

CHAPTER 27:15

VETERINARY SURGEONS ACT

Acts 36/1973, 27/1979, 15/1981, 29/1981, 22/1982; S.I 566/1979, 22/2001 (s. 4).

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

COUNCIL OF VETERINARY SURGEONS

3. Establishment of Council of Veterinary Surgeons.
4. Succession to existing Council.
5. Composition of Council.
6. Functions and expenses of Council.
7. Conditions of office of members.
8. Appointment of members on failure of voters to elect members.
9. Disqualification for appointment as member.
10. Vacation of office.
11. Minister may require member to vacate office or suspend him.
12. Filling of vacancies on Council.
13. Chairman and vice-chairman of Council.
14. Meetings and decisions of Council.
15. Committees of Council.
16. Validity of decisions and acts of Council.
17. Funds, accounts and reports of Council.

PART III

REGISTRATION

18. Registrar of Veterinary Surgeons.
19. Veterinary Surgeons Register.
20. Duties of Registrar and certificates of registration.
21. Offences in connection with Register, etc.
22. Publication of Register.
23. Register to be evidence.
24. Persons deemed to be registered.
25. Residence of registered persons.
26. Qualification for registration.
27. Procedure for registration.
28. Temporary registration.
29. Erasures from Register.
30. Restoration to Register.
31. Appeals against refusal to register or erasure from Register.

PART IV

DISCIPLINARY AND OTHER INQUIRIES

32. Inquiries by Council.
33. Exercise of powers by Council after inquiry.
34. Exercise of disciplinary powers on conviction for offence: court to forward evidence.
35. Registered persons becoming unfit to practise.
36. Appeals to High Court.
37. Publication of result of disciplinary proceedings.
38. Council not to be liable.

39. Improper or disgraceful conduct.
40. Recovery by Council of costs or penalty.

PART V

DISABILITIES OF UNREGISTERED PERSONS AND OFFENCES

41. Remuneration not recoverable by unregistered persons.
42. Certain certificates, etc., invalid if signed by unregistered persons.
43. Unregistered persons practising as or representing themselves to be veterinary surgeons.
44. Impersonation of registered persons.
45. Burden of proof.

PART VI

GENERAL

46. Exemptions.
47. Notification of change of address.
48. Regulatory powers of Council.

SCHEDULE: Operations, Treatments, Tests, Advice, Diagnoses and Attendances Which May be Performed, Given or Provided by Unregistered Persons.

AN ACT to consolidate and amend the law regulating the practice of the profession of veterinary surgery and medicine in Zimbabwe; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 8th February, 1974.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Veterinary Surgeons Act [*Chapter 27:15*].

2 Interpretation

(1) In this Act—

“appointed day” means the 8th February 1974;

“Council” means the Council of Veterinary Surgeons established by section *three*;

“Director of Veterinary Services” means the Director of Veterinary Services of the Ministry of Agriculture;

“former Council” means the Council of Veterinary Surgeons of Zimbabwe established by the repealed Act;

“improper or disgraceful conduct” means—

(a) improper conduct or disgraceful conduct or conduct which, when regard is had to the profession of veterinary surgery and medicine, is improper or disgraceful, whether defined in regulations referred to in paragraph (a) of subsection (1) of section *thirty-nine* or not; and

(b) for the purposes of paragraph (c) of section *nine*, includes disgraceful conduct or negligence on the part of a person in his capacity as a veterinary surgeon referred to in Part V of the repealed Act;

“local examinations” means the local examinations referred to in subsection (3) of section *twenty-six*;

“Minister” means the Minister of Agriculture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“Register” means the Veterinary Surgeons Register referred to in subsection (1) of section *nineteen*;

“registered” means registered in the Register in terms of Part III;

“Registrar” means the Registrar of Veterinary Surgeons appointed in terms of subsection (1) of section *eighteen*;

“repealed Act” means the Veterinary Surgeons Act, 1961 (No. 24 of 1961).

(2) For the purposes of this Act, the practice of veterinary surgery and medicine shall be deemed to include the performance of any single operation and the giving or providing on one occasion of any treatment, test, advice, diagnosis or attendance such as is usually performed, given or provided by veterinary surgeons.

PART II

COUNCIL OF VETERINARY SURGEONS

3 Establishment of Council of Veterinary Surgeons

There is hereby established a council, to be known as the Council of Veterinary Surgeons, which shall be a body corporate and shall in its corporate name be capable of suing and being sued and, subject to the provisions of this Act, of performing all such acts as bodies corporate may by law perform.

4 Succession to existing Council

(1) The Council shall for all purposes be the successor to the former Council and the members of the former Council shall, subject to this Part, continue in office for the remainder of the three-year term expiring on the 3rd January, 1975.

(2) All assets and liabilities which, immediately before the appointed day, vested in or had been incurred by the former Council shall pass by succession to the Council.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day which had been commenced by or against the former Council may be continued or enforced by or against the Council as it might have been by or against the former Council if this Act had not been passed.

5 Composition of Council

(1) The Council shall consist of six members of whom—

(a) subject to subsection (2), two shall be appointed by the Minister; and

(b) four shall be registered veterinary surgeons elected by the registered veterinary surgeons in the manner prescribed.

(2) Of the members of the Council appointed by the Minister in terms of paragraph (a) of subsection (1)—

(a) one shall be the Director of Veterinary Services:

Provided that, if the Director of Veterinary Services is not a registered veterinary surgeon, the member appointed by the Minister in terms of this paragraph shall be a registered veterinary surgeon in the Public Service; and

(b) one shall be a legal practitioner.

