

# **VETERINARY PRACTITIONERS ACT 2008**

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**BERMUDA**

**2008 : 20**

## **VETERINARY PRACTITIONERS ACT 2008**

Date of Assent: 28 May 2008

Operative Date: 9 July 2010

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WHEREAS it is expedient to make provision for the registration of veterinary practitioners and related matters:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

### **Short title and commencement**

1 (1) This Act may be cited as the Veterinary Practitioners Act 2008.

(2) This Act shall come into operation on such day or days as the Minister may appoint by Notice published in the Gazette and different days may be appointed for different provisions of the Act to come into operation.

### **Interpretation**

2 In this Act —

"Bermudian" means a person possessing Bermudian status under the Bermuda Immigration and Protection Act 1956;

"certificate" means a registration certificate issued under section 6 or a provisional registration certificate issued under section 7;

"Continuing Veterinary Education Programme" means such programme as the Council may from time to time approve as such;

"Council" means the Veterinary Practitioners Council established under section 4(1);

"Minister" means the Minister responsible for the Environment;

"prescribed" in relation to a fee, means prescribed under the Government Fees Act 1965;

"recognised professional body" means a body of veterinary practitioners established in a jurisdiction outside Bermuda, being a body which —

(a) has disciplinary powers over veterinary practitioners in that jurisdiction; and

(b) is recognised by the Council for the purposes of this Act;

"register" means the Register of Veterinary Practitioners kept under section 10(1);

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"registered veterinary practitioner" means a person registered under section 6, to practise veterinary science;

"Registrar" means the Registrar General;

"veterinary science" means the application of medicine or surgery to any kind of animal and includes —

- (a) assessment of the physiological status of an animal;
- (b) diagnosis of any disease, injury, deformity or defect of an animal;
- (c) prescribing or administering any drug, medicine, apparatus, anaesthetic or substance to an animal for the purpose of the diagnosis, treatment or prevention of any disease, injury, deformity or defect of an animal;
- (d) giving advice on the diagnosis or treatment of disease in an animal or an injury to an animal;
- (e) applying the principles of zoonotic disease control and disaster medicine in the promotion of animal welfare and public health.

### **Restrictions on practice of veterinary science**

3 (1) A person who is not a registered veterinary practitioner or an authorised visiting veterinary practitioner under this Act shall not —

- (a) practise veterinary science, whether or not such practice is for gain or reward;
- (b) advertise or hold himself out as authorised to practise veterinary science;
- (c) take or use any name, title or description (whether by initials or otherwise) implying or calculated to lead persons to believe that he is a registered veterinary practitioner or an authorised visiting veterinary practitioner;
- (d) with intent to deceive, assume or use any affix indicative of any occupational designation relating to the practice of veterinary science;
- (e) with intent to mislead the public into believing that he is a registered veterinary practitioner or an authorised visiting veterinary practitioner or is qualified to be so registered under this Act, make use of any certificate of registration issued under this Act to him or any other person;

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- (f) diagnose or attempt to diagnose any animal disease, ailment, deformity, defect or injury, or examine or advise upon any physical condition of any animal;
- (g) prescribe or administer any drug, serum or any other substance or remedy, apply any apparatus, or perform any operation or manipulation for the cure, treatment or prevention of any animal disease, ailment, deformity, defect or injury;
- (h) act as the assistant or associate of any person who, not being a registered veterinary practitioner or an authorized visiting veterinary practitioner, performs any of the acts specified in this subsection.

(2) Subsection (1) shall not apply to —

- (a) any person registered, enrolled or licensed under this or any other enactment who performs or provides any service which he is authorised or entitled to perform thereunder;
- (b) any person working under the direction of a registered veterinary practitioner;
- (c) any person performing the functions which he is employed by the Government to perform;
- (d) any person giving necessary veterinary aid in cases of urgent need without hire, gain or hope for reward;
- (e) veterinary paraprofessionals who have successfully completed a course of study and practice recognized by the Council or who have demonstrated their skills to the satisfaction of the Council;
- (f) the administration of home remedies.

(3) A person who contravenes subsection (1) commits an offence and on summary conviction is liable to a fine not exceeding \$5,000 or a term of imprisonment not exceeding six months or to both such fine and imprisonment.

