

THE VETERINARY COUNCIL BILL

(No. XV of 2020)

Explanatory Memorandum

The object of this Bill is to repeal the Veterinary Council Act and replace it by a new Act in order to provide a better legal framework to regulate the veterinary profession.

2. The Council will, inter alia –
- (a) regulate and control the profession of veterinary surgeons;
 - (b) register veterinary surgeons;
 - (c) exercise and maintain discipline in the profession of veterinary surgeons, with the assistance of such Professional Conduct Committee as may be set up; and
 - (d) promote advancement in the field of veterinary medicine and surgery.

M. GOBIN

Attorney General

Minister of Agro-Industry and Food Security

23 October 2020.

THE VETERINARY COUNCIL BILL

(No XV of 2020)

ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1. Short title
- 2. Interpretation

PART II – THE COUNCIL

- 3. Establishment of Council
- 4. Objects of Council

- 5. Functions of Council

- 6. Powers of Council

PART III – MANAGEMENT OF COUNCIL

- 7. Composition of Council
- 8. Vacancy in membership of Council
- 9. Meetings of Council

- | | |
|---|---|
| 10. Registration Board | 32. Proceedings of Professional Conduct Committee |
| 11. Committees | 33. Disciplinary measures |
| 12. Disclosure of interest | 34. Other disciplinary measures |
| 13. Registrar | 35. Summary proceedings |
| 14. Delegation | 36. Effect of suspension or deregistration |
| 15. Appointment of officers | 37. Restoration of name and other particulars to Register |
| 16. Conditions of service of officers | PART VII – FINANCIAL PROVISIONS AND ACCOUNTS |
| 17. Protection from liability | 38. General Fund |
| 18. Powers of Minister | 39. Execution of documents |
| PART IV – VETERINARY SURGEON | 40. Donations |
| 19. Veterinary medicine and surgery | 41. Annual report |
| 20. Registration as veterinary surgeon | 42. Audit |
| 21. Temporary registration as veterinary surgeon | PART VIII – MISCELLANEOUS |
| 22. Temporary registration of visiting veterinary surgeon | 43. Seal of Council |
| 23. Certificate of registration | 44. Legal proceedings |
| 24. Additional qualifications | 45. Confidentiality |
| 25. Annual list | 46. Review of decision of Council |
| 26. Register | 47. Offences |
| 27. Annual fee | 48. Regulations |
| 28. Continuous Professional Development | 49. Repeal |
| PART VI – DISCIPLINE | 50. Savings and transitional provisions |
| 29. Preliminary investigation | 51. Commencement |
| 30. Disciplinary proceedings | SCHEDULE |
| 31. Professional Conduct Committee | |

A BILL

To repeal the Veterinary Council Act and replace it by a new enactment

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Veterinary Council Act 2020.

2. Interpretation

In this Act –

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means such Code of Practice as may be prescribed under section 48;

“committee” means a committee set up under section 11;

“competent authority” means an authority in a foreign country authorising a person to practise veterinary medicine and surgery;

“Continuous Professional Development programmes” means programmes, courses, lectures, seminars, conferences or workshops in relation to –

- (a) veterinary medicine and surgery;
- (b) changes in field of veterinary medicine and surgery, guidelines and standards; or
- (c) any other matter related to the profession of veterinary medicine and surgery;

“Council” means the Veterinary Council established under section 3;

“delegated power” means the power delegated, under section 89(2)(b)(i) of the Constitution and subject to Part IVA of the Public Service Commission Regulations, to the Council by the Public Service Commission to inquire into and report on any complaint of professional misconduct or negligence against a veterinary surgeon appointed by the Public Service Commission;

“financial year” has the same meaning as in the Finance and Audit Act;

“licensed auditor” has the same meaning as in the Financial Reporting Act;

“member” –

- (a) means a member of the Council; and
- (b) includes the Chairperson and the Vice-chairperson;

“Minister” means the Minister to whom responsibility for the subject of agro-industry is assigned;

“Ministry” means Ministry responsible for the subject of agro-industry;

“officer” –

(a) means an officer appointed under section 15; and

(b) includes the Registrar;

“Professional Conduct Committee” means a Professional Conduct Committee set up under section 32;

“Register” means the register of veterinary surgeons, kept under section 26;

“Registrar” means the Registrar of the Council appointed under section 13;

“Registration Board” means the Registration Board set up under section 10;

“supervising officer” means the supervising officer of the Ministry;

“veterinary surgeon” means a person who is registered as such under section 20;

“Vice-chairperson” means the Vice-chairperson of the Council.