6 Functions and expenses of Council

(1) It shall be the function of the Council to hold inquiries for the purposes of this Act and to do all other things required or permitted to be done by the Council in terms of this Act and such other things as, in the opinion of the Council, are necessary or desirable for the proper regulation of the practice of the profession of veterinary surgery and medicine and the improvement of veterinary services in Zimbabwe.

(2) Any expenses incurred by the Council in the exercise of its functions in terms of this Act shall be met out of the funds of the Council.

7 Conditions of office of members

(1) The period of office of the members of the Council shall, subject to this Part, be—

(a) in the case of the members of the Council referred to in subsection (1) of section *four*, for the period expiring on the 3rd January, 1975;

(b) in the case of the members of the Council appointed or elected in respect of a period after the 3rd January, 1975, for a period of three years, the first period to commence immediately after the 3rd January, 1975.

(2) A member of the Council shall hold office on such conditions as the Minister may in each case fix and be paid out of the funds of the Council such remuneration and allowances, if any, as the Council, with the approval of the Minister, may in each case fix.

(3) A retiring member of the Council shall be eligible for re-appointment or re-election as a member.

8 Appointment of members on failure of voters to elect members

(1) If the registered veterinary surgeons fail, neglect or refuse for any reason whatsoever to elect any or all of the members of the Council referred to in paragraph (b) of subsection (1) of section *five* or to fill a vacancy in terms of paragraph (a) of subsection (1) of section *twelve*, the Minister may appoint to the Council a registered veterinary surgeon or registered veterinary surgeons to be the member or members which the registered veterinary surgeons have failed, neglected or refused to elect or may appoint a registered veterinary surgeon to fill the vacancy, as the case may be.

(2) A member of the Council appointed by the Minister in terms of subsection (1)—

(a) notwithstanding subsection (1) of section *seven*, shall hold office for such period as the Minister may fix:

Provided that the period so fixed by the Minister shall expire not later than the end of the current three-year period; and

(b) shall be deemed to have been duly elected to the Council by the registered veterinary surgeons.

9 Disqualification for appointment as member

No person shall be appointed or elected as a member of the Council and no person shall be qualified to hold office as a member who—

- (a) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;
- or
- (b) has, in the period of five years immediately preceding the date of his proposed appointment or election, been convicted—
 - (i) within Zimbabwe of a criminal offence; or
 - (ii) outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe, would have been a criminal offence;and sentenced by a court to imprisonment for a term of six months or more without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or
- (c) has, in the period of five years immediately preceding the date of his proposed appointment or election, been found guilty of improper or disgraceful conduct.

10 Vacation of office

A member of the Council shall vacate his office and his office shall become vacant—

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiration of such shorter period as he and the Minister may agree; or
- (b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (b) of section *nine* after conviction of an offence referred to in that paragraph:
Provided that, if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed, the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted a free pardon, his conviction is set aside, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or
- (c) if he becomes disqualified in terms of paragraph (a) of section *nine* to hold office as a member; or
- (d) thirty days after the date he is found guilty of improper or disgraceful conduct:
Provided that, if during such period of thirty days an appeal is filed in terms of subsection (1) of section *thirty-six*, the question whether the member is to vacate his office shall not be determined until the final disposal of such appeal whereupon the member shall forthwith vacate his office and his office shall become vacant unless the decision of the council finding him guilty of improper or disgraceful conduct is set aside; or
- (e) if he is required in terms of subsection (1) of section *eleven* to vacate his office; or
- (f) if he is absent from three consecutive meetings of the Council of which he has had notice without the permission of the Council; or
- (g) if he ceases to hold a qualification which was necessary in terms of section *five* or subsection (1) of section *eight* for his appointment or election, as the case may be.

11 Minister may require member to vacate office or suspend him

(1) The Minister may require a member of the Council to vacate his office if the Minister is satisfied that the member—

- (a) has been guilty of improper conduct as a member; or
 - (b) has failed to comply with the conditions of his office fixed in terms of subsection (2) of section *seven*; or
 - (c) is mentally or physically incapable of performing his duties as a member.
- (2) The Minister may suspend from office a member of the Council against whom—
- (a) criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed; or
 - (b) disciplinary proceedings are instituted by the Council; and while that member is so suspended he shall not carry out any duties as a member.

12 Filling of vacancies on Council

(1) On the death of, or the vacation of office by, a member of the Council who is—

- (a) an elected member, the vacancy shall be filled by a veterinary surgeon elected in the prescribed manner:
Provided that, if the remainder of the period for which the member whose office has been vacated would otherwise have held office is less than six months, it shall not be necessary to hold an election and the Council may, if it thinks fit, co-opt a registered veterinary surgeon to fill the vacancy;

(b) an appointed member, the Minister shall, subject to subsection (2) of section *five*, appoint another person to fill the vacancy;
and the person so elected, co-opted or appointed, as the case may be, shall hold office for the remainder of the three-year period for which that member would, but for his death or the vacation of his office, have continued in office.

(2) If any member is granted leave of absence by the Council, the Council may, if it thinks fit, co-opt a registered veterinary surgeon to fill the vacancy during the absence of that member.

(3) Subsection (2) of section *seven* and of sections *nine*, *ten* and *eleven* shall apply, *mutatis mutandis*, in respect of a member co-opted in terms of the proviso to paragraph (a) of subsection (1) or subsection (2).