### **Establishment of Council**

4 (1) There is established for the purposes of this Act, a body to be known as the "Veterinary Practitioners Council".

(2) The functions of the Council shall be —

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- (a) to assess the qualifications and cause the Registrar to register suitably qualified persons as veterinary practitioners under this Act;
  - (b) to promote and maintain proper standards for the practice of veterinary science in Bermuda;
  - (c) to ensure the maintenance of acceptable standards of professional conduct by persons registered as veterinary practitioners or acting as animal health assistants, under this Act;
  - (d) to perform such other things of professional concern to registered veterinary practitioners as may be assigned to the Council under this or any other Act.
- (3) The Council shall consist of not less than six and not more than eight members appointed by the Minister, including —
- (a) three registered veterinary practitioners;
  - (b) at least two persons who are not veterinary practitioners; and
  - (c) the Government Veterinary Officer, who shall be an ex-officio member with a right to vote.
- (4) Schedule 1 has effect in relation to the constitution and matters concerning the procedure of the Council.

### **Qualifications for registration**

5 Subject to this Act, a person is entitled to be registered as a veterinary practitioner under section 6 if he is a Bermudian or authorised to work in Bermuda in compliance with the Immigration and Protection Act 1956, and satisfies the Council that he is of good character and—

- (a) is eligible to hold membership in the Royal College of Veterinary Surgeons of the United Kingdom without further examination; or
- (b) is eligible to hold a valid licence or other authorisation to practise veterinary science in any part of the United States, Canada, the European Union or any member country or associate member of the Caribbean Economic Community (CARICOM).

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### **Registration**

6 (1) A person who desires to be registered as a veterinary practitioner to practise veterinary science shall apply in the prescribed form to the Council.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and such additional documents as the Council may require.

(3) The Council shall consider the application as soon as practicable and if satisfied that the applicant meets the qualifications specified under section 5, direct the Registrar to enter the required particulars relating to the applicant in the register and issue to the applicant a certificate of registration.

(4) Where the Council rejects an application, it shall record its decision and the reasons for it and inform the applicant in writing about the decision and the reasons for it.

### **Provisional registration to acquire veterinary experience in Bermuda**

7 (1) A person who desires to be registered under this Act for the purpose of acquiring in Bermuda such experience in veterinary science as will entitle him to be registered as a veterinary practitioner under section 6, may apply to the Council for provisional registration.

(2) An application under subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed fee and such additional documents as the Council may require.

(3) The Council shall consider the application as soon as practicable and may either approve or reject it.

(4) The Council may approve an application under subsection (1) and direct the Registrar to register that person provisionally in the register for a period not exceeding six months, if the Council is satisfied that the applicant —

- (a) is a Bermudian or is resident in Bermuda in compliance with the Bermuda Immigration and Protection Act 1956;
- (b) is of good character;
- (c) has graduated from a degree programme of at least three years duration in veterinary science from an accredited school of veterinary science; and

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(d) has secured placement with a registered veterinary practitioner.

(5) Where the Council approves an application for provisional registration under this section, the Council shall attach to its approval such conditions as the Council considers appropriate and shall include a condition that the provisionally registered veterinary practitioner shall only practise veterinary science under the direct supervision of a registered veterinary practitioner.

(6) Where the Council rejects an application made under subsection (1), it shall record its decision and the reasons for it and inform the applicant in writing about its decision and the reasons for the decision.

### **Duration and renewal of registration certificate**

8 (1) A certificate issued under section 6 shall be valid for a period not exceeding three years from the day the certificate is issued.

(2) A person who wants a certificate to practise veterinary science issued under section 6 to be renewed shall apply in the prescribed form to the Council.

(3) An application under subsection (2) shall be accompanied by the prescribed fee and such additional documents as the Council may require.

(4) The Council shall consider the application as soon as practicable and if satisfied that the applicant—

(a) continues to meet the applicable qualifications for registration set out in section 5;

(b) has, within the 3 years preceding the date on which he applies for the renewal of his certificate, complied with the requirements of the Continuing Veterinary Education Programme; and

(c) meets any other requirements applicable to him,

direct the Registrar to renew the certificate.

