

**For discussion
on 10 November 2015**

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

**Updated Proposals on the Election of Members from the Veterinary
Profession to the Veterinary Surgeons Board of Hong Kong**

INTRODUCTION

At its meeting on 14 April 2015, the Panel on Food Safety and Environmental Hygiene (the Panel) was consulted on the salient features of the proposed rules governing the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong (VSB). Noting that the Government would separately consult the veterinary profession, Members requested to be kept informed of the views collected.

2. This paper sets out the views received from the veterinary profession and the Government's updated proposals in response to these views.

BACKGROUND

3. The Veterinary Surgeons Registration Ordinance (Cap. 529) (VSRO) was first enacted in 1997 to provide for the regulation of the practice of veterinary surgery, the registration of veterinary surgeons, the disciplinary control of the professional activities of registered veterinary surgeons and for matters related to such registration and disciplinary control so as to ensure a high standard of veterinary care in Hong Kong. Over the years, the veterinary sector has undergone significant changes as a result of the rapid advancement of veterinary knowledge, growing awareness of the importance of animal welfare and higher community expectations about the standard of veterinary services in Hong Kong. The number and complexity of complaints received by the VSB in recent years have grown markedly in tandem with the wider availability and utilisation of veterinary services as well as the increase in the number of registered veterinary surgeons. To keep up with the changes, the Veterinary Surgeons Registration (Amendment) Ordinance 2015 was passed by the Legislative Council (LegCo) on 18 March 2015, and will commence on a date to be appointed by the Secretary for Food and Health (SFH) by notice published in the Gazette.

4. Pursuant to section 3A of the VSRO as amended by the Veterinary Surgeons Registration (Amendment) Ordinance 2015 (“the amended Ordinance”), the VSB will comprise a Chairperson and 12 members to be appointed by SFH, as well as six members, who are registered veterinary surgeons, to be elected in an election. Section 28(1A) of the amended Ordinance further states that SFH may by regulation provide for matters concerning the election of members of the veterinary profession to the VSB.

5. The Panel was consulted on 14 April 2015 on the salient features of the proposed rules governing the election of members from the veterinary profession to the VSB (vide the Annex of LC Paper No. CB(2)1182/14-15(05), copied at Annex of this paper). Members of the Panel were generally in support of the proposed arrangements.

6. Noting that the Government would separately consult the veterinary profession, Members requested to be kept informed of the views collected before the Government finalises the proposed arrangements and proceeds to prepare the Election Regulation.

CONSULTATION WITH THE VETERINARY PROFESSION

7. The proposals we presented to the Panel form the basis of our consultation with members of the veterinary profession. We sent letters to all registered veterinary surgeons in Hong Kong and relevant veterinary organisations including the VSB and the Hong Kong Veterinary Association, inviting their comments on the salient features of the proposed election rules. In addition, the Agriculture, Fisheries and Conservation Department held two consultation forums in May 2015 to listen to the views of members of the veterinary profession. At the end of the 1½-month consultation period, the Government has received a total of 55 written/oral responses from individuals and organisations.

8. In sum, the vast majority of respondents are generally in support of the proposals set out in the Annex. There are different views on the qualification of electors / candidates and the voting arrangement. Their feedback on individual aspects of the proposed election rules are summarised in the ensuing paragraphs.

(a) Overview of the proposed arrangements

9. We had not received any adverse comments or objections from the veterinary profession on the proposed arrangements for the conduct of the

election, including the appointment of a returning officer by the VSB and the appointment of a “Board of Review” to handle any election petitions.

(b) Term of office of elected members

10. Nor were there any adverse comments on the proposals that the term of office of elected members should be three years and that a by-election should be held to elect a qualified candidate to fill a vacant office of an elected member. However, one respondent suggested that in the case of an office of elected member becoming vacant, instead of holding a by-election to fill the vacancy, the candidate with the next highest votes in the previous ordinary election should be entitled to fill the vacant office. He considered the counter-proposal to be more cost-effective and efficient.

11. The arrangement for holding a by-election to elect a qualified candidate to fill a vacant office of an elected member is mandated in section 3E of the amended Ordinance. The counter-proposal is inconsistent with that provision and hence cannot be taken on board.

(c) Qualification of electors

12. Of the 55 responses received, 43 respondents (or 78%) were of the view that only registered veterinary surgeons holding a valid practising certificate should be qualified as electors eligible to vote at the election. There was also one comment that the VSRO should be further amended such that only veterinary surgeons who are holding a valid practising certificate should be retained on the register and thereby eligible to be electors.