13 Chairman and vice-chairman of Council

(1) At the first meeting of the Council in each three-year period the members shall, subject to subsection (3), elect from among their number a chairman and a vice-chairman who shall hold office during that three-year period unless, in each case, he sooner resigns or ceases to be a member.

(2) If the chairman or the vice-chairman vacates his office as such, a new chairman or vice-chairman, as the case may be, shall, subject to the provisions of subsection (3), be elected by the members from among their number at the next meeting of the Council or as soon thereafter as may be convenient.

(3) The member referred to in paragraph (b) of subsection (2) of section *five* shall not be eligible for election as chairman or vice-chairman of the Council.

(4) The chairman or vice-chairman may vacate his office as such even though he remains a member of the Council.

(5) The vice-chairman shall, if the chairman is absent or unable to carry out his functions, exercise the functions of the chairman during the period that the chairman is so absent or unable to act.

(6) The chairman or vice-chairman shall, notwithstanding that his period of membership of the Council has expired, continue to hold office as chairman or vice-chairman until his successor has been elected.

(7) The persons who, immediately before the appointed day, held the office of chairman and vice-chairman of the former Council shall be deemed to have been elected in terms of subsection (1) to be chairman and vice-chairman, respectively, of the Council.

14 Meetings and decisions of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Council shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit:

Provided that a meeting of the Council shall be held at least three times in each year.

(2) A special meeting of the Council—

(a) may be convened by the chairman of the Council at any time;

(b) shall be convened by the chairman within twenty-one days of the receipt by him of a request in writing signed by not less than three members and specifying the purposes for which the meeting is to be convened.

(3) At any meeting of the Council—

(a) the chairman or, in his absence, the vice-chairman shall preside;

(b) in the absence of both the chairman and the vice-chairman the members present shall elect one of their number to preside;

(c) three members shall form a quorum.

(4) All acts, matters or things authorized or required to be done by the Council shall be decided by a majority vote at a meeting of the Council at which a quorum is present.

(5) At all meetings of the Council each member present shall have one vote on a question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

15 Committees of Council

(1) For the proper exercise of its functions and powers the Council may—

(a) establish committees; and

(b) appoint such registered veterinary surgeons, whether or not they are members of the Council, as it may consider expedient to be members of a committee referred to in paragraph (a); and

(c) assign to a committee referred to in paragraph (a) such powers and duties of the Council as the Council may consider expedient:

Provided that—

(i) the Council shall not vest in any committee any powers conferred upon the Council in terms of Part IV;

- (ii) the vesting in a committee or imposition on a committee of any powers or duties in terms of this paragraph shall not thereby divest the Council of such powers or duties;
- (iii) the Council may amend or rescind any decision of any committee in the exercise of its powers or duties.

(2) The chairman of the Council or chairman of a committee may at any time and at any place convene a meeting of that committee.

(3) A member of a committee shall be paid out of the funds of the Council such remuneration and allowances, if any, as the Council, with the approval of the Minister, may in each case fix.

16 Validity of decisions and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid by reason only of the fact that—

- (a) the Council did not consist of the full number of members for which provision is made in section *five*; or
- (b) the various members of the Council did not have the qualifications prescribed by this Part; or
- (c) a disqualified person acted as a member of the Council;

at the time the decision was taken or act was done or authorized if the decision was taken or act was done or authorized by a majority vote of the persons who at the time were entitled to act as members of the Council.

17 Funds, accounts and reports of Council

(1) The funds of the Council shall consist of—

- (a) all fees and other moneys payable to the Council in terms of this Act; and
- (b) such moneys as may be payable to the Council from moneys appropriated for the purpose by the Legislature; and
- (c) such other moneys and assets as may vest in or accrue to the Council, whether in the course of the exercise of its functions or otherwise.

(2) The Council shall keep proper books of account and other records relating thereto in respect of its funds.

(3) The accounts of the Council shall be audited annually by an auditor registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] appointed by the Council.

(4) The Council shall send annually to the last known address of each registered veterinary surgeon a copy of a report on the Council's activities including—

- (a) the income and expenditure account and statement of assets and liabilities certified by the auditor referred to in subsection (3) including any report thereon by the auditor;
- (b) a statement setting out the name of the person concerned, the nature of the proceedings and any action taken by the Council in relation to any proceedings in terms of Part IV;

in respect of the last financial year of the Council.

PART III

REGISTRATION

18 Registrar of Veterinary Surgeons

(1) The Council may appoint a person to be Registrar of Veterinary Surgeons at such remuneration and allowances, to be paid from its funds, as the Council may from time to time determine and the Council may for good cause discharge the person so appointed:

Provided that, if the Council does not appoint a person to be the Registrar, the Minister shall, subject to the laws relating to the Public Service, appoint such a person.

(2) The functions of the Registrar shall be—

- (a) to be the secretary to the Council, in which connection he shall, on instructions from the chairman of the Council, convene meetings of the Council and any committee thereof and maintain the records of any such meeting;
- (b) to carry out any other duties imposed on him by or in terms of this Act.

19 Veterinary Surgeons Register

(1) The Council shall, subject to this Act, continue to keep the Veterinary Surgeons Register which was established and in existence immediately before the appointed day.

(2) The Council shall, subject to this Act, keep a register of persons temporarily registered in terms of section *twenty-eight*.

20 Duties of Registrar and certificates of registration

(1) The Register shall be kept in the custody of the Registrar at the office of the Council.

