIC to be constituted by non-registered veterinary</p>	<p>veterinary surgeon to non-veterinary surgeon members in an IC, it would remain at 2:1 as in the current case.</p> <p>According to past experience, the key issues raised in complaint cases often involve a judgment call based on veterinary professional knowhow which are difficult for persons who are not from the veterinary profession to fully understand. At present, in cases where the PIC, consisting of two members, could not come to a unanimous view, the PIC would refer the complaint to the VSB for decision. In fact, in most cases, the decisions made by the PIC are unanimous ones.</p> <p>The veterinary surgeon newly added as the third member to the PIC could provide the committee with wider exposure to veterinary professional knowledge and expertise. This would facilitate and smoothen the decision-making process when the PIC is to decide whether or not to refer a complaint to an IC. Hence, putting the ratio of veterinary surgeon to non-veterinary surgeon members on the PIC as that of the VSB (i.e. 2:1) is consistent with the practical operational needs of the PIC.</p> <p><u>Ensuring the fairness and impartiality of the complaint handling procedure</u></p> <p>To uphold fairness and impartiality in the complaint handling process, at present, the VSB has an established mechanism for declaration of interests. When the VSB is to appoint members to a PIC and an IC, each member must declare his/her interest. If individual member has in any way an interest in a complaint to be considered by him/her, this member should not participate in any deliberation or decision making in respect of the</p>

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<p>surgeons only. If it will, please provide the draft CSAs and their gist; if it will not, the reasons for that.</p>	<p>complaint. In addition, no member of a PIC which has referred a complaint to the VSB shall be involved in the VSB meeting in which the complaint is to be considered, and no member of a PIC shall be a member of an IC established for the same complaint.</p> <p>As professionals, registered veterinary surgeons earn the trust from the public with their specialised knowledge and training. To uphold the social status of veterinary surgeons, we believe that members of the VSB and the assessors from the veterinary profession who may participate in handling complaints in the future would carry out their duty with due diligence in the regulation of the discipline and conduct of the profession as well as supervision of the veterinary professional activities, with a view to maintaining and promoting the trust of the public towards the veterinary profession.</p>
<p>(b) whether the Administration will propose CSAs to the Bill to achieve the following effects respectively, and if it will, please provide the respective draft CSAs and their gists; if it will not, the reasons –</p> <p>(i) in case no consensus is reached on a PIC on whether a complaint alleging a</p>	<p><u>Composition of the VSB and the procedure for making the Election Regulation</u></p> <p>In respect of the ratio of veterinary surgeon to non-veterinary surgeon members of the VSB and the procedure for making the proposed Election Regulation, we have submitted to the Bills Committee two papers (i.e. LC Paper No. CB(3) 133/14-15(02) and LC Paper No. CB(3) 214/14-15(02)) setting out the relevant considerations and justifications in response to the respective issues raised. Members are invited to refer to the relevant papers for details.</p> <p><u>Composition of the panel of assessors</u></p> <p>During the discussions surrounding the composition of the panel of assessors, some</p>

<b>Supplementary information sought</b>	<b>The Administration's response</b>
<p>disciplinary offence should be referred to an IC, the complaint must be referred to VSB for consideration;</p> <p>(ii) the proposed ratios of registered veterinary surgeon to non-registered veterinary surgeon on VSB and the panel of assessors under the Bill, which are set at 2:1, will be appropriately adjusted to 1:1, so as to better safeguard the interests of persons utilising veterinary services; and</p> <p>(iii) the regulation to be made by the Secretary for Food and Health for matters concerning an election of</p>	<p>Members of the Bills Committee suggested increasing the number of non-veterinary surgeon assessors in the panel of assessors from six to twelve, with a view to safeguarding the interest of persons utilising veterinary services. According to our understanding, Members' main concern lies with the need to ensure that views raised by lay members representing the interest of persons utilising veterinary services are given full weight. Our response to this particular concern is set out in the following section.</p> <p><u>Complaint referral mechanism of the PIC</u></p> <p>Under the current arrangement, after the VSB has received a complaint involving an alleged disciplinary offence, the Secretary to VSB will submit the case to a PIC. The PIC will decide whether to dismiss the case or refer the complaint to the VSB for consideration. In the event that the case is referred to it, the VSB will decide whether or not to forward the complaint to an IC for inquiry. To streamline the procedure, we proposed that in the future a PIC may decide to refer the complaint to an IC direct for inquiry. In accordance with section 52<sup>1</sup> of the Interpretation and General Clauses Ordinance (Cap. 1), the decision of the PIC is made having regard to the power of majority.</p> <p>Some Members of the Bills Committee suggested that the Administration should consider whether, in future, when a decision is to be made by a PIC on whether the complaint should be referred to an IC or dismissed, such a decision must be unanimous. Otherwise, the PIC must refer the</p>

<sup>1</sup> Section 52 of Interpretation and General Clauses Ordinance (Cap 1) stipulate that,  
(1) Where any Ordinance confers a power or imposes a duty upon a body or number of persons consisting of or being not less than 3, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.