13. At present, in order to practise in Hong Kong, a veterinary surgeon is required to be registered under the VSRO and also holds a valid practising certificate¹ (which is renewable on an annual basis). In earlier consultations surrounding the return of elected members to the VSB, we have floated the proposal that all registered veterinary surgeons (regardless of whether they are holding a valid practising certificate) should be eligible to participate and vote in the election. This has not attracted contrary views. In the light of the feedback from the profession as described in paragraph 12 above, we have re-visited this proposal.

14. The VSB is set up as a statutory body for the self-regulation of the veterinary profession with a mission to uphold the professional standards of veterinary services in Hong Kong. One of the objectives of introducing

¹ As at 26 October 2015, 665 of the 814 registered veterinary surgeons under the VSRO hold a valid practising certificate.

elected members to the Board is to encourage members of the profession to participate in the management of the profession's own affairs. It is not an unreasonable expectation that the voters in the election should be those who maintain a close connection with the profession and are practising in Hong Kong. We see merits in the proposal and would propose to specify in the Election Regulation that only registered veterinary surgeons holding a valid practising certificate are eligible to vote in the election. This latest suggested change has the support of the VSB.

(d) Qualification of candidates

15. The majority of the submissions received concurred with the proposed arrangements in regard to the qualification of candidates. One respondent commented that a registered veterinary surgeon who has been reprimanded should still be qualified to become a candidate, while another respondent opined that a registered veterinary surgeon who is subject to a disciplinary order made in the year preceding the year in which the election is held should still be qualified. Two other respondents suggested that only those with a given measure of clinical experience or holding a practising certificate or practising address should be eligible for running for election. There was also one suggestion that each elector should be allowed to nominate one or more than one candidate up to the number of vacancies to be filled in the election.

16. Given the high professional standard that the public expects of a veterinary member of the VSB, we consider that a registered veterinary surgeon who is subject to a disciplinary order currently in force against him/her should not be eligible to become a candidate. In paragraph 14 above, we have examined whether the qualification of electors should be confined to those registered veterinary surgeons holding a valid practising certificate, and agreed that it should be the case. Along the same vein, we propose that only those registered veterinary surgeons holding a valid practising certificate will be eligible to stand for the election as a candidate. This suggested change has the support of the VSB as well.

17. The comments about the maximum number of candidates that an elector may nominate will be dealt with in paragraph 24 below.

(e) Disqualification of qualified candidates

18. The majority of the submissions received concurred with the proposals in regard to the disqualification of qualified candidate. One respondent suggested that a registered veterinary surgeon who is subject to a

disciplinary order should not be disqualified from being a candidate.

19. Pursuant to section 2D(1)(c) of Schedule 1 to the amended Ordinance, the VSB must declare that the office of an elected member becomes vacant if a disciplinary order is in force in respect of the elected member. It is logical that a candidate who is subject to a disciplinary order should be disqualified from being a candidate before the election is held. This is also in line with the high professional standard expected of a veterinary member of the VSB by the public. Consistent with the qualification requirement of candidates, a registered veterinary surgeon who subsequently no longer holds a valid practising certificate after becoming a qualified candidate would be disqualified to stand for the election.

(f) Conduct of election

20. There was no comment or objection received in regard to the proposed arrangements for the conduct of election.

(g) Voting and counting arrangement

21. The majority of the submissions received concurred with the proposed voting and counting arrangements. However, an overwhelming majority of the respondents (53 out of 55) opposed to the current proposal that “one elector may only vote for one candidate” and they suggested that an elector should be allowed to cast one or more than one vote up to the total number of seats to be elected (i.e. in an ordinary election with six vacancies, an elector is allowed to cast vote for one to six candidates as he/she so wishes). Two respondents suggested preferential voting (i.e. the votes should be cast in the order of the elector’s preference) as opposed to according equal weighting to each vote.

22. At the meeting of the Bills Committee established by the LegCo to scrutinise the Veterinary Surgeons Registration (Amendment) Bill 2014 (the Bills Committee) held on 5 January 2015, the voting system was discussed at some length. Some Members of the Bills Committee expressed worry that if the electors were allowed to cast votes for up to the number of seats to be elected in that election, there might be a risk that the election would be dominated by bloc voting influenced by certain sizeable groups or organisations. Having regard to the concerns expressed by Members of the Bills Committee, the Government proposed to adopt a voting system whereby each elector could only cast vote for one candidate in each election and to consult the veterinary profession on this basis. However, we are mindful that if an elector could only cast vote for one candidate in an election, as the

electoral base is relatively small (see footnote 1), the number of votes obtained by the elected members particularly for the last seats might be thinned out, which might to a certain extent undermine the representativeness and credibility of the election.