PART II – THE COUNCIL

3. Establishment of Council

(1) There is established for the purposes of this Act the Veterinary Council.

(2) The Council shall be a body corporate.

(3) The principal place of business of the Council shall be at such place as it may determine.

4. Objects of Council

The Council shall –

(a) regulate and control the profession of veterinary surgeons; and

(b) promote advancement in the field of veterinary medicine and surgery.

5. Functions of Council

The Council shall –

- (a) register veterinary surgeons;
- (b) exercise and maintain discipline in the profession of veterinary surgeons –
 - (i) in relation to a veterinary surgeon who is appointed by the Public Service Commission and in respect of whom the Council holds a delegated power, to the extent and within the limits of that delegation of power; and
 - (ii) in relation to any other veterinary surgeon;
- (c) ensure that the Code of Practice is complied with by veterinary surgeons;
- (d) disseminate literature on research and innovation, developments in the field of veterinary medicine and surgery or any other matter related to veterinary surgeons;
- (e) cooperate with such other institution having objects wholly or partly similar to its objects;
- (f) approve, organise, or cause to be organised, Continuous Professional Development programmes or any other training sessions, programmes, courses, lectures, seminars, conferences or workshops for the purpose of updating professional knowledge and skills in the field of veterinary medicine and surgery;
- (g) publish an annual list of veterinary surgeons;
- (h) provide for the registration of foreign veterinary surgeons;
- (i) keep a record of its proceedings and decisions;
- (j) advise the Minister on the nexus between veterinary medicine and surgery and food security; and
- (k) advise the Minister on any matter relating to the profession of veterinary surgeons.

6. Powers of Council

The Council shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –

- (a) enter into any contract or other agreement;
- (b) set up such committee as may be necessary ;
- (c) sell or exchange such property of the Council as may be necessary;
- (d) subject to section 40, make or receive any grant or donation;
- (e) borrow money and raise funds;
- (f) collect or receive any fee, rental, interest or other sum which may lawfully accrue to it; and
- (g) generally do such acts and things as may be necessary for the purposes of this Act.

PART III – MANAGEMENT OF COUNCIL

7. Composition of Council

- (1) The Council shall consist of –
 - (a) a Chairperson elected from among members referred to in subsection (1)(h);
 - (b) a Vice-chairperson who shall be a person of high moral and professional integrity, having relevant qualifications, expertise and experience in either law or veterinary medicine and surgery, to be appointed by the Minister;
 - (c) a representative of the Ministry;
 - (d) a representative of the Prime Minister’s Office;
 - (e) a representative of the Ministry responsible for the subject of health;

- (f) a representative of the Ministry responsible for the subject of labour;
- (g) a representative of the Pharmacy Board;
- (h) 7 registered veterinary surgeons of not less than 10 years' experience in Mauritius, elected in accordance with the Schedule;
- (i) 2 registered veterinary surgeons of not less than 10 years' experience in Mauritius, appointed by the Minister, one of whom shall be the Principal Veterinary Officer;
- (j) the Solicitor-General or his representative;
- (k) 5 persons, not being veterinary surgeons, to be appointed by the Minister.

(2) No person shall be qualified to be a member where he is –

- (a) a member of the National Assembly;
- (b) a member of a local authority; or
- (c) otherwise actively engaged in politics.

(3) Subject to section 8(1), a member, other than an ex officio member, shall hold office for a period of 2 years and may be eligible for reappointment or re-election, as the case may be.

(4) Every member shall be paid such fees or allowances as the Minister may determine.

(5) The Council may co-opt any person who may be of assistance in relation to any matter before it and the co-opted member shall –

- (a) not have the right to vote at any meeting of the Council; and
- (b) be paid such fees or allowances as the Council may determine.

(6) A member shall not engage in any activity which may undermine the reputation or the integrity of the Council.