(5) A registered veterinary practitioner shall display his certificate at all times in a conspicuous location at the principal place where he practises veterinary science.

### **Authorised visiting veterinary practitioner**

9 (1) Subject to this section, the Council may grant a permit to a person who is licensed overseas by a recognised professional body to practise veterinary science, to practise veterinary science in Bermuda for

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a period not exceeding ninety days for the purpose of assisting a registered veterinary practitioner.

(2) A registered veterinary practitioner who requires the assistance of a visiting veterinary practitioner shall make an application on behalf of the visiting veterinary practitioner to the Council in writing in such form as the Council may determine, for a permit to practise veterinary science.

(3) An application made under subsection (2) shall be accompanied by the prescribed fee and such additional documents as the Council may require.

(4) Where the Council is satisfied that there is need for veterinary expertise and that, by virtue of his professional qualifications and experience in veterinary science, the visiting veterinary practitioner would meet that need, the Council may issue the permit.

(5) Where the Council issues a permit to a visiting veterinary practitioner to practise veterinary science in Bermuda, the Council may specify in the permit —

- (a) the type of cases within their specialty which the practitioner is authorised to assist with; and
- (b) such conditions or restrictions relating to the practice of veterinary science as the Council may consider appropriate.

(6) A person to whom a permit is issued under subsection (4) shall not practise veterinary science in Bermuda otherwise than in accordance with such authorisation.

### **Register of Veterinary Practitioners**

10 (1) The Council shall cause the Registrar to open and maintain at his office, in such form as it may from time to time determine, a register to be known as the “Register of Veterinary Practitioners”.

(2) The register is an official record and shall contain —

- (a) the names, addresses and qualifications of registered veterinary practitioners;
- (b) the branch or branches of veterinary science (if any) in relation to which each veterinary practitioner is registered and any specialty;
- (c) such particulars as the Council considers necessary or expedient for identifying registered veterinary practitioners; and

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(d) such other particulars the Council may specify.

(3) The Registrar shall, at the direction of the Council —

(a) enter in the register every change which comes to his knowledge in the addresses or other particulars of the persons registered therein;

(b) remove from the register all entries procured by fraud or misrepresentation;

(c) remove from the register the name of any person who dies or who applies to have his name removed; and

(d) make any other necessary entry, erasure or alteration to keep the register correct, in accordance with this Act.

(4) A person may at all reasonable times during normal business hours, on payment of the prescribed fee, inspect the register and take copies of or extracts from it.

### **Annual gazetting of particulars**

11 (1) As soon as practicable after 1 January in every year, the Registrar shall publish in the Gazette a notice setting out the names and other particulars entered in the register on that date.

(2) A copy of the latest gazetted notice is prima facie evidence in all courts that the persons whose names are included in the notice are registered veterinary practitioners and the absence of a person's name from the notice is prima facie evidence in all courts that he is not a registered veterinary practitioner.

### **Alteration of registered particulars; voluntary removal of name from register**

12 (1) If any change occurs in respect of the name or address of the holder of a certificate, he shall immediately inform the Council in writing and if the Council is satisfied that the change should be made, the Council shall direct the Registrar to make the necessary change to the certificate and register.

(2) A registered veterinary practitioner who desires to have his name removed from the register shall make an application for that purpose to the Council, surrender his certificate; and the Council may on receipt of the certificate, direct the Registrar to make the necessary alterations to the register.

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### **Professional misconduct**

13 (1) If an allegation of professional misconduct on the part of a registered veterinary practitioner is brought to the notice of the Council in writing, the Council shall investigate the allegation as soon as practicable and make a determination as to whether an enquiry is warranted.

(2) For the purposes of an enquiry under this section the Council may, by notice in writing served on a person, summon him to give evidence at the enquiry or produce documents or records in his possession and the Council may take evidence on oath or affirmation and administer such oath or affirmation.

(3) In an enquiry under this section, the Council shall allow the registered veterinary practitioner concerned —

- (a) to appear before the Council;
- (b) to be represented by counsel;
- (c) to cross-examine witnesses; and
- (d) generally to make a full defence of his interests.