(2) It shall be the duty of the Registrar—

- (a) to enter in the Register in relation to a registered person his name, address, qualifications and date of first registration and such other particulars as the Council may from time to time determine; and
- (b) to make in the Register any necessary alterations to the particulars referred to in paragraph (a); and

- (c) to erase from the Register the name of a registered person who dies; and
 - (d) when required to do so by or under this Act or in pursuance of an order of the High Court—
 - (i) to enter in the Register the registration of an applicant or, as the case may be, the suspension from practice of a registered person; and
 - (ii) to erase from the Register the name of a registered person;
- and generally in connection with the Register to comply with this Act and any order made by the High Court.
- (3) Where the Registrar erases from the Register the name of a registered person, he shall enter in the Register a record of the reasons therefor.
- (4) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—
- (a) registers an applicant, he shall issue to him a certificate of registration;
 - (b) erases from the Register the name of a registered person or enters in the Register the suspension from practice of a registered person, he shall, if possible, notify him in writing accordingly.
- (5) On an application by a registered person the Registrar may issue to that person a duplicate certificate of registration—
- (a) if he is satisfied as to the identity of the applicant; and
 - (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
 - (c) on payment by the applicant of the appropriate fee, if any, prescribed.

21 Offences in connection with Register, etc.

A person who—

- (a) makes or causes to be made an unauthorized entry in or alteration of or deletion from the Register or a certified copy thereof or extract therefrom or a certificate of registration; or
 - (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or
 - (c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purposes of establishing his identity; or
 - (d) wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or
 - (e) without the permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or
 - (f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;
- shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Section as amended by Act No. 22 of 2001]

22 Publication of Register

(1) The Registrar shall from time to time under the authority of the Council cause copies of the Register or of supplementary lists showing all alterations, additions, revisions and erasures made since the last publication of the complete Register to be printed and published in the *Gazette*.

(2) Copies of the Register shall be published in such form as the Council may direct and may contain in lists separate from the Register such particulars as the Council may require to be published.

23 Register to be evidence

(1) Subject to the provisions of subsection (2), the last published copy of the Register, as read with any supplementary list, purporting to be printed and published under the authority of the Council in terms of section *twenty-two* shall be *prima facie* evidence in all legal proceedings of the facts therein recorded and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered.

(2) In the case of a person—

- (a) whose name does not appear in a copy published in terms of section *twenty-two* and whose name has been added to the Register after the date of the last published copy thereof, a certificate under the hand of the Registrar of the entry of the name of that person in the Register shall be *prima facie* evidence that that person is so registered on that Register; or
- (b) whose name has been erased from a Register since the date of the last published copy thereof and has not been restored thereto, a certificate under the hand of the Registrar that the name of that person has been erased from the Register shall be *prima facie* evidence that that person is not registered on the Register; or
- (c) who has been suspended from practice in terms of this Act, a certificate under the hand of the Registrar that that person has been so suspended from practice for a period specified in that certificate shall be *prima facie* evidence that that person has been suspended from practice for that period.

24 Persons deemed to be registered

Every person who, immediately before the appointed day, was registered in the Register shall be deemed to have been so registered in terms of this Part.

25 Residence of registered persons

(1) Subject to subsection (2), an applicant for registration shall not be registered unless at the time of his application—

- (a) he resides in Zimbabwe; or
- (b) he intends, if he is registered, to take up residence in Zimbabwe within six months of the date of his registration.

(2) Any person who resides in and is lawfully practising as a veterinary surgeon within such areas of a neighbouring state or territory as the President may, by a statutory instrument, from time to time specify for the purposes of this subsection may be registered if, but for residing outside Zimbabwe, he is otherwise qualified for registration.

26 Qualification for registration

(1) For the purposes of this Part, a person shall be qualified to be registered if he—

- (a) is of or over the age of twenty-one years; and
- (b) holds a qualification referred to in subsection (2); and
- (c) is not a person whose registration the Council has ordered to be cancelled in terms of subparagraph (i) of paragraph (a) of subsection (1) of section *thirty-three*:

Provided that a person shall not be disqualified in terms of this paragraph to be registered if in the manner prescribed—

- (a) he has applied for; and
 - (b) the Council has granted him; written authority to make application for re-registration.
- (2) The qualification for the purposes of paragraph (b) of subsection (1) shall be—
- (a) such qualification in veterinary science as the Council may prescribe; or
 - (b) a qualification in veterinary science which—
 - (i) has been obtained at any university or veterinary college; and
 - (ii) is approved by the Council; and a pass in the local examinations.

(3) The local examinations shall consist of such written papers, practical tests and oral examinations as may be provided for in regulations.

27 Procedure for registration

(1) Any person who wishes to be registered shall apply in writing to the Registrar and shall submit with his application—

- (a) a certificate of any qualification on which he relies for registration or a certified photostat copy thereof:
Provided that a certificate showing his registration in the state or territory in which he qualified or a certified photostat copy thereof may be submitted if such certificate contains details of the qualification on which registration was based; and
- (b) if other practical experience or training is required in the state or territory in which he qualified before registration in that state or territory—
 - (i) evidence that such experience has been effected or such training has been carried out; or
 - (ii) a certificate of registration in that state or territory or a certified photostat copy thereof;and
- (c) such evidence of identity, good character and reputation, of compliance with the conditions prescribed in section *twenty-six* and of the authenticity and validity of any certificate submitted by him as the Council may require; and
- (d) save in the case of a person referred to in subsection (2) of section *twenty-five*, evidence that he resides or intends, if he is registered, to reside in Zimbabwe.