23. On balance, having carefully weighed the pros and cons of the different voting systems as discussed above and having regard to the overwhelming views of the veterinary profession received, we propose that an elector should be permitted to cast one or more than one vote up to the total number of seats to be elected. To keep the voting system simple and straight-forward, we do not intend to pursue preferential voting for the time being.

24. On the arrangement for nomination, we maintain our proposal that an elector could only nominate one candidate irrespective of the number of seats to be elected. This was also supported by members of the Bills Committee. Taken together, we believe the revised arrangements would help ensure that there would be a good number of independent candidates running for the election while helping to forestall unnecessary thinning out of votes for the candidates.

25. The vast majority of the respondents (52 out of 55) suggested that the electors should be allowed to cast their votes by post, in addition to voting in person as originally proposed. They submitted that the requirement for voting in person might discourage electors from taking part in the election, leading to poor response rate. They also commented that voting by post was practised by other local and overseas professional regulatory bodies. A good number of respondents (43 out of 55) suggested online voting as a possible alternative. There was a suggestion that if voting in person would be the only option, the authority should set up multiple polling stations across the territory and the election should be held over a period of time (i.e. more than one day).

26. We believe that voting in person and voting by post both have their own merits. Voting in person provides the highest level of security as the identity of the elector could be verified and we could ensure that the elector casts the vote in private without influence by others. The downside is that it is complicated and costly to operate multiple polling stations for such a small electoral base. Due to various reasons, some veterinary surgeons may also not be able to cast their votes at the designated venue during the designated hours. Voting by post, on the other hand, has the greatest flexibility and helps induce a higher degree of participation by the veterinary profession. Voting by post is also the common practice adopted by many other local and overseas professional regulatory bodies, such as the Medical Council of Hong Kong, the

Social Workers Registration Board of Hong Kong and the Royal College of Veterinary Surgeons Council of the U.K. Having carefully considered the views received and on balance, we submit that voting by post may suit the situation of the local veterinary profession better and will help encourage more electors to participate in the election. In administering the election in due course, we will devise suitable measures to safeguard the integrity of the ballot system.

27. We have no intention to pursue on-line voting for the time being having regard to the complexity and cost for such a voting system for a small electoral base.

NEXT STEPS

28. Members are invited to note the outcome of the consultation with the veterinary profession and the Government's updated proposals in response to these views. The Government will proceed to prepare the Election Regulation on the above basis.

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

**Salient features of the rules governing the election
of members from the veterinary profession
to the Veterinary Surgeons Board of Hong Kong**

(A) Background

Section 3A of the Veterinary Surgeons Registration Ordinance (the Ordinance), as amended by the Veterinary Surgeons Registration (Amendment) Ordinance 2015, provides that the Veterinary Surgeons Board of Hong Kong (the Board) will comprise, among others, six members who are registered veterinary surgeons to be elected in an election (the elected members).

2. The salient features of the rules governing the election of members from the veterinary profession to the Board are listed below.

(B) Overview

3. For a particular election, the incumbent Board is to be charged with the responsibility of supervising the conduct of the election.

4. The Board is to appoint a person to serve as the Returning Officer.

5. The Returning Officer is to issue a notice of election (the election notice) at least 60 days before the election is held.

6. Other than those as set out in paragraph 7 below, the incumbent Chairperson and all members of the Board¹ are to form a “Board of Review” which will be responsible for handling any petitions related to that election. The incumbent Chairperson of the Board will preside as the convenor of the Board of Review.

7. The following would be excluded from the Board of Review:

- (a) members of the incumbent Board who have become qualified candidates in that election;

¹ Under the envisaged arrangements, the term of office of this Board will lapse on the day immediately before the newly elected members assume office.

- (b) members of the incumbent Board who have submitted nominations but are identified as being ineligible for becoming qualified candidates in that election; or
- (c) members of the incumbent Board who have submitted nomination and become qualified candidates in that election but have subsequently been disqualified from being nominated as candidates.

(C) Term of office of elected members

8. The term of office of an elected member is three years, and the member may be re-elected for further terms of three years each.

