

Malawi

Veterinary and Para-Veterinary Practitioners Act

Chapter 53:04

Legislation as at 31 December 2014

FRBR URI: /akn/mw/act/2001/7/eng@2014-12-31

There may have been updates since this file was created.

PDF created on 3 March 2022 at 12:23.

Collection last checked for updates: 31 December 2017.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Veterinary and Para-Veterinary Practitioners Act

Contents

Part I – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – The Board of Veterinary Surgery	1
3. Establishment of the Board	1
4. Composition of the Board	1
5. Tenure of office and vacancies	2
6. Allowances of members	2
7. Functions of the Board	2
8. Policy directions	3
9. Proceedings of the Board	3
10. Committees of the Board	3
11. Minutes of meetings	4
12. Disclosure of interest	4
13. Protection of members	4
14. Co-opted persons	4
15. Oath of secrecy	4
16. Prohibition of publication or disclosure of information by unauthorized persons	5
Part III – Management	5
17. Appointment of Registrar and other staff	5
Part IV – Financial provisions	5
18. Funds of the Board	5
19. Levy	6
20. Financial year	6
21. Accounts	6
22. Annual reports	6
23. Progress report	6
Part V – Registration	7
24. Application for registration	7
25. Unregistered persons prohibited from practising veterinary surgery	7
26. Register	7
27. Persons eligible to be registered as veterinary surgeons or para- veterinary surgeon	7
28. Qualifications for registration	8
29. Registration	8

30. Annual publication of list of veterinary surgeons and para- veterinary surgeon	8
31. Removal of name from Register	8
32. Use of title	9
33. Persons registered entitled to practice and recover charges	9
34. Certificates, to be signed by veterinary surgeons	9
35. Authority for re-registration	9
Part VI – Private practice	9
36. Licence for private practice	9
37. Issue, etc., of licences to be published in the Gazette	10
38. No fees recoverable unless practitioner licensed for private practice	10
Part VII – Disciplinary provisions	10
39. Disciplinary Committee	10
40. Function of Disciplinary Committee	11
41. Taking of evidence by Disciplinary Committee	11
42. Exercise of disciplinary powers on conviction for offence	12
43. Board. to refer cases to Disciplinary Committee	12
44. Exercise of disciplinary powers	13
45. Appeal to High Court	14
46. Publication of result of disciplinary proceedings	14
47. Board or Disciplinary Committee not to be liable	14
48. Improper or disgraceful conduct	14
Part VIII – Offences and penalties	15
49. Offences and penalties	15
Part IX – Regulations and savings	15
50. Regulations	15
51. Repeal and savings	16
Schedule (Section 25)	16

Malawi

Veterinary and Para-Veterinary Practitioners Act

Chapter 53:04

Commenced on 3 September 2001

[This is the version of this document at 31 December 2014 and includes any amendments published up to 31 December 2017.]

[Note: This version of the Act was revised and consolidated in the Fourth Revised Edition of the Laws of Malawi (L.R.O. 1/2015), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to Provide for the establishment of the Board of Veterinary Surgeons; the registration and disciplining of veterinary surgeons and para-veterinary surgeons; the licensing of private practice of veterinary surgery and generally for the control and regulation of the practice of veterinary surgery and veterinary medicine in Malawi and for matters incidental to or connected therewith

Part I – Preliminary

1. Short title

This Act may be cited as the Veterinary and Para-Veterinary Practitioners Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Board of Veterinary Surgery established under [section 3](#);

“**Director**” means the Director of Animal Health and Industry;

“**para-veterinary surgeon**” means a person registered as such under [section 27](#);

“**practice of veterinary surgery**” includes the practice of veterinary medicine and the performance of any operation and the giving of and providing of any treatment, test, advice, diagnosis or attention such as is usually performed, given or provided by veterinary surgeons;

“**Register**” means the Register of Veterinary Surgeons provided for under [section 26](#);

“**to register**” means to enter in the Register the particulars required under [section 29](#);

“**Veterinary surgeon**” means a person registered as such under [section 27](#).

Part II – The Board of Veterinary Surgery

3. Establishment of the Board

There is hereby established a body to be known as the Board of Veterinary Surgery (in this Act otherwise referred to as the Board) which shall, be a body corporate with perpetual succession and common seal capable of suing and being sued in its corporate name, and with power, subject to this Act, to do or perform all such acts and things as a body corporate may by law do or perform.