(2) The Council may require any statement in, or in connection with, an application in terms of subsection (1) to be supported by solemn declaration.

(3) If the Registrar is satisfied that the qualification and the particulars or documents submitted in terms of subsection (1) are in accordance with the requirements of this Part, he shall, upon payment by the applicant of the appropriate fee, if any, prescribed, register the applicant in the Register.

(4) If the Registrar is not satisfied that the qualification and the particulars or documents submitted in terms of subsection (1) are in accordance with the requirements of this Part, he shall refer the application to the Council for decision.

(5) The Council may refuse to register an applicant if, in its opinion, the applicant, notwithstanding that he is otherwise qualified, is not a fit person to be registered by reason of—

- (a) his physical or mental health; or
- (b) the fact that he is not of good character or reputation; or
- (c) the fact that he has not an adequate knowledge of the English language; or
- (d) any conduct of his which, if he had been registered, would have constituted improper or disgraceful conduct:

Provided that, before refusing registration in terms of this paragraph, the Council shall hold an inquiry in terms of Part IV and that Part shall apply, *mutatis mutandis*, as if the applicant were registered.

28 Temporary registration

(1) Subject to the provisions of subsection (2), any person who intends to practise in Zimbabwe but does not intend to reside permanently in Zimbabwe may, if he possesses a qualification set out in subsection (2) of section *twenty-six*, be registered on a separate temporary register kept in terms of subsection (2) of section *nineteen*, subject to the following provisions—

- (a) the period of registration shall be not more than twelve months:

Provided that in exceptional circumstances the chairman of the Council may extend the period of registration for an additional one month;

- (b) no person may be registered on a second or subsequent occasion in the separate temporary register referred to in this subsection unless a period of not less than two years has elapsed since his previous registration.

(2) Subsection (5) of section *twenty-seven* shall apply, *mutatis mutandis*, to temporary registration in terms of subsection (1).

29 Erasures from Register

(1) The Council may direct the Registrar to erase from the Register—

- (a) the name of any person who—

- (i) has been absent from Zimbabwe for a continuous period of three years preceding such erasure; or
- (ii) has failed to pay any fee payable in terms of any regulations referred to in subparagraph (ii) of paragraph (a) of subsection (2) of section *forty-eight* within three months after the date on which that fee became payable; or
- (iii) has failed, within a period of six months after the date of an inquiry sent by the Registrar by registered letter to his address as shown in the Register, to notify the Registrar of his present address:

Provided that if such registered letter is returned to the Registrar by reason of it being unclaimed or for any other reason, the Council may forthwith direct that the name of the person be erased from the Register; or

- (iv) has requested that his name be removed from the Register and, if so required by the Council, has lodged an affidavit that no disciplinary or criminal proceedings are being or are likely to be taken against him in connection with the practice of his profession or calling; or
- (v) is resident or practising in Zimbabwe and whose name has been removed from the roll, register or record of any university, training school or institution, society or other body from which that person received the qualification upon the basis of which he was registered;

or

- (b) any entry which is proved to the satisfaction of the Council to have been made in error or through fraudulent representation or concealment of material facts or in circumstances not authorized by this Act.

(2) The Registrar shall erase from the Register the name of any person where the Council has—

- (a) in terms of subsection (1), directed the erasure of the name; or
- (b) in terms of subparagraph (i) of paragraph (a) of subsection (1) of section *thirty-three*, directed the cancellation of the registration of the person concerned.

(3) If a person referred to in paragraph (b) of subsection (1) of section *twenty-five* fails to take up residence in Zimbabwe within the period referred to in that paragraph, his name shall be erased from the Register on the expiration of that period.

(4) Before the Council directs any erasure to be made in terms of subparagraph (v) of paragraph (a) or paragraph (b) of subsection (1), the Council shall, if possible, afford the person concerned an opportunity of showing cause before the Council as to why the erasure should not be made.

(5) A certificate of registration issued to a person whose name has been erased from the Register in terms of this section shall be deemed to have been cancelled on the date of the erasure and the person concerned shall be deemed not to be registered with effect from that date.

30 Restoration to Register

Where the name of a person has been erased from the Register in terms of subparagraph (i), (ii), (iii) or (iv) of paragraph (a) or paragraph (b) of subsection (1) of section *twenty-nine*, the Council may, if it thinks fit, authorize the restoration to the Register of the name of such person if representations are made by the person concerned after the expiration of such period as the Council may determine in that particular case.

31 Appeals against refusal to register or erasure from Register

- (1) A person, other than a person referred to in subsection (1) of section *thirty-six*, who is aggrieved by—
- (a) the refusal of the Council to register him or temporarily to register him in terms of section *twenty-eight*;
 - or
 - (b) the erasure or omission from the Register of his name;

may, after notice to the Council and within thirty days after the date on which notice is given to him by the Registrar of such refusal or erasure, appeal to the High Court in such manner as may be prescribed by rules of court made in terms of the High Court Act [*Chapter 7:06*].

- (2) On an appeal in terms of subsection (1), the High Court may—

- (a) dismiss the appeal; or
- (b) if it is of the opinion that the Council has not acted in accordance with the provisions of this Act, make an order that the name of the appellant be registered on the appropriate register; or
- (c) remit the matter to the Council for further consideration;

and may make such other order as to costs or otherwise as may to it seem just.