(4) At the conclusion of its enquiry, the Council shall —

- (a) decide whether an allegation has been proved and record its decision, with reasons, in writing;
- (b) in a case where it finds that an allegation has been proved, decide what disciplinary action it will take and specify in a notice to the registered veterinary practitioner, the disciplinary action which it will take; and
- (c) within 28 days after the conclusion, serve on the person in relation to whom the enquiry was held a written notice stating its decisions.

(5) For the purposes of subsection (4)(b), the Council may —

- (a) reprimand or caution the veterinary practitioner;
- (b) impose a condition on the veterinary practitioner's registration;
- (c) suspend the veterinary practitioner's registration for such period as it considers just; or
- (d) cancel the veterinary practitioner's registration and strike his name off the register.

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(6) In this section —

"professional misconduct" includes—

- (a) incompetence or negligence in the provision of medical or surgical treatment;
- (b) improper or unethical conduct in relation to professional practice;
- (c) conduct that brings the profession into disrepute;
- (d) having one's name struck off a register of veterinary practitioners kept outside Bermuda by a recognised professional body for reasons which the Council considers affects one's fitness to practise;
- (e) conviction, whether in Bermuda or elsewhere, for an indictable offence which the Council considers affects one's fitness to practise his profession; and
- (f) a contravention of or failure to comply with—
  - (i) this Act or Regulations made under this Act; or
  - (ii) a code of conduct or professional standard issued by the Council;

"incompetence" means lacking the knowledge, ability or skill which can reasonably be expected of a registered veterinary practitioner.

### **Restoration of name in register**

14 (1) A registered veterinary practitioner whose name has been removed from the register under section 12(2) or struck off under section 13 may apply to the Council on the prescribed form for his name to be restored to the register and shall pay the prescribed fee.

(2) On receipt of an application under subsection (1), the Council shall consider —

- (a) why the veterinary practitioner's name was removed or, if struck off the register, the misconduct for which his name was struck off;
- (b) his conduct after his name was removed or struck off; and
- (c) any other circumstances appearing to the Council to be relevant.

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(3) After considering the matters referred to under subsection (2), the Council shall decide whether or not to restore the applicant's name to the register, as the case may require, and shall direct the Registrar to alter the register accordingly.

(4) Where the Council rejects an application made under subsection (1), it shall record its decision and the reasons for it and inform the applicant in writing about its decision and the reasons for the decision.

### **Appeals to Minister**

15 (1) A person who is aggrieved by a decision of the Council, made under section 6, 7, 8, 9, 12, 13 or 14, may within fourteen days of receiving a written notice of that decision, appeal to the Minister against the decision.

(2) An appeal under subsection (1) shall be made by notice in writing to the Minister setting out the grounds for the appeal.

(3) The Minister shall decide the appeal and make such order as seems just and the Registrar on the advice of the Council shall implement the Minister's decision.

(4) A decision to which this section applies shall not take effect in relation to the person against whom the decision was made until the expiration of the period for which he is allowed to appeal or, where he brings an appeal, until the appeal is decided or abandoned.

### **Regulations**

16 (1) The Minister may make regulations —

- (a) prescribing forms, notices or other documents to be used for the purposes of this Act;
- (b) specifying the manner in which notices may be served;
- (c) prescribing documents required to be forwarded with applications;
- (d) prescribing any other matter or thing which by or under this Act may be or is to be prescribed;
- (e) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Minister shall consult the Council before he makes any Regulations.

(3) Regulations made under this section are subject to the negative resolution procedure.

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### **Consequential amendments**

17 The enactments specified in the first column of Schedule 2 are amended as specified in the second column of that Schedule.

### **Savings**

18 (1) A person who immediately before the day of the coming into force of this Act, held a valid certificate issued by the Minister under section 8 of the Agriculture Act 1930 shall, on the day of the coming into force of this Act, be deemed to be registered as a veterinary practitioner under section 6 of this Act.

(2) Any application for a certificate which was pending under section 8 of the Agriculture Act 1930 at the commencement of this Act, shall continue as if it were an application for registration made under section 6 of this Act.

(3) Nothing in this Act affects any statutory provision under which a person is authorised to perform functions which, under this Act, constitute the practice of veterinary science.