4. Composition of the Board

(1) The Board shall consist of—

- (a) the following members *ex officio*—
 - (i) the Director of Animal Health and Industry or his designated representative;
 - (ii) the Solicitor General or his designated representative;
 - (b) three registered veterinary surgeons appointed by the Minister; and
 - (c) two registered para-veterinary practitioners nominated by the Veterinary Assistants Association of Malawi and appointed by the Minister.
- (2) A designated representative of a member *ex officio* referred to in subsection (1) shall be designated by, or on behalf of, the member *ex officio* by a notice in writing to the Board to attend the meetings of the Board, and upon such designation such designated representative shall not attend to the business of the board by representation.
- (3) The Chairman shall be elected by the Board from among its members:
Provided that no member appointed under paragraph (a) of subsection (1) shall be elected as Chairman.
- (4) The names of all members as first constituted and every change of membership shall be published in the *Gazette*.
- (5) A member shall not be in the employ of the Board nor serve on full time basis.

5. Tenure of office and vacancies

- (1) A member, other than a member *ex officio*, shall hold office for a period of three years and shall be eligible for re-appointment for another three-year term but the office of that member shall become vacant—
- (a) if he resigns by giving one month notice in writing to the Minister;
 - (b) upon his death;
 - (c) if he is absent without valid excuse from three consecutive meetings of the Board of which he has had notice;
 - (d) if he becomes an undischarged bankrupt;
 - (e) if he becomes mentally or physically incapable of performing his duties as a member; and
 - (f) if he participates, directly or indirectly, in an activity which is in contravention of this Act.
- (2) On vacation of office by a member, the vacancy shall be filled by a person appointed in accordance with the relevant provisions of [section 4](#) (1) (b) under which the former member was appointed:
Provided that if the remaining period is less than six months, the Minister may decide not to have the vacancy filled until the expiry of the Period.

6. Allowances of members

Members of the Board shall be paid such an allowance as the Minister shall, from time to time, determine.

7. Functions of the Board

The Board shall be the sole registering authority of all the persons required to be registered under this Act and shall have the following further functions—

- (a) to assist in the promotion and improvement of animal health and industry in Malawi;
- (b) to enforce discipline and control of all persons registered under this Act and practising veterinary surgery in Malawi;
- (c) to control and exercise authority affecting the training of persons in the profession of veterinary surgery;
- (d) to promote liaison in the field of training in the profession of veterinary surgery both within Malawi and elsewhere and to promote the standard of such training in Malawi;
- (e) to advise the Minister on any matters falling within the scope of this Act; and
- (f) to do all such acts and things as are necessary, incidental or conducive to the better carrying out of its functions under this Act.

8. Policy directions

The Board may, where necessary, seek the general direction of the Minister as to the manner in which it is to carry out its duties under this Part of the Act.

9. Proceedings of the Board

- (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.
- (2) The Board shall meet for the transaction of business at least once every three months at such places and at such times as the Chairman may determine.
- (3) A special meeting of the Board may be called by the Chairman upon written notice of not less than seven days received from any member of the Board and shall be called if at least three members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) Half of the members shall form the quorum of any meeting of the Board.
- (5) There shall preside at any meeting of the Board—
 - (a) the Chairman; and
 - (b) in the absence of the Chairman, such member as the Chairman may designate or such member as the members present and forming a quorum may elect from among their number for the purpose of that meeting.
- (6) The decision of the Board on any matter before any meeting shall be that of the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.
- (7) No member appointed under [section 4](#) (1) (b) shall attend to the business of his office by representation.

10. Committees of the Board

- (1) In addition to the Disciplinary Committee and save as otherwise provided in relation to that committee the Board may, for the purpose of performing its functions under this Act, establish any number of other committees and delegate to any such committees any of its functions as the Board considers necessary.

- (2) The Board may appoint as members of a committee established under subsection (1) persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.
- (3) The persons to be appointed under subsection (2) shall be chosen for their ability and experience in veterinary science, pharmacy, medicine, dentistry, commerce, administration or finance or their professional qualifications or their suitability otherwise for appointment.
- (4) Subject to any specific or general direction of the Board, a committee established under subsection (1) may regulate its own procedure.