9. If the office of an elected member becomes vacant under section 2D(3) of Schedule 1 to the amended Ordinance, and the unexpired term of office at the time the vacancy arises is not less than nine 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. The term of office of the member elected through the by-election is the unexpired term of the vacant office.

10. The term of office of an elected member starts from the first day of the month immediately following the date on which the election result is published in the Gazette.

(D) Qualifications of electors

11. All veterinary surgeons who are registered under the Ordinance and whose names are entered in the register of registered veterinary surgeons on the date of the issue of the election notice will become electors and are qualified to vote in the election which is the subject of that election notice.

12. All electors are qualified to subscribe to the nomination of a candidate in the election which is the subject of that election notice as a proposer or seconder.

13. An elector will be disqualified from voting in the election which is the subject of that election notice if he/she has ceased to be a registered veterinary surgeon on the date of election (i.e. his/her name is no longer entered in the register of registered veterinary surgeons), even though his/her name has been entered in the register of registered veterinary surgeons on the date of the issue of the election notice.

(E) Qualifications of candidates

14. All registered veterinary surgeons who are registered under the Ordinance and whose names are entered in the register of registered veterinary surgeons on the date of the issue of the election notice are eligible to be nominated as candidates, except for any registered veterinary surgeon who:

- (a) is the subject of an order made under section 19² of the Ordinance and the order is still in force;
- (b) is an undischarged bankrupt;
- (c) has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his/her creditors which is still in force;
- (d) is serving a sentence of imprisonment (it does not matter whether he/she is or has been convicted in Hong Kong or any other place) on the date of nomination, or of the election; or
- (e) is or has been convicted in Hong Kong or any other place, of an offence for which he/she has been sentenced to imprisonment, whether suspended or not, for a term exceeding three months, where the election is to be held or is held within five years after the date of conviction.

² Section 19 of the Ordinance provides that where an inquiry committee finds that a registered veterinary surgeon committed a disciplinary offence, the inquiry committee may make any one or more of the following orders:

- (a) order the Secretary to remove the name of the registered veterinary surgeon from the register;
- (b) order the Secretary to remove the name of the registered veterinary surgeon from the register for such period, not exceeding two years as the inquiry committee may think fit;
- (c) reprimand the registered veterinary surgeon in writing and order the Secretary to record the reprimand on the register;
- (d) make any other order as it thinks fit.

15. Each elector may become a candidate only if he/she is nominated by at least one proposer and one seconder.

16. Each elector in each election may, in the capacity of a proposer or seconder, nominate only one registered veterinary surgeon who is qualified as an elector to be a candidate, regardless of the number of elected members to be returned at that election.

(F) Disqualification of qualified candidates

17. A registered veterinary surgeon who has become a qualified candidate will be disqualified from being a candidate at the election, and from being an elected member, if:

- (a) he/she dies;
- (b) he/she ceases to be a registered veterinary surgeon (i.e. his/her name is no longer entered in the register of registered veterinary surgeons), even though his/her name has been entered in the register of registered veterinary surgeons on the date of the issue of the election notice;
- (c) an order under section 19 of the Ordinance is in force in respect of him/her;
- (d) he/she has become an undischarged bankrupt;
- (e) he/she has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his/her creditors, which is still in force;
- (f) he/she is serving a sentence of imprisonment on the date of election; or
- (g) he/she is or has been convicted in Hong Kong or any other place, of an offence for which he/she has been sentenced to imprisonment, whether suspended or not, for a term exceeding three months.

(G) Conduct of election

18. An ordinary election is conducted triennially on a date to be determined by the Board.

19. Where a by-election is called for, the arrangements set out in paragraph 9 above will apply.

(H) Voting and counting arrangements

20. Each elector may vote for only one candidate in each election, regardless of the number of elected members to be returned at the election concerned.

21. The votes shall be given and counted in accordance with the “first past the post” system.

22. All electors are required to cast votes in person at designated polling station(s) within the specified polling hours on the election day.

(I) Election petition

23. There will be provision(s) in the proposed Election Regulation providing for election petition. Electors who are entitled to vote at the election, qualified candidates of the election or nominees who are determined as being ineligible for becoming qualified candidates after submission of nomination may lodge a petition questioning the election results. An election petition should be lodged with the Board of Review within 30 days after the date on which the election result is published in the Gazette. The Board of Review will handle that election petition. It will remain in being until all election petitions lodged have been disposed of.