8. Vacancy in membership of Council

(1) A member, other than an ex officio member, shall cease to hold office –

- (a) on the completion of his term of office;
- (b) on his resignation;
- (c) where he becomes a member of the National Assembly or a local authority, or otherwise actively engaged in politics; or
- (d) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Council.

(2) Where a member resigns under subsection (1)(b), his seat shall become vacant as from the date on which the Registrar receives the notice.

(3) The Council may remove from office any member who –

- (a) is suspended or deregistered as a veterinary surgeon under this Act;
- (b) is absent, without leave of the Council, from 3 consecutive meetings of the Council;
- (c) commits an act of professional misconduct, malpractice, negligence, fraud or dishonesty, or a breach of the Code of Practice, which, in the opinion of the Council, renders him unfit to be a member;
- (d) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
- (e) is suffering from such impairment as, in the opinion of the Council, renders him unfit to be a member; or
- (f) fails to disclose any pecuniary or other personal interest which he has in relation to any matter before the Council.

(4) The Council may suspend from office, for such time as it may determine, any member who is –

- (a) liable to be removed from office under subsection (3);

- (b) guilty of a minor breach of the Code of Practice; or
- (c) the subject of an investigation.

(5) Where a vacancy occurs in the membership of the Council, the vacancy shall be filled, in the case of a member –

- (a) appointed under section 7(1)(a) to (g) and (i) to (k), by a fresh appointment; or
- (b) elected under section 7(1)(h), by appointing the veterinary surgeon who obtained the highest number of votes after the elected veterinary surgeon at the election held immediately before the vacancy arose.

(6) A person appointed under subsection (5) shall hold office for the remainder of the term of office of the person whom he replaces.

9. Meetings of Council

(1) The Council shall meet as often as the Chairperson may determine but at least once every month.

(2) A meeting of the Council shall be held at such time and place as the Chairperson may determine.

(3) At any meeting of the Council, 12 members shall constitute a quorum.

(4) (a) The Chairperson or, in his absence, the Vice-chairperson shall preside over a meeting of the Council.

(b) Where the Chairperson and the Vice-chairperson are absent from a meeting of the Council, the members present shall elect one of the members referred to in section 7(h) to chair the meeting.

- (5) (a) A special meeting of the Council—
 - (i) may be convened by the Chairperson at any time; or
 - (ii) shall be convened by the Registrar within 21 days of the receipt of a request in writing signed by not less than 12 members.

(b) Any request made under paragraph (a)(ii) shall specify the purpose for which the special meeting is to be convened.

(6) At any meeting of the Council, each member shall have one vote on a matter in issue and, in the event of an equality of votes, the person presiding shall have a casting vote.

(7) Subject to this section, the Council shall regulate its meetings and proceedings in such manner as it may determine.

10. Registration Board

(1) The Council shall set up a Registration Board to assist it in the determination of applications for the registration of veterinary surgeons.

(2) The Registration Board shall consist of –

- (a) a chairperson having knowledge in the field of veterinary medicine and surgery; and
- (b) 2 assessors having knowledge in the field of veterinary medicine and surgery,

to be appointed, subject to subsection (3), by the Council on such terms and conditions as it may determine.

(3) The chairperson and the 2 assessors referred to in subsection (2) shall be veterinary surgeons –

- (a) with at least 10 years' experience in the field of veterinary medicine and surgery; and
- (b) who are of good character.

11. Committees

(1) The Council may set up such committees as may be necessary to assist it in the discharge of its functions, including the conduct of an investigation.

(2) A committee shall consist of not less than 3 members and such other persons as may be co-opted by the Council to assist the committee.

(3) A committee shall –

- (a) meet as often as is necessary and at such time and place as the chairperson of the committee may determine;
- (b) meet as and when required by the Council; and
- (c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Council may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

12. Disclosure of interest

(1) Where any member has a pecuniary or other personal interest in relation to any matter before the Council, the Registration Board or a committee, that member –

- (a) shall disclose the nature of the interest before or at the meeting convened to discuss that matter; and
- (b) shall not take part in any deliberations relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Council, the Registration Board or the committee.

13. Registrar

(1) The Council shall appoint, on such terms and conditions as it may determine, a veterinary surgeon to act as Registrar of the Council.

(2) The Registrar shall be responsible for the proper management and administration of the Council.