11. Minutes of meetings

The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of a committee of the Board.

12. Disclosure of interest

- (1) If any member is present at a meeting of the Board or of any committee of the Board at which any matter which is the subject of consideration is a matter in which that person or his immediate family member or his professional or business partner is directly or indirectly interested in a private or professional capacity, he shall, as soon as is practicable after the commencement of the meeting, disclose such interest and, unless the Board or the committee otherwise directs, that person shall not take part in any consideration or discussion of, or vote on, any question touching on such matter.
- (2) A disclosure of interest shall be recorded in the minutes of the meeting at which it is made.

13. Protection of members

No action, suit or other proceedings shall be brought or instituted personally against any member in respect of any act done in good faith in the course of carrying out the provisions of this Act.

14. Co-opted persons

- (1) The Board may in its discretion at any time and for any period co-opt any person to attend any meeting of the Board or of any of its committees and take part in the deliberations of the meeting, but such person or officer shall not be entitled to vote at the meeting.
- (2) Section 12 shall apply, *mutatis mutandis*, to a person or an officer attending a meeting of the Board pursuant to subsection (1).

15. Oath of secrecy

Every—

- (a) member;
- (b) member of a committee of the Board; and
- (c) consultant in the service of the Board.

shall, upon assumption of his office, take such oath of secrecy as may be approved by the Board or as may otherwise be prescribed under this Act.

16. Prohibition of publication or disclosure of information by unauthorized persons

No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, contents of any document, communication or information which relates to, and which has come to his knowledge in the course of his duties under this Act.

Part III – Management**17. Appointment of Registrar and other staff**

- (1) Subject to the provisions of this section, the Board—
 - (a) shall appoint a Registrar upon such terms and conditions as the Board shall determine; and
 - (b) may appoint assistant registrars and such other employees as it considers necessary or desirable in the discharge of its duties and upon such terms and conditions as the Board may determine.
- (2) The Registrar, after consultation with the Chairman of the Board, may appoint temporary employees at such daily rates of pay, not below the minimum rates otherwise prescribed by law, as he may consider appropriate and shall, after he has appointed any such employee, report the fact thereof to the Board at its next meeting.
- (3) The Registrar shall be the secretary to the Board and to every committee thereof and shall, on the instructions of the Chairman of the Board or the chairman of any committee, convene a meeting of the Board or the committee, as the case may be.
- (4) If the Registrar is absent or unable to carry out any of his functions under this Act, an assistant registrar or any other officer of the Board shall exercise, during the period that the Registrar is so absent or unable to act, such of the functions of the Registrar as the Board may designate.

Part IV – Financial provisions**18. Funds of the Board**

- (1) The funds of the Board shall consist of such monies as may—
 - (a) be appropriated by Parliament for the purposes of the Board;
 - (b) be obtained as a result of the levy imposed under [section 19](#);
 - (c) be paid to the Board by way of grants or donations;
 - (d) be received by the Board under subsection (2);
 - (e) constitute proceeds of sales of the annual reports and progress reports of the Board; and
 - (f) otherwise vest or accrue to the Board.
- (2) The Board may—
 - (a) accept money by way of grants or donations from any source in or outside Malawi;
 - (b) subject to the approval of the Minister and the Minister responsible for Finance, raise, by way of loans from any source in or outside Malawi, such money as it may require for the discharge of its functions; and

- (c) charge and collect fees in respect of programmes, publications, seminars, documents, consultancy services and other services provided by the Board.
- (3) The Board may invest in such manner as it thinks fit such funds as it does not immediately require for the performance of its functions.

19. Levy

The Board may, from time to time, by Order published in the *Gazette*, impose a levy on gross or net income accruing to any person or class of persons registered under this Act and such levy shall be appropriated for the general operations of the Board as the Minister may specify in the Order.

20. Financial year

The financial year of the Board shall be the period of twelve months ending on 30th June in each year or on such other date as the Minister may specify by Order published in the *Gazette*:

Provided that the first financial year of the Board may be such shorter or longer period than twelve months as the Minister shall determine but being not less than six months or more than eighteen months.

