

# 立法會 *Legislative Council*

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## **Panel on Food Safety and Environmental Hygiene**

### **Updated background brief prepared by the Legislative Council Secretariat for the meeting on 10 November 2015**

#### **Proposed legislation for the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong**

#### **Purpose**

This paper provides background information on the proposed legislation for the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong ("VSB"), and summarizes major views and concerns of Legislative Council ("LegCo") Members on the subject.

#### **Background**

2. VSB is established under section 3 of the Veterinary Surgeons Registration Ordinance (Cap. 529) ("VSRO"). Enacted in 1997, VSRO provides 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 ("RVs") and matters related to such registration and disciplinary control. The mission of VSB is to safeguard the health and welfare of animals and interests of animal owners through the development and improvement of professional standards, regulation of ethical standards, registration of veterinary surgeons, and diligent exercise of disciplinary control of the professional activities of RVs.

#### The Veterinary Surgeons Registration (Amendment) Bill 2014

3. In the light of changes in circumstances since the enactment of VSRO<sup>1</sup>,

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<sup>1</sup> According to the Administration, the number of RVs had since 1997 increased from around 150 to nearly 720. There had also been growing public awareness of animal welfare and higher community expectation on veterinary services. As a result, the number of complaints received by VSB had risen from eight in 1998 to 50 on average annually in recent years.

the Administration and VSB jointly conducted in 2012 a review of VSB's structure and modus operandi. A public consultation was launched in October 2012 on the Administration's proposals to amend VSRO to, among other things, expand the membership of VSB and streamline its complaint-handling procedures. The Panel on Food Safety and Environmental Hygiene ("the Panel") was briefed on the proposed amendments to VSRO at its meetings on 13 November 2012 and 8 April 2014. The Veterinary Surgeons Registration (Amendment) Bill 2014 ("the Bill") was introduced into LegCo on 9 July 2014. The Bills Committee on Veterinary Surgeons Registration (Amendment) Bill 2014 ("the Bills Committee") was subsequently formed to study the Bill.

4. Before the passage of the Bill, VSB consisted of 10 members appointed by the Secretary of Food and Health ("SFH"), namely (a) one chairperson; (b) one medical practitioner or pharmacist who was entitled to practice his or her profession in Hong Kong; (c) two persons who represented the interests of persons who utilized veterinary services (i.e. lay persons who were non-RVSs); and (d) six RVSs. The Bill sought to, among other things<sup>2</sup>, broaden the membership of VSB as follows -

- (a) expanding the membership of VSB from 10 to 19 by increasing (i) the number of RVSs from six to 12, of which six were to be appointed by SFH, and (ii) the number of lay persons from two to five; and maintaining the ratio of RVS to non-RVS on VSB at 2:1; and
- (b) electing the six newly added VSB members who were RVSs by members of the veterinary profession.

The Bill was passed with amendments at the Council meeting of 18 March 2015.

5. Upon the passage of the Bill, the proposed new section 28(1A) of VSRO would be brought into operation to empower SFH to make regulations for matters concerning the election of six RVSs to VSB ("the Election Regulation"). The proposed Election Regulation would be submitted in the form of subsidiary legislation to LegCo for scrutiny under the negative vetting procedure. The VSB election would be proceeded with upon the enactment of the Election Regulation.

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<sup>2</sup> The other proposed amendments include - (a) increasing the number of persons sitting on a Preliminary Investigation Committee ("PIC") from two to three, with one of whom being a non-RVS; (b) streamlining the complaint-handling process so that a PIC may refer a complaint directly to an Inquiry Committee ("IC") for inquiry; and (c) empowering VSB to establish a panel of assessors which comprise not more than 18 persons (12 RVSs and six non-RVSs) who are not VSB members, and are to be appointed to PICs and ICs.

6. At the Panel meeting on 14 April 2015, the Administration briefed members on the salient features of the proposed Election Regulation to be made pursuant to section 28(1A) of VSRO. The Administration advised that while members of the Bills Committee were generally supportive of the proposed election arrangements, there were suggestions that each elector in an election should be permitted to (a) nominate only one RVS to be a candidate, and (b) cast only one vote, regardless of the number of elected members to be returned at that election, so as to instill competition and encourage candidates of diverse background to participate in the VSB election. The Administration confirmed that the above suggestions of the Bills Committee had been incorporated in the proposed Election Regulation (please refer to **Appendix I** for details).

### **Members' concerns**

7. Members' major views and concerns on issues relating to the election of RVSs to VSB expressed at meetings of the Panel and the Bills Committee are summarized in the ensuing paragraphs.