(3) Where the Council has refused to register or temporarily to register an applicant on the grounds that, in its opinion, he is not a fit person to be so registered for any of the reasons specified in subsection (5) of section *twenty-seven*, the High Court may, if it thinks fit, notwithstanding the opinion of the Council, order that the appellant be registered.

PART IV

DISCIPLINARY AND OTHER INQUIRIES

32 Inquiries by Council

- (1) Subject to this section, the Council may hold inquiries into an allegation—

- (a) that a registered veterinary surgeon—
 - (i) has been guilty of improper or disgraceful conduct; or
 - (ii) is grossly incompetent or has performed any act pertaining to his profession in a grossly incompetent manner;
- or
- (b) referred to in section *thirty-five*.

- (2) Before exercising its powers referred to in subsection (1), the Council shall—

- (a) cause to be served upon the person concerned a notice setting out the allegations against him; and
- (b) afford the person concerned a reasonable opportunity of being heard, either by himself or, if he so wishes, by a legal representative:

Provided that where the person concerned is by reason of mental disorder or defect legally incapable of representing himself, the Council may apply to the High Court for the appointment of a curator *ad litem* and the notice referred to in paragraph (a) shall be served on such curator.

(3) The powers, rights and privileges of the Council in an inquiry referred to in subsection (1) shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*] and sections 9 to 13 and 15 to 16 of that Act shall apply, *mutatis mutandis*, in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry.

(4) The member of the Council referred to in paragraph (b) of subsection (2) of section *five* shall be present at an inquiry referred to in subsection (1) to advise the Council on matters of law, procedure and evidence:

Provided that if that member is unable to be present at an inquiry, the chairman of the Council shall appoint some other person who is a legal practitioner to be present at the inquiry to advise on matters of law, procedure and evidence.

33 Exercise of powers by Council after inquiry

- (1) At the conclusion of an inquiry held in terms of section *thirty-two*, the Council may—

- (a) in the case of an allegation referred to in paragraph (a) of subsection (1) of that section, if the Council decides that the registered veterinary surgeon has been guilty of improper or disgraceful conduct or is grossly incompetent or has performed any act pertaining to his profession in a grossly incompetent manner, do one or more of the following—
 - (i) direct the Registrar to cancel the registration of the registered person;

- (ii) order the suspension of the registered person for a specified period from practising or performing acts specially pertaining to the profession of a veterinary surgeon;
 - (iii) impose such conditions as it deems fit subject to which the registered person shall be entitled to carry on his profession or calling;
 - (iv) order the registered person to pay a penalty not exceeding an amount equivalent to a fine of level six, which penalty shall be payable to the Council;
[Subparagraph as amended by section 4 of Act No. 22 of 2001]
 - (v) order the registered person to pay any costs or expenses of, and incidental to, the inquiry;
 - (vi) censure him;
 - (vii) caution him and postpone for a period not exceeding three years any further action against him on one or more conditions as to his future conduct, including the conduct or nature of his practice during that period;
- (b) in the case of an allegation referred to in paragraph (b) of subsection (1) of that section, do one or more of the following—
- (i) do any of the things referred to in paragraph (a) and the provisions of subsections (2) and (4) shall apply, *mutatis mutandis*;
 - (ii) prohibit such person for a specified period from purchasing, acquiring, keeping, using, prescribing, ordering, supplying or possessing any specified drug;
 - (iii) impose for a specified period such conditions as it deems fit subject to which such person shall be entitled to purchase, acquire, keep, use, prescribe, order, supply or possess any specified drug.

(2) If at any time the Council is satisfied that during the period of any postponement in terms of subparagraph (vii) of paragraph (a) of subsection (1) a registered person has not complied with the conditions imposed in terms of that subparagraph, the Council, after giving reasonable notice to the registered person concerned, may decide further to do one or more of the things specified in paragraph (a) of subsection (1).

(3) The Council may extend for any period determined by it the period of operation of, or withdraw or in any other manner amend, any order made in terms of subparagraphs (ii) and (iii) of paragraph (b) of subsection (1).

(4) A person who has been suspended in terms of subparagraph (ii) of paragraph (a) of subsection (1) shall be disqualified from carrying on his profession as a veterinary surgeon and his registration shall be deemed to be cancelled until the period of suspension has expired.

(5) A registered person who contravenes or fails to comply with an order made or conditions imposed in terms of subparagraph (ii) or (iii) of paragraph (b) of subsection (1) or subsection (3) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

34 Exercise of disciplinary powers on conviction for offence: court to forward evidence

(1) A registered person who has been convicted within or outside Zimbabwe, whether before or after the date of his registration, of an offence by a court of law shall be liable to be dealt with by the Council in accordance with the provisions of this Part if the Council is of the opinion that such offence constitutes improper or disgraceful conduct.

(2) The Council may, if it thinks fit on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with the provisions of this Part:

Provided that the convicted person shall be afforded an opportunity of tendering in writing or in person or by his legal representative, as he may elect, an explanation to the Council in extenuation of his conduct.