21. Accounts

- (1) The Board shall cause to be kept proper books of accounts and other records relating to its accounts.
- (2) The accounts of the Board shall—
 - (a) be audited annually by independent auditors appointed by the Board and approved by the Minister; and
 - (b) be examined by the Auditor General before being presented to the Minister in accordance with [section 22](#).

22. Annual reports

- (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during that financial year.
- (2) The report referred to in subsection (1) shall be in such form as the Minister shall approve and shall include information on the financial affairs of the Board, and there shall be appended to the report—
 - (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure; and
 - (c) such other information as the Board may consider appropriate or as the Minister may direct.
- (3) The Minister shall, during the meeting of the National Assembly next following receipt by him of the report referred to in subsection (1), lay the report before the National Assembly and subsequently the report shall be published.

23. Progress report

The Board shall, at the end of every financial year, produce a progress report on its activities during that period and shall publish the report.

Part V – Registration

24. Application for registration

- (1) Any person who wishes to be registered as a veterinary surgeon or as a para-veterinary surgeon shall make written application therefor to the Board.
- (2) Every such application shall be in the prescribed form, or a form approved for the purpose by the Board, and shall be accompanied by—
 - (a) such a fee as the Board may, from time to time, determine;
 - (b) a certified copy of the degree, diploma, certificate or other document by which the applicant purports to prove such qualifications as may be necessary to be registered as a veterinary surgeon or as a para-veterinary surgeon; and
 - (c) such other information or documents as the Board may require.

25. Unregistered persons prohibited from practising veterinary surgery

- (1) No person shall—
 - (a) practice veterinary surgery;
 - (b) hold himself out or allow himself to be held out as a veterinary surgeon; or
 - (c) hold himself out or allow himself to be held out as qualified to practice veterinary surgery, unless his name appears on the Register as a veterinary surgeon or as a para-veterinary surgeon.
- (2) Nothing in subsection (1) shall be construed as precluding an unregistered person from performing, giving or providing, in accordance with the Schedule, any operation, treatment, test, advice, diagnosis or attendance which is specified in the Schedule.

26. Register

- (1) The Board shall keep a book called the Register of Veterinary Surgeons and Para-Veterinary Surgeons in which shall be entered the name, address, qualifications and date of registration of every veterinary surgeon and para-veterinary surgeon.
- (2) The Board may make any necessary alterations to any entry in the Register.
- (3) The Board shall publish or cause to be published in the *Gazette* the name, address and date of registration of every veterinary surgeon and para-veterinary surgeon as soon as practicable after the date of such registration.

27. Persons eligible to be registered as veterinary surgeons or para- veterinary surgeon

A person shall be eligible for registration under this Act as a veterinary surgeon or para-veterinary surgeon if he is a holder of a degree, diploma, certificate or other qualification which is recognized by the Board as making him eligible for registration and he satisfies the Board that he—

- (a) has acquired sufficient knowledge of veterinary science; and
- (b) has an adequate knowledge of the English language; and
- (c) is, in all aspects as to character and otherwise, a fit and proper person to be registered.

28. Qualifications for registration

For the purposes of [section 24](#), the qualifications necessary for a person to be registered as a veterinary surgeon or as a para-veterinary surgeon shall be such qualifications as the Minister, acting on the advice of the Board, deems sufficient.

29. Registration

- (1) Where a person has made application in accordance with [section 24](#) and his qualifications have been deemed sufficient in accordance with [section 28](#) the Board shall, subject to subsection (2), enter his name on the Register as a veterinary surgeon or as a para-veterinary surgeon.
- (2) No person shall be registered if he has been struck off the Register or off any other registering authority for veterinary surgeons outside Malawi, and he has not been re-instated, or if the High Court has not ordered his re-instatement on the Register.

30. Annual publication of list of veterinary surgeons and para- veterinary surgeon

- (1) During the month of January in each year the Board shall publish or cause to be published in the *Gazette* a list containing the names of all persons on the Register at the end of the previous year their addresses and dates of registration
- (2) An entry in the list published in the *Gazette* under this section shall be *prima facie* evidence that any person named therein is registered as veterinary surgeon or as para-veterinary surgeon and the absence of the name of any person from such list shall be *prima facie* evidence that such person is not so registered.