## **SCHEDULE 1**

**(section 4)**

### **VETERINARY PRACTITIONERS COUNCIL**

1 Members of the Council shall be appointed by the Minister for a term not exceeding two years, specified in their instrument of appointment, and may be re-appointed.

2 For the purposes of the first constitution of the Council, section 4(3)(a) has effect as if for the words "registered veterinary practitioners", the words "persons who in the Minister's opinion, are entitled to be registered under section 6", are substituted.

3 A Chairman shall be appointed annually by the Minister from among the members of the Council and if at any time a person holding office as Chairman ceases to hold office as such or ceases to be a member of the Council, the Minister shall appoint another member to be Chairman in his stead.

4 If the Minister is satisfied that a member is by reason of ill-health or absence from Bermuda or other sufficient cause unable to perform his duties as a member, the Minister may, subject to section 4(3), appoint another person to act, for that member during the period of his incapacity or inability to act, except that, in the case of the incapacity or inability of the ex officio member to act, the Director of Environmental Protection shall act for that member during the period of any such incapacity or inability to act.

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5 A member may at any time resign his office, by giving the Minister a signed notice in writing of his resignation.

6 The Minister may at any time declare the office of a member vacant if he is satisfied that the member—

- (a) has failed without sufficient cause to attend three consecutive meetings of the Council; or
- (b) is incapacitated by physical or mental illness; or
- (c) has otherwise become unable or unfit to perform his duties as a member.

7 A person appointed to fill a vacancy left by a member who did not complete his term of office may be appointed for the unexpired portion of that member's term and no longer, but an appointment to such a vacancy need not be made where the unexpired portion of the term is less than three months.

8 Four members, which shall include two registered veterinary practitioners, the Government Veterinary Officer and one person appointed under section 4(3)(b), constitute a quorum at any meeting of the Council.

9 If the Chairman is absent from a meeting of the Council, the members present shall elect one of their number to act as Chairman at that meeting.

10 Any question for decision by the Council shall be decided by a majority of the members present and voting; each member has one vote, except that the person presiding shall have a second vote if there is a tie.

11 An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.

12 Subject to paragraphs 1 to 11, the Council may regulate its proceedings as it sees fit.

**SCHEDULE 2**

**(section 18)**

**Consequential Amendments**

<u>Column 1</u>	<u>Column 2</u>
<u>Enactment</u>	<u>Amendment</u>

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<p>Section 1 of the Agriculture Act 1930</p>	<p>delete the definition of “veterinary science” and substitute the following definition —</p> <p>“veterinary science” means the application of medicine or surgery to any kind of animal and includes —</p> <ul style="list-style-type: none"><li>(a) assessment of the physiological status of an animal;</li><li>(b) diagnosis of any disease, injury, deformity or defect of an animal;</li><li>(c) prescribing or administering any drug, medicine, apparatus, anaesthetic or substance to an animal for the purpose of the diagnosis, treatment or prevention of any disease, injury, deformity or defect of an animal;</li><li>(d) giving advice on the diagnosis or treatment of disease in an animal or an injury to an animal;</li><li>(e) applying the principles of zoonotic disease control and disaster medicine in the promotion of animal welfare and public health.</li></ul>
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Sections 8, 9, 10 and 11 of the Agriculture Act 1930	repeal.
Regulation 1 of the Agriculture (Control of Animal Diseases) Regulations 1947:	delete from the definition of "veterinary practitioner", the words "Agriculture Act 1930 [title 25 item 1]" and substitute the words "Veterinary Practitioners Act 2008".
Section 1 of the Care and Protection of Animals Act 1975:	delete from the definition of "veterinary practitioner", the words "section 8 of the Agriculture Act 1930 [title 25 item 1]" and substitute the words "the Veterinary Practitioners Act 2008".
Section 1 of the Misuse of Drugs Act 1972:	delete from the definition of "veterinary practitioner", the words "section 8 of the Agriculture Act 1930 [title 25 item 1]" and substitute the words "the Veterinary Practitioners Act 2008".
Section 1 of the Pharmacy and Poisons Act 1979:	delete from the definition of "veterinary practitioner", the words "section 8 of the Agriculture Act 1930 [title 25 item 1]" and substitute the words "the Veterinary Practitioners Act 2008".