(3) The Registrar shall act as the Secretary to the Council and –

- (a) shall, for every meeting of the Council –
 - (i) give notice of the meeting to the members;

(ii) prepare and attend the meeting;

(iii) keep minutes of proceedings of the meeting; and

(b) may take part in the deliberations of the meeting of the Council, but shall not have the right to vote.

(4) The Registrar shall also act as the treasurer to the Council.

(5) The Registrar shall carry out such other duties and discharge such other functions as may be assigned to him by the Council.

(6) Where the Registrar is for any reason unable to perform his functions, the Council may appoint another veterinary surgeon to act as Registrar.

14. Delegation

(1) The Council may, subject to such instructions as it may give, delegate to the Registrar such of its functions and powers as may be necessary for the effective management and administration of the day to day business and activities of the Council, other than the power to –

(a) sell or exchange any property;

(b) make or receive any grant or donation;

(c) borrow money and raise funds.

(2) The Registrar may, with the approval of the Council, delegate his functions and powers to such other officer as he may designate.

15. Appointment of officers

(1) The Council may appoint such officers as it considers necessary for the proper discharge of its functions under this Act.

(2) Every officer shall be under the administrative control of the Registrar.

16. Conditions of service of officers

The Council may make provision to govern the conditions of service of its officers and, in particular, to deal with –

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, officers;
- (b) appeals by officers against dismissal and any other disciplinary measure.

17. Protection from liability

No liability, civil or criminal, shall be incurred by the Council, any member of the Council, the Registration Board or a committee or any officer, in respect of any act done or omitted by it or him in good faith in the discharge of its or his functions, or exercise of its or his powers, under this Act.

18. Powers of Minister

(1) The Minister may give such directions of a general character, in writing to the Council, not inconsistent with this Act, as he considers necessary in the public interest, and the Council shall comply with those directions.

(2) The Minister may require the Council to furnish such information or document or record in relation to its activities, as he considers necessary and the Council shall provide such information or document.

PART IV – VETERINARY SURGEON

19. Veterinary medicine and surgery

(1) No person shall practise veterinary medicine and surgery in Mauritius unless he is registered with the Council as a veterinary surgeon.

(2) Nothing in this Act shall prevent –

- (a) a person who holds a degree, diploma or an equivalent qualification in veterinary medicine and surgery, from providing services which do not include final decisions and are done under the direct responsibility and supervision of a veterinary surgeon;
- (b) a person from working as an employee or subordinate of a veterinary surgeon where the work is done under the direct responsibility and supervision of that veterinary surgeon.

20. Registration as veterinary surgeon

- (1) A person may be registered as a veterinary surgeon where he –
 - (a) satisfies the Council that he –
 - (i) is a citizen, or resident, of Mauritius;
 - (ii) is of good character;
 - (iii) has not been disqualified or deregistered as a veterinary surgeon on account of professional misconduct, malpractice, negligence, fraud, dishonesty or breach of a code of practice in any country; and
 - (iv) does not suffer from any impairment which is likely to hamper the discharge of his functions as a veterinary surgeon;
 - (b) satisfies the Council that his qualifications are as per the World Organisation for Animal Health set standards of DAY 1 Skills for veterinary Surgeons and recognized in the country where he has studied and would have entitled him to practice veterinary medicine and surgery recognised in the country where he has studied and would have entitled him to practise as an allied health professional in that country; and
 - (c) pays such registration fee as may be prescribed.
- (2) An application for registration as a veterinary surgeon shall be made to the Registrar in such form and manner as the Council may determine, and shall be accompanied by –
 - (a) the applicant's birth certificate and National Identity Card or any other acceptable proof of his identity;
 - (b) the original or a certified copy of the applicant's degree, diploma or equivalent qualification;
 - (c) such processing fee as may be prescribed; and
 - (d) such additional document or information the Registrar may require.

(3) (a) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Registration Board for its recommendations.

(b) The Council may, after due consideration of the recommendations of the Registration Board, grant or reject the application.

(4) (a) The Council may, where it considers necessary, call an applicant for an interview.

(b) The Council shall, within 21 days of the receipt of an application, grant or reject the application and it shall notify the applicant of its decision and shall give reasons for its decision.

(5) (a) Where the Council grants an application, it shall, on payment of such registration fee as may be prescribed, register the applicant as a veterinary surgeon and issue to him a licence, subject to such terms and conditions as the Council may determine.

(b) Subject to this Act, a licence issued under this section shall be valid for a period of one year and may be renewed subject to the payment of such annual fee as may be prescribed.

(c) Where the Council is satisfied that a veterinary surgeon has damaged or lost his licence, it may, on payment of such fee as may be prescribed, issue a duplicate licence to him.

(d) Where the name of a veterinary surgeon is removed from the register, all registration documents and licence issued shall be surrendered to the Council.

21. Temporary registration as veterinary surgeon

(1) A non-citizen may be temporarily registered as a veterinary surgeon where he –

(a) undertakes to work in a company or any other body to provide a relevant expertise in veterinary surgery which is not sufficiently available in Mauritius;

(b) holds a work permit, is exempted from holding a permit under the Non-Citizens (Employment Restriction) Act or holds an occupation permit under the Immigration Act;

(c) satisfies the requirements referred to in section 20; and

(d) pays such registration fee as may be prescribed.

(2) An application for registration as a veterinary surgeon shall be made to the Registrar in such form and manner as the Council may determine, and shall be accompanied by –

- (a) the applicant's birth certificate and, where necessary, his passport;
- (b) (i) the original or a certified copy of the applicant's degree, diploma or equivalent qualification; and
(ii) where applicable, a certified translation in English or French of his degree, diploma or equivalent qualification, where such qualification is in a language other than English or French;
- (c) documentary evidence that the applicant's expertise in the veterinary medicine and surgery is not sufficiently available in Mauritius;
- (d) the applicant's work permit, where applicable, or occupation permit;
- (e) such processing fee as may be prescribed; and
- (f) such additional document or information as the Registrar may require.

(3) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(4) (a) The Council shall, where it considers necessary, convene an applicant for an interview.

(b) The Council shall, within 21 days of the receipt of an application, grant or reject the application and it shall notify the applicant of its decision and shall give reasons for its decision.

(5) (a) Where the Council grants an application, it shall, on payment of such registration fee as may be prescribed, temporarily register the applicant as a foreign veterinary surgeon and issue to him a licence, subject to such terms and conditions as the Council may determine.

(b) Subject to this Act, a licence issued under this section shall be valid for a period of one year and may be renewed subject to the payment of such annual fee as may be prescribed.

(c) Where the Council is satisfied that a foreign veterinary surgeon has damaged or lost his licence, it may, on payment of such fee as may be prescribed, issue a duplicate licence to him.

(d) Where the name of a foreign veterinary surgeon is removed from the register, his licence shall cease to be in force.

22. Temporary registration of visiting veterinary surgeon

(1) A non-citizen may be temporarily registered as a visiting veterinary surgeon where –

- (a) he is engaged in Mauritius in the implementation of a Government scheme agreed upon by the Government of Mauritius and the World Health Organisation or any other similar international agency;
- (b) he has been invited to offer his services under a scheme approved by the Ministry; or
- (c) he visits Mauritius for the purpose of teaching, research or study in veterinary medicine and surgery under a scheme approved by the Government of Mauritius.

(2) The Ministry shall, on behalf of the non-citizen, make the necessary arrangements for him to be temporarily registered as a visiting veterinary surgeon with the Council.

(3) A visiting veterinary surgeon shall be exempted from the payment of any fee prescribed under this Act.

23. Certificate of registration

(1) The Registrar shall issue to every person registered under this Act a certificate of registration in such form as the Council may determine.

(2) The Registrar may issue to an applicant, upon the payment of a prescribed fee, a duplicate certificate if he is satisfied that the applicant has lost or damaged his certificate of registration.

24. Additional qualifications

(1) Where after registration, a veterinary surgeon obtains any additional qualification in the field of veterinary medicine and surgery, the Council may, upon application by the veterinary surgeon, add the additional qualification to the veterinary surgeon's particulars in the Register.

(2) An application made under subsection (1) shall be accompanied by such fee as may be prescribed.

25. Annual list

(1) The Council shall, not later than 31 January in every year, publish an annual list of veterinary surgeons.

(2) Notwithstanding section 27 and subject to subsection (5), no veterinary surgeon shall practise veterinary medicine and surgery unless his name is on the Register of veterinary surgeons.

(3) Every veterinary surgeon who wishes to have his name on the annual list of veterinary surgeons shall –

- (a) in the case of a newly registered veterinary surgeon, on registration; and
- (b) in any other case, at the beginning of every year and in any case not later than 15 January in every year, pay to the Council such fee as may be prescribed.

(4) The Registrar shall, on receipt of the fee under subsection (3), enter the name of the veterinary surgeon in the annual list of veterinary surgeons.

(5) Where it is established to the satisfaction of the Council that a veterinary surgeon did not wilfully fail to cause his name to be entered in the annual list, the Council may, subject to such terms and conditions as it thinks fit, including the prohibition to practise veterinary medicine and surgery for a specified period, authorise the veterinary surgeon to practise veterinary medicine and surgery.

26. Register

(1) The Registrar shall keep a Register of veterinary surgeons, or such other register as may be necessary, in such form and manner as the Council may determine.

(2) The Registrar shall enter in the Register –

- (a) the name, address and qualifications of every veterinary surgeon;
- (b) any alteration in the particulars of a veterinary surgeon;
- (c) where a veterinary surgeon has been suspended or deregistered, an annotation to that effect; and
- (d) such other particulars as the Council considers appropriate.

27. Annual fee

(1) Every veterinary surgeon shall, on or before 15 January in every year, pay to the Registrar such annual fee as may be prescribed.

(2) Where a veterinary surgeon fails to comply with subsection (1), he shall be liable to pay the annual fee, together with a surcharge of 50 per cent of the annual fee.

(3) Where a veterinary surgeon fails to pay the annual fee together with the surcharge required under subsection (2), the Council may deregister the veterinary surgeon.

(4) Where a veterinary surgeon is deregistered under subsection (3), the Council shall cause the Registrar to remove the name and other particulars of the veterinary surgeon from the Register.

(5) The Council may, where a veterinary surgeon is deregistered, restore the name and other particulars of the veterinary surgeon on the Register on good cause shown and on payment of the annual fee together with its surcharge

28. Continuous Professional Development

(1) Notwithstanding section 25, and subject to subsection (2), no registered veterinary surgeon shall have his name entered on the annual list unless

he has followed such continuous development programmes as may be prescribed by the Council.

(2) Subsection (1) shall not apply to a registered veterinary surgeon who is excused by the Council on such grounds as may be prescribed.

PART VI – DISCIPLINE

29. Preliminary investigation

(1) The Council may investigate into any complaint of –

- (a) professional misconduct, fraud, dishonesty, malpractice or negligence; or
- (b) a breach of the Code of Practice,

against a veterinary surgeon, including a veterinary surgeon in respect of whom the Council holds a delegated power.

(2) Where the Council investigates into a complaint, it –

- (a) shall notify the veterinary surgeon whose conduct, act or omission is under investigation, of the nature of the complaint against him;
- (b) may summon and hear the veterinary surgeon who shall be given an opportunity of being assisted by a legal representative of his choice;
- (c) may summon and hear witnesses;
- (d) may call for the communication or production of any relevant record, document or article; and
- (e) shall complete its investigation not later than 3 months from the date the investigation starts.

(3) The Council shall, when investigating into a complaint, keep a proper record of its proceedings.

(4) (a) Where, in the course of an investigation, any person refuses to communicate or produce any record, document or article, the Registrar may apply to the Judge in Chambers for an order directing that person to communicate

or produce the record, document or article required for the purpose of the investigation.

(b) Where the Judge is satisfied that the record, document or article sought is bona fide required for the purpose of the investigation, he may make an order under paragraph (a).

(5) (a) The Council may, for the purpose of an investigation, appoint a committee consisting of not less than 3 members.

(b) A member who –

(i) is closely related to a veterinary surgeon, including a veterinary surgeon in respect of whom the Council holds a delegated power, whose conduct, act or omission is under investigation; or

(ii) has any pecuniary or other personal interest in the subject matter of an investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

(c) The committee may exercise any of the powers of the Council under subsection (2)(a), (b), (c) or (d).

30. Disciplinary proceedings

(1) Where, after an investigation, the Council considers it necessary to prefer charges against a veterinary surgeon, it shall forward to the veterinary surgeon a statement of those charges and call upon him to state in writing, before such date as the Council may specify, any grounds on which he relies to exculpate himself.

(2) Where –

(a) the veterinary surgeon does not furnish a reply to any charge forwarded under subsection (1) within the period specified; or

(b) in the opinion of the Council, he fails to exculpate himself,

the Council may, subject to section 34, institute disciplinary proceedings against him before a Professional Conduct Committee.

- (3) Where the Council is satisfied that –
- (a) the veterinary surgeon has prescribed a dangerous drug which is in excess of the amount that is properly required for the veterinary treatment of an animal; or
 - (b) the veterinary surgeon has prescribed a dangerous drug knowing that such a prescription is not required for the veterinary treatment of an animal,

the Council shall, in addition to any disciplinary measures under subsection (1), make a recommendation to the Minister in accordance with section 9(6) of the Dangerous Drugs Act.

31. Professional Conduct Committee

(1) The Council may, for the purpose of section 31, set up a Professional Conduct Committee which shall consist of –

- (a) a chairperson, who is or has been a Judge or Magistrate, or is a barrister or law officer, of not less than 10 years' standing; and
- (b) 2 assessors, who shall be veterinary surgeons with not less than 10 years' experience and who are not members.

(2) The chairperson and assessors of a Professional Conduct Committee shall be appointed by the Council on such terms and conditions as the Council may determine.

(3) The Council shall appoint a secretary who shall keep the minutes of proceedings of every meeting of the Professional Conduct Committee.

(4) (a) Where the chairperson or an assessor of a Professional Conduct Committee is related by blood or marriage to a veterinary surgeon who is the subject of disciplinary proceedings, the chairperson or assessor, as the case may be –

- (i) shall disclose his relationship to the Professional Conduct Committee; and
- (ii) shall not take part in those proceedings.

(b) Any disclosure made under paragraph (a) shall be recorded in the minutes of proceedings.

(c) Where the chairperson or an assessor does not take part in the proceedings under paragraph (a), the Council shall appoint another person to replace him.

(d) Any person appointed under paragraph (c) shall satisfy the requirements of subsection (1)(a) or (b), as the case may be.

32. Proceedings of Professional Conduct Committee

(1) A Professional Conduct Committee shall meet at such time and place as the chairperson of the Committee thinks fit.

(2) Where disciplinary proceedings are instituted under section 30, the Professional Conduct Committee shall inquire into the charges preferred against the veterinary surgeon.

(3) A Professional Conduct Committee may –

(a) summon any person to appear before it to give evidence or produce any record, document or article; or

(b) take evidence on oath, solemn affirmation or declaration and, for that purpose, administer an oath, solemn affirmation or declaration, as the case may be.

(4) (a) Where, in the course of any disciplinary proceedings, a person refuses to communicate or produce any record, document or article, the Registrar may apply to the Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the proceedings.

(b) Where the Judge is satisfied that the record, document or article sought is bona fide required for the purpose of the proceedings he may make an order under paragraph (a).

33. Disciplinary measures

(1) (a) A Professional Conduct Committee shall, after having heard any disciplinary proceedings, forward to the Council its report and a copy of its proceedings, including any record, document or article produced, not later than one month after the completion of the proceedings.

(b) A Professional Conduct Committee shall complete its proceedings within 90 days from the date it is set up by the Council.

(2) The report under subsection (1) shall include –

- (a) a finding as to whether the charge has been proved or not, and the reasons for such finding;
- (b) details of any matter which, in the opinion of the Professional Conduct Committee, aggravates or alleviates the gravity of the charge; and
- (c) a summing up and such comments as will indicate clearly the opinion of the Professional Conduct Committee on the subject matter of the disciplinary proceedings.

(3) The Professional Conduct Committee shall not, in its report, make any recommendation regarding the form of disciplinary measure.

(4) (a) Where the report is in relation to a veterinary surgeon, other than a veterinary surgeon in respect of whom the Council holds a delegated power, and states that the charge has been proved, the Council may –

- (i) administer him a warning or a severe warning;
- (ii) suspend him as a veterinary surgeon