31. Removal of name from Register

- (1) The Board shall strike out of the Register the name of any veterinary surgeon or para-veterinary surgeon whose name the Board has directed to be struck out, but shall re-instate such name on the Register if the High Court so directs.
- (2) The Board shall remove from the Register the name of any veterinary surgeon or para-veterinary surgeon—
 - (a) who makes written application to the Board to have his name removed from the Register;
 - (b) whom the Board is satisfied is dead;
 - (c) whom the Board is satisfied has ceased to practice veterinary surgery in Malawi; and
 - (d) who is convicted of an offence under this Act or any other written law which, in the opinion of the Board, renders him unfit to be on the register.
- (3) For the purpose of satisfying itself that a veterinary surgeon or a para-veterinary surgeon has ceased to practice veterinary surgery in Malawi, the Board shall—
 - (a) publish in the *Gazette* notification of its intention to remove the name of surgeon from the Register; and
 - (b) send a copy of such notification to the address of the said veterinary surgeon or para-veterinary surgeon or to the address recorded in the Register, and if no objection to the removal of the name is received within thirty days of the publication of said notification in the *Gazette*, the Board may remove the said name from the Register.

32. Use of title

A person registered under this Act—

- (a) shall, by virtue of being so registered, be entitled to take and use the title and description of veterinary surgeon or para-veterinary surgeon; and
- (b) shall not take or use, or affix to or use in connexion with his premises, any title or description in addition to that of veterinary surgeon or para-veterinary surgeon, other than as indicated by the particulars relating to his qualifications entered in the Register.

33. Persons registered entitled to practice and recover charges

- (1) Every person registered under this Act shall be entitled to practise veterinary surgery, and to demand, sue for and recover in any court reasonable charges for professional aid, advice, visits and the value of any medicine or veterinary appliance supplied by him.
- (2) No person shall be entitled to recover in any court any charge for professional aid, advice, visits or the value of any medicine or veterinary appliance supplied in connexion therewith unless he was at the relevant time duly registered under this Act.

34. Certificates, to be signed by veterinary surgeons

No certificate or document which is required to be signed by a qualified veterinary surgeon or para-veterinary surgeon shall be valid unless signed by a person registered under this Act.

35. Authority for re-registration

Any person whose name has been struck out of the Register on the directions of the Board may make written application to the Board for directions that he may be re-instated on the Register, and the Board, after such inquiry, if any, as it deems fit, may issue such directions, or refuse to issue such directions, in its discretion.

Part VI – Private practice

36. Licence for private practice

- (1) The Board may issue to a veterinary surgeon or a para-veterinary surgeon who has applied in the prescribed manner and whom the Board considers has had suitable experience in veterinary surgery or veterinary science, as the case may be, a licence to engage in private practice on his own behalf as a private practitioner or to be employed, either whole time or part time, by a private practitioner.
- (2) A licence under subsection shall—
 - (a) be subject to such conditions as the Board may either generally or specially determine;
 - (b) be issued upon payment of the prescribed fee;
 - (c) be in such form as may be prescribed;
 - (d) be valid from the date of issue to 30th June next following the date of issue; and
 - (e) state whether the person so licensed may practise as a private practitioner on his own behalf or may be employed by a private practitioner.

- (3) The Board may, for good cause, refuse to issue a licence to engage in private practice to any person or may withdraw or cancel such licence issued to any person either indefinitely or until such time as the conditions, if any, imposed by the Board have been fulfilled.
- (4) No premises shall be habitually used for the purpose of private practice, unless they are authorized for such use by Board, and any person duly authorized by the Board in that behalf may at any reasonable time enter upon and inspect such premises.
- (5) Any person aggrieved by any decision of the Board under this section may appeal to the High Court, and in such appeal the High Court may annul or vary the decision as it thinks fit.
- (6) A person who engages in private practice without a licence authorizing him so to do issued in accordance with this Act or regulations made hereunder shall be guilty of an offence and liable to a fine of K2,000 and imprisonment for one year.

37. Issue, etc., of licences to be published in the *Gazette*

The issue, cancellation and withdrawal of any licence under [section 36](#) shall be notified in the *Gazette*.