<b>Supplementary information sought</b>	<b>The Administration's response</b>
<p>members to VSB under the proposed new section 28(1A) of the Ordinance will be subject to positive vetting, instead of negative vetting, by the Legislative Council.</p>	<p>complaint to the VSB, which will decide whether the complaint should be referred to an IC or dismissed.</p> <p>We have carefully considered the suggestion. Although it is not fully consistent with the original intention of streamlining the complaint handling procedure, the suggestion is not without merit. To the extent that the PIC's decision on whether a complaint should be referred to an IC or dismissed is a unanimous one, it would go a long way towards demonstrating that different parties on the PIC (including the views of the lay member representing the interest of persons utilising veterinary services) will be given full weight.</p> <p>We will propose CSAs to incorporate the above suggestion. <b><u>Annex A</u></b> gives the first draft of the proposed amendments (in the form of a mark-up version of the Bill).</p>
<p>(c) in connection with the proposed arrangements for the election of members to VSB under which each elector may, in the capacity of a proposer or seconder, nominate a maximum of six registered veterinary surgeons who are qualified as electors to be candidates, and may vote for a maximum of six candidates in an ordinary election (as set out respectively in</p>	<p>During the discussions surrounding the nomination and voting arrangement of the elected members to the VSB, some Members suggested that each elector should only nominate one qualified registered veterinary surgeon as candidate, and that each elector should only vote for one candidate, regardless of the number of vacancies available in that election.</p> <p>We will give due consideration to Members' suggestion prior to finalising the Election Regulation.</p>

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<p>paragraphs 15 and 19 of the “Salient features of the proposed election of elected members to VSB” [LC Paper No. CB(3) 309/14-15(01)] ), whether the Administration will undertake to review the proposed nomination and voting arrangements, including whether to restrict each elector to nominate or vote for one candidate only in the election.</p>	

2. The Administration indicated in the reply to the Assistant Legal Adviser of the Legislative Council on 15 October 2014 (refer to LC Paper No. CB(3) 87/14-15(04)) that the Administration would propose the following CSAs which are technical in nature.

- (a) Clause 3(3) of the Bill: Make reference to the proposed new section 17B(2) in the definition of “assessor”.
- (b) Clause 16 of the Bill: Amend the heading of Schedule 1 by adding a reference to “assessor”.
- (c) Clause 16 of the Bill: Reference of the proposed new sections 3D(2) and 17B(2) are to be made to paragraphs 2C(1)(d) and 2E(1)(d) of Schedule 1 respectively.

3. Apart from the above, we propose a CSA to amend section 2E(1)(d) of Schedule 1, including the deletion of “(b)” from “section 17A(2)(b)” and the addition of “a registered veterinary surgeon or” immediately before “section 17A(3)” in the section, with an aim to express

clearly that the proposed new section 2E(1)(d) of Schedule 1 covers the categories of registered veterinary surgeons and other persons when the office of assessor is declared vacant.

4. **Annex B** gives the first draft of the proposed amendments as set out in paragraphs 2 and 3 above (in the form of a mark-up version of the Bill).

**Food and Health Bureau  
Agriculture, Fisheries and Conservation Department  
January 2015**

## Part 2

### Amendments to Veterinary Surgeons Registration Ordinance

#### 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(3A)”.

#### 11. Sections 17A to 17ED added

After section 17—

**Add**

#### 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.~~

(3A) The committee may decide whether or not to refer the complaint to an inquiry committee.

(3B) However, a decision under subsection (3A) must be unanimous.

(3C) If the committee fails to make a unanimous decision under subsection (3A), it must refer the complaint to the Board.

- (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.

#### 17E. Complaints referred to the Board under section 17D(3C)

(1) If a complaint is referred to the Board under section 17D(3C), it may decide whether or not to refer the complaint to an inquiry committee.

(2) If the Board refers the complaint to an inquiry committee, the Secretary must, as soon as practicable, send to the registered veterinary surgeon being complained of (*subject person*)—



(a) a notice of the referral; and

(b) a statement of the substance of the complaint.

(3) The notice and statement must be sent by prepaid registered post to the last known address of the subject person.

(4) If the Board 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(3A) or 17E(1).

(1B) The committee is to determine whether a registered veterinary surgeon who is the subject of the complaint has committed a disciplinary offence.

(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) or 17E(2)”.

(7) Section 18(6), English text—

### Repeal

“shall be entitled”

### Substitute

“is entitled”.

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**Part 3**

**Savings and Transitional Provisions**

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**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(3A) 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.
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## 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) or 17B(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);

#### 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]”.

- (1A) Schedule 1, heading—

**Repeal**

“and its Members”

**Substitute**

“, its Members and Assessors”.

- (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.

## 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) or 3D(2) 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

## 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) or 17B(2) being a registered veterinary surgeon or 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.