(3) Subject to the Courts and Adjudicating Authorities (Publicity Restriction) Act [*Chapter 7:04*] if, after the termination of proceedings before a court of law in Zimbabwe—

- (a) it appears to the court that there is *prima facie* evidence of improper or disgraceful conduct on the part of a registered person, the court shall direct that a copy of the record of the proceedings or a copy of such part of the record of such proceedings as is material to the issue shall be transmitted to the Council; or
- (b) the Council requests that a record of the proceedings before a court of law in Zimbabwe or part of such record be supplied to it on the grounds that it is of direct interest to the Council in the exercise of its functions under this Act, the registrar or clerk of the court shall transmit to the Council a copy of the record of the proceedings or a copy of such part of the record of the proceedings as is material.

35 Registered persons becoming unfit to practise

Whenever there is brought to the notice of the Council an allegation that a registered person has—

- (a) become mentally or physically disabled to such an extent that it would be contrary to the public welfare to allow him to continue to practise; or
- (b) become unfit to purchase, acquire, keep, use, prescribe, order, supply or possess any drug; or

(c) been using a drug in contravention of any law relating to the use of drugs; or

(d) become addicted to or dependent upon the use of drugs;

the Council shall have the power to call for information, to cause such investigation to be made as it thinks necessary and to seek such legal advice or other assistance as it may require and thereafter the provisions of sections *thirty-two* and *thirty-three* shall apply.

36 Appeals to High Court

(1) Any person who is aggrieved at the findings of, or penalty imposed by, the Council under this Part may, within thirty days after the date of such findings or the imposition of such penalty, appeal to the High Court in such manner as may be prescribed by rules of court made in terms of the High Court Act [*Chapter 7:06*].

(2) On an appeal in terms of subsection (1), the High Court may—

(a) confirm, vary or set aside any finding or penalty of the Council; or

(b) remit the matter to the Council for further consideration;

and may make such other order as to costs or otherwise as may to it seem just:

Provided that the High Court shall not set aside any finding or penalty by reason of any informality in the proceedings of the Council which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

(3) For the purpose of any appeal in terms of this section, the court may, if it thinks expedient so to do, call in the aid of one or more assessors who are specially qualified and hear the appeal wholly or partly with their assistance but the decision of the court in such an appeal shall be made or given by the judge or judges alone.

(4) The remuneration, if any, to be paid to an assessor called in terms of subsection (3) shall be determined by the court.

37 Publication of result of disciplinary proceedings

(1) The Registrar shall, if so directed by the Council, cause to be printed and published in the *Gazette* the name of any person—

(a) whose registration has been cancelled; or

(b) who has been suspended from practice;

in terms of this Part.

(2) A notice published in terms of subsection (1) shall be *prima facie* evidence in all legal proceedings that—

(a) the registration of the person specified in that notice has been cancelled; or

(b) the person so specified in that notice has been suspended from practice for the period specified in that notice;

as the case may be.

38 Council not to be liable

(1) Save as is provided in this Act, no legal proceedings, whether civil or criminal, shall lie against the Council or any member or officer thereof in respect of any act or duty performed in accordance with this Part.

(2) The Council shall not be responsible for any loss of earnings by a person as a result of action taken under this Part by the Council.

39 Improper or disgraceful conduct

(1) The Council may, under regulations made in terms of section *forty-eight*—

(a) define what in the case of a veterinary surgeon shall constitute improper or disgraceful conduct; and

(b) provide for the manner in which complaints or charges against a registered person may be lodged; and

(c) provide for any other matters incidental to the investigation of, and inquiry into, a complaint against a registered person.

(2) If any registered person has counselled or knowingly been a party to the performance of any act in respect of which an unregistered person has been convicted of an offence under Part V, the conduct of such registered person shall, for the purposes of this Part, constitute improper or disgraceful conduct:

Provided that the provisions of this subsection shall not be construed as exempting such registered person from prosecution in a court of law for any offence which such conduct may constitute.

(3) The regulations referred to in subsection (1) shall not be deemed to limit the general power conferred on the Council to inquire into allegations of improper or disgraceful conduct not covered by such regulations and to impose any penalty under this Part on any person guilty of such conduct.

40 Recovery by Council of costs or penalty

The Council may by action in a competent court recover any costs or penalty ordered in terms of this Part to be paid by a registered person.

PART V

DISABILITIES OF UNREGISTERED PERSONS AND OFFENCES

41 Remuneration not recoverable by unregistered persons

No remuneration shall be recovered in any court of law in respect of any act pertaining to the practice of veterinary surgery and medicine when performed by a person who is not registered:

Provided that this section shall not apply in respect of an act referred to in this subsection performed by a person who is temporarily registered in terms of section *twenty-eight* or who is exempted from registration in terms of section *forty-six*.

42 Certain certificates, etc., invalid if signed by unregistered persons

Subject to subsection (2) of section *forty-six*, no certificate, prescription or order required by law from a veterinary surgeon shall be valid unless the person signing such certificate, prescription or order is registered in the Register or temporarily registered in terms of section *twenty-eight*.

43 Unregistered persons practising as or representing themselves to be veterinary surgeons

(1) No person shall—

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

unless he is registered, temporarily registered in terms of section *twenty-eight* or exempted from registration in terms of section *forty-six*.

(2) Nothing in subsection (1) shall be construed as precluding an unregistered person from performing, giving or providing, in accordance with the Schedule or regulations made under this Act, any operation, treatment, test, advice, diagnosis or attendance which is specified in the Schedule or those regulations, as the case may be.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

44 Impersonation of registered persons

Any person who impersonates a registered person shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Section as amended by Act No. 22 of 2001]

45 Burden of proof

In any criminal proceedings against any person for a contravention of subsection (1) of section *forty-three* the person charged shall be deemed not to be registered, temporarily registered or exempted unless he proves the contrary.