38. No fees recoverable unless practitioner licensed for private practice

No person in private practice shall be entitled to recover any charge for any treatment, operation, advice or other veterinary service which he has rendered, or for any medicine which he has prescribed or supplied, as a veterinary surgeon or para-veterinary surgeon unless he is at the time appropriately licensed under [section 36](#) for private practice.

Part VII – Disciplinary provisions

39. Disciplinary Committee

- (1) There shall be a Disciplinary Committee of the Board which shall consist of—
 - (a) the Chairperson of the Board who shall be the Chairperson of that committee;
 - (b) not less than two and not more than four other persons specially appointed by the Chairperson of the Board for the particular inquiry; and
 - (c) two other members who may or may not be members of the Board.
- (2) In any disciplinary inquiry the Board may request the Attorney General to nominate a legally qualified person serving in the public service to assist the Disciplinary Committee in the proceedings of the inquiry.
- (3) At any meeting of the Disciplinary Committee the Chairperson and two other members shall form a quorum.
- (4) For the purposes of any inquiry the Chairperson of the Board may appoint to the Disciplinary Committee any other person he considers reasonably qualified to assist the committee in the conduct of the inquiry.
- (5) All acts, matters or things authorized or required to be done by the Disciplinary Committee shall be decided by a majority vote at a meeting of the Disciplinary Committee at which a quorum is present.
- (6) At all meetings of the Disciplinary Committee. each member present, being a member by virtue of subsection (1), shall have one vote on a question before the Disciplinary Committee and, in

the event of an equality of votes, the Chairperson shall have, in addition to a deliberative vote, a casting vote.

- (7) The Disciplinary Committee shall have power to regulate its own procedure.

40. Function of Disciplinary Committee

- (1) Subject to the provisions of subsection (2) the function of the Disciplinary Committee shall be to inquire into an allegation referred to it under section 43 (2) alleging that a registered person—
- (a) has been guilty of improper or disgraceful conduct or conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful; or
 - (b) is grossly incompetent or has performed any act pertaining to his profession or calling in a grossly incompetent manner.
- (2) Before exercising its function with respect to any person the Disciplinary Committee shall—
- (a) cause to be served upon him a notice setting out the allegations against him; and
 - (b) afford him a reasonable opportunity of being heard either by himself or, if he so wishes, by a legal representative.

41. Taking of evidence by Disciplinary Committee

- (1) For the purposes of any inquiry, the Disciplinary Committee may take evidence and may—
- (a) under the hand of the Chairperson of the Board or the Registrar summon witnesses and require the production of any book, record, document or thing;
 - (b) administer an oath or affirmation to any person; and
 - (c) examine any book, record, document or thing which a witness has been required to produce.
- (2) A summons for attendance before the Disciplinary- Committee or for the production to it of any book, record, document or thing shall be—
- (a) in the form prescribed; and
 - (b) signed by the Chairperson or the Registrar.
- (3) Any person who—
- (a) has been summoned under subsection (2) and who—
 - (i) refuses or fails without sufficient cause to attend and give evidence relevant to the inquiry at the time and place specified in the summons; or
 - (ii) refuses to be sworn or to affirm; or
 - (iii) refuses or fails without sufficient cause to produce any book, record, document or thing which he has been required by that summons to produce; or
 - (b) attends as a witness before the Disciplinary Committee and refuses to answer or to answer fully and satisfactorily to the best of his knowledge and belief any question properly put to him,

shall be guilty of an offence and liable to a fine of K10,000 and to imprisonment for three months.

- (4) Any person who gives false evidence on oath at any inquiry held under this Part, knowing such evidence to be false or not believing it to be true, shall be guilty of an offence and liable to a fine of K20,000 and to imprisonment for six months.
- (5) The Disciplinary Committee shall, in any inquiry held by it under this Part, record the proceedings and any evidence heard by it and the decision made by it and the reasons therefore.

42. Exercise of disciplinary powers on conviction for offence

- (1) A registered person who has been convicted of an offence by a court of law within or outside Malawi, whether before, on or after the date of his registration, shall be liable to disciplinary inquiry by the Disciplinary Committee in accordance with the provisions of this Part if the Disciplinary Committee is of opinion that such offence constitutes—
 - (a) improper or disgraceful conduct; or
 - (b) conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful.
- (2) The Disciplinary Committee 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 Disciplinary Committee in extenuation of his conduct
- (3) If, after the termination of proceedings before a court in Malawi—
 - (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 the proceedings as is material to the issue shall be transmitted to the Board; or
 - (b) the Board requests that a record of the proceedings before a court in Malawi or part of such record be supplied to it on the ground that it is of direct interest to the Board in the exercise of its functions under this Act, the court shall transmit to the Board a copy of the record of the proceedings or a copy of such part of the record of the proceedings as is material.

43. Board. to refer cases to Disciplinary Committee

- (1) Whenever there is brought to the notice of the Board an allegation which might be subject of inquiry by the Disciplinary Committee the Board shall have 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.
- (2) After any investigation pursuant to subsection (1) the Board—
 - (a) may refer the allegation to the Disciplinary Committee for inquiry under this Part and in that case the Registrar shall present a charge, in such form as may be prescribed, to the registered person against whom the allegation is made;
 - (b) if it considers that—
 - (i) the conduct complained of would not constitute improper or disgraceful conduct; or
 - (ii) for any other reason the allegation should not be the subject of inquiry by the Disciplinary Committee,

may dismiss the allegation or take such other action as it deems fit and may, after first allowing the person concerned to make written representation, authorize the Chairperson of the Board to admonish that person and the Chairperson shall report the fact thereof to the Board; and

- (c) if it considers that the allegation forms or is likely to form the subject of a criminal proceedings already before a court, may postpone referring the matter to the Disciplinary Committee until such criminal proceedings have been determined.

44. Exercise of disciplinary powers

- (1) After due inquiry, the Disciplinary Committee shall report its findings to the Board with such recommendations as the Disciplinary Committee considers appropriate.
- (2) After considering the findings and recommendations of the Disciplinary Committee the Board—
 - (a) if it is satisfied that the registered person—
 - (i) has been guilty of improper conduct or disgraceful conduct or conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful and that such conduct warrants the cancellation of his registration; or
 - (ii) is grossly incompetent or has performed any act pertaining to his profession or calling in grossly incompetent manner, the Board shall direct the Registrar to cancel the registration of the registered person and, if it thinks fit, order that person to pay to the Board any costs or expenses incidental to the inquiry;
 - (b) if it considers that the registered person has been guilty of improper or disgraceful conduct or conduct which, when regard is had to his profession or calling, is improper or disgraceful but that such conduct does not warrant the cancellation of the registration of that person, shall do one or more of the following—
 - (i) order his suspension for a specified period from practicing or performing acts specially pertaining to his profession or calling;
 - (ii) impose such conditions as it deems fit subject to which he shall carry on his profession or calling;
 - (iii) order him to pay to the Board a penalty not exceeding K10,000;
 - (iv) order him to pay any costs or expenses of and incidental to the inquiry;
 - (v) censure him; and
 - (vi) caution him and postpone, for a specified period not exceeding three years any further action against him on such conditions as the Board may determine as to his future conduct, including conduct or nature of his practice during that period;
 - (c) if it considers that the allegations against the registered person have not been established, shall dismiss the allegations and in such case the Board may if it is of the opinion that the allegations were frivolous or vexatious, order the complainant to pay the costs of the inquiry.
- (3) If at any time the Board is satisfied that during the period of any postponement under subsection (2) (b) (vi) a registered person has not complied with the conditions imposed under that paragraph, the Board after giving reasonable notice to the registered person concerned, may proceed to inflict further upon him more of the measures specified in that subsection.

45. Appeal to High Court

- (1) Any person who is aggrieved by the findings of the Disciplinary Committee or the decision reached, or penalty or measure imposed, by the Board under this Part may, within three months after the date of such findings or the imposition of such penalty or measure, appeal to the High Court.
- (2) On an appeal under subsection (1) the High Court may—
 - (a) confirm, vary or set aside any finding, decision or penalty appealed against; or
 - (b) refer the matter back to the Board, for further consideration, and in either case may make such order as to the costs of the appeal or otherwise as it may deem just:

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

- (3) For the purposes of any appeal under this section the High Court may, if it considers it expedient so to do, sit with one or more persons as assessors, being persons whom it considers specially qualified to assist it in hearing the appeal, and may hear the appeal wholly or partly with such persons, but the decision in such appeal shall be that of the presiding judge or judges.

46. Publication of result of disciplinary proceedings

The Registrar shall by notice in the *Gazette* publish the name of any person—

- (a) whose registration has been cancelled; or
- (b) who has been suspended from practice and shall, in such notice, specify the period of suspension.

47. Board or Disciplinary Committee not to be liable

- (1) Save as is provided in this Act, no legal proceedings whether civil or criminal shall lie against the Board or the Disciplinary Committee or any member or officer thereof in respect of any act or duty done or performed in accordance with the provision of this Part.
- (2) The Board shall not be responsible for any loss of earnings by a person as a result of action taken under this Act, whether by the Board or the Disciplinary Committee, and whether or not a particular finding, decision or penalty is subsequently varied or set aside.

48. Improper or disgraceful conduct

- (1) The Board may in regulations made under this Act—
 - (a) define what, in the case of any class of registered persons shall constitute improper or disgraceful conduct;
 - (b) provide for the manner in which complaints or charges against a registered person may be lodged; and
 - (c) provide for any other matter incidental to the investigation of an inquiry into a complaint or charge 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 this Act 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 for any offence which such conduct may constitute.

- (3) Regulations referred to in subsection (1) shall not limit the general power conferred on the Disciplinary Committee or on the Board 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.

Part VIII – Offences and penalties

49. Offences and penalties

- (1) Any person who—
- (a) contravenes [section 25](#);
 - (b) contravenes [section 32](#);
 - (c) fraudulently makes, or causes or permits to be made any false or incorrect entry in the Register or any copy thereof;
 - (d) fraudulently procures or attempts to procure himself or any other person to be registered; and
 - (e) being a veterinary surgeon or para-veterinary surgeon allows a person whose name is not entered on the Register to practice veterinary surgery on, or form an office in, the premises used by such veterinary surgeon or para-veterinary surgeon in the performance of his professional duties,
- shall be liable to a fine of K10,000 and imprisonment of six months.
- (2) A prosecution for an offence under this Act shall not be instituted without the sanction of the Director of Public Prosecutions.

Part IX – Regulations and savings

50. Regulations

The Minister may, with the advice of the Board, make regulations for carrying out or giving effect to the provisions of this Act, and without prejudice to the generality of the foregoing, such regulations may—

- (a) prescribe the fees payable—
- (i) upon registration or renewal of registration; or
 - (ii) for restoration to a register, or
 - (iii) for the issue of duplicate certificate or registration or a certificate extract from a register or other certificate issued by the Board; or
 - (iv) in respect of private practice; or
 - (v) for any other matter under this Act;
- (b) prescribe the forms required to be prescribed under this Act; and

- (c) make provisions for the conduct, supervision of private practice and other matters relating thereto.

51. Repeal and savings

- (1) The Veterinary Surgeons Act is repealed.
- (2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—
 - (a) shall remain in force unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; or
 - (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.
- (3) Any agreement or similar arrangement made pursuant to the provisions of the Act repealed by subsection (1) shall continue in force until terminated in accordance with the terms and conditions thereof.

[Cap. 53:04]

Schedule (Section 25)

Operations, treatments, tests, advice, diagnosis and attendance which may be performed, given or provided by unregistered persons—

- (a) any non-surgical treatment given to an animal by—
 - (i) its owner;
 - (ii) a member of the household of which the owner is a member;
 - (iii) a person in the employment of the owner;
 - (iv) a person in the employment of a person referred to in subparagraph (ii);
- (b) anything done, otherwise than for payment or material advantage, by a person engaged or employed in farming to any animal owned for the purpose of agriculture;
- (c) anything done in the course of his duties by a person employed by the Government;
- (d) the rendering in an emergency of first aid for the purpose of saving life or relieving pain; and
- (e) the performance of the following operations—
 - (i) caponizing or castration;
 - (ii) the tail docking of a lamb;
 - (iii) the docking of the tail of a dog before its eyes are open;
 - (iv) the amputation of the dew claws of a dog before its eyes are open
 - (v) The clipping or hoof trimming of dogs, sheep or cattle.