### Composition of VSB

8. Members had diverse views on whether all the 12 RVSs instead of the proposed six newly-added RVSs on VSB should be elected by members of the veterinary profession. There was a view that all the 12 RVSs should be elected by the veterinary profession to facilitate the operation of VSB under the principle of professional autonomy instead of government control. There was also a view that RVSs on VSB should be elected from different specialties in the profession. However, there was another view that VSB, comprising members who were all appointed by SFH, had been operating smoothly since its establishment. Expressing concerns about the charging of exorbitant service fees by RVSs and the undersupply of RVSs, some members were worried that the elected RVSs might put the interest of the profession before public interest.

9. According to the Administration, it was appropriate to expand VSB's membership by including six elected RVSs in VSB having regard to the need to ensure further healthy development of the veterinary profession in the face of rising expectation on the standards of veterinary services in Hong Kong. The proposed election of six RVSs to VSB would enhance the balanced representation on VSB and encourage greater involvement of the profession in managing its own affairs. In the long run, the number of elected RVSs on VSB might be reviewed in the light of the overall development of the profession. The Administration stressed that there was no evidence from overseas

jurisdictions that the presence of elected members in the regulatory bodies of the veterinary profession had driven up the veterinary service fees.

10. The Administration also considered it necessary to retain the six appointed RVSs, so as to help minimize the possibility of the veterinary members of VSB being constituted of RVSs mainly from certain individual veterinary areas and to maintain diversified and balanced professional views and knowledge in VSB. The Administration advised that it had appointed RVSs in different fields (including veterinary public health and veterinary care for small pet animals, competition horses, aquatic animals and zoo animals) to VSB and would continue with this practice after the enactment of the Bill.

#### Qualifications of candidates

11. There was a suggestion that the Administration should stipulate in the proposed Election Regulation that only those RVSs who were Hong Kong permanent residents would be eligible to be nominated as candidates for the VSB election, so as to ensure that they would endeavour to improve the standard of veterinary services in Hong Kong if elected.

12. The Administration advised that under the principle of professional autonomy, all RVSs who were registered under VSRO should be eligible to be nominated as candidates for the said election, except in certain circumstances. The Administration considered it not necessary to include the requirement that a candidate must be a Hong Kong resident.

#### Electoral method and voting arrangements

13. A suggestion was raised that the Administration should provide electors' information to candidates to facilitate their canvassing activities. According to the Administration, a list of RVSs would be published in the Gazette and uploaded onto the relevant website. The Administration would make reference to similar elections in other professional sectors in considering the support to be rendered to candidates in reaching out to the electors. The Administration further advised that the VSB Secretariat and the Agriculture, Fisheries and Conservation Department should have sufficient manpower resources to carry out the work in relation to the preparation and conduct of the election.

14. Members expressed support for the Administration's proposal to require electors to cast votes in person and to disallow proxy voting in a VSB election. There was a suggestion that the relevant regulations made by the Electoral Affairs Commission and the Independent Commission Against Corruption on electoral procedure and prevention of bribery be adapted to the VSB Election Regulation. The Administration had undertaken to ensure that the election would be open, fair and cost-effective. It would take into account the

experience of the first VSB election when considering in future the feasibility of other simpler and more convenient voting arrangements.

### **Latest developments**

15. At the Panel meeting on 14 April 2015, the Administration advised that it was consulting VSB and members of the veterinary profession on the proposed legislation for the election of members from the veterinary profession to VSB. It was the plan of the Administration to finalize the proposed arrangements taking into account the views received. The Administration undertook to report to the Panel on the consultation results.

16. On 4 September 2015, the Administration announced the appointment of a new member and the re-appointment of eight incumbent members to VSB from 15 September 2015 until such time as the newly constituted VSB with elected members was established. The Administration advised that subject to passage of the proposed subsidiary legislation by LegCo, the election was expected to take place in 2016.

17. The Administration will brief the Panel on the outcome of the consultation and its revised legislative proposal at the Panel meeting on 10 November 2015.

### **Relevant papers**

18. A list of the relevant papers on LegCo website is in **Appendix II**.

### **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 Board<sup>1</sup> 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;

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<sup>1</sup> 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 19<sup>2</sup> 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.

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<sup>2</sup> 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.

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

## Appendix II

### Relevant papers on Proposed legislation for the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong

| Committee   | Date of meeting        | Paper   |
|---|------------------------|---|
| Panel on Food Safety and Environmental Hygiene                            | 13.11.2012<br>(Item V) | <a href="#">Agenda</a><br><a href="#">Minutes</a> |
|   | 8.4.2014<br>(Item VI)  | <a href="#">Agenda</a><br><a href="#">Minutes</a> |
| Bills Committee on Veterinary Surgeons Registration (Amendment) Bill 2014 | --                     | <a href="#">Report</a>                            |
| Panel on Food Safety and Environmental Hygiene                            | 14.4.2015<br>(Item V)  | <a href="#">Agenda</a><br><a href="#">Minutes</a> |

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