PART VI

GENERAL

46 Exemptions

(1) Notwithstanding anything to the contrary contained in this Act—

- (a) if a registered person calls in as a consultant a veterinary surgeon who is neither resident nor registered in Zimbabwe, such consultant shall not be held to require registration in Zimbabwe in respect of the matter with respect to which he has been called in as consultant;

Provided that a veterinary surgeon shall not practise as a veterinary surgeon in Zimbabwe in terms of this paragraph for a longer period than fourteen days without the permission of the chairman of the Council;

- (b) the Council may exempt from the provisions of this Act regarding registration any veterinary surgeon not permanently resident in Zimbabwe who is engaged solely in teaching or in research work affecting the profession of veterinary surgeons and such exemption shall be valid for such period, not exceeding four months, as the Council may fix.

(2) Any certificate, prescription or order signed by a person exempted from registration in terms of subsection (1) and given by him in the course of his practice under that subsection but not otherwise shall, for the purposes of any law relating to drugs, have the same force and effect as a prescription or order signed by a registered person.

(3) This Act shall not be construed as preventing the training of a student as a veterinary surgeon.

47 Notification of change of address

A registered person who changes his address shall notify that fact to the Registrar within one month after that change.

48 Regulatory powers of Council

(1) Subject to subsection (4), the Council may make regulations prescribing anything which under this Act is required or permitted to be prescribed or done by regulation or which, in the opinion of the Council, is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Regulations in terms of subsection (1) may provide for—

- (a) the fees which shall be payable—
- (i) for registration in the Register; or
 - (ii) as annual fees by persons so long as they remain registered; or
 - (iii) for restoration to the Register; or
 - (iv) for the issue of a duplicate certificate of registration or certified extract from the Register or other certificate issued by the Registrar; or
 - (v) for sitting the local examinations:
Provided that—
 - (i) the Council may provide that a person previously registered under any law relating to the registration of veterinary surgeons may be re-registered without paying registration or re-registration fees unless his name has been erased from the Register pursuant to a direction in terms of subparagraph (ii) of paragraph (a) of subsection (1) of section *twenty-nine*;
 - (ii) the Council may provide for the refund of any fee paid on the registration of a person who is prevented by illness or other cause beyond his control from practising in Zimbabwe;
- (b) the minor operations, treatments, tests, advice, diagnoses and attendances, not specified in the Schedule, falling within the practice of veterinary surgery and medicine which may be performed, given or provided by unregistered persons and the conditions governing the performance and the giving and providing by unregistered persons of such operations, treatments, tests, advice, diagnoses and attendances;
- (c) in connection with the matters referred to in paragraph (b) or paragraph (h) of the Schedule, the examination, registration, discipline, suspension and cancellation of registration of a person of a specified class who may perform, give or provide the operations, treatments, tests, advice, diagnoses or attendances referred to in those paragraphs;
- (d) the regulation of places used by veterinary surgeons as animal hospitals or surgeries and the prohibition of the use of any place as an animal hospital or surgery which does not conform with prescribed conditions;
- (e) the nature and conduct of the local examinations and the appointment of a board of examiners to conduct such examinations.

(3) Regulations in terms of subsection (1) may provide for the imposition of penalties for a contravention thereof but no penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(4) Regulations in terms of subsection (1) shall not have effect until they have been approved by the Minister and published in a statutory instrument.

SCHEDULE (Sections 43 and 48)

OPERATIONS, TREATMENTS, TESTS, ADVICE, DIAGNOSES AND ATTENDANCES WHICH MAY BE PERFORMED, GIVEN OR PROVIDED BY UNREGISTERED PERSONS

The following operations, treatments, tests, advice, diagnoses and attendances may be performed by unregistered persons—

- (a) any non-surgical treatment given to an animal by—
- (i) its owner; or
 - (ii) a member of the household of which the owner is a member; or
 - (iii) a person in the employment of the owner; or
 - (iv) a person in the employment of a person referred to in subparagraph (ii);
- (b) any minor operation, being an operation not customarily performed only by a veterinary surgeon, carried out otherwise than for payment or material advantage by a person engaged or employed in farming to any animal owned for the purposes of agriculture;
- (c) anything done in the course of his duties by a person employed by the State;
- (d) the rendering in an emergency of first aid for the purpose of saving life or relieving pain;
- (e) the performance of the following operations—
- (i) the docking of the tail of a dog before his eyes are open;
 - (ii) the amputation of the dew claws of a dog before his eyes are open;
 - (iii) the castration by the surgical removal of the testes of any of the following animals—
 - A. a bull not older than nine months;

- B. a ram not older than six months;
 - C. a goat not older than six months;
 - D. a boar not older than three months;
- (iv) caponising;
- (f) the performance by a registered medical practitioner of an operation on an animal for the purpose of removing an organ or tissue for use in the treatment of human beings;
 - (g) the carrying out or performance of any operation, treatment or test by a registered medical practitioner or a registered dental practitioner at the request of a veterinary surgeon;
 - (h) the performance by an authorized lay assistant of certain operations, treatments, tests, advice, diagnoses and attendances under the direction of a veterinary surgeon as prescribed by regulation;
 - (i) the performance of any operation, treatment or test by a *bona fide* veterinary student attending a recognized veterinary school and under the personal supervision of a registered veterinary surgeon with whom for the time being the student is undergoing instruction.

downloaded from www.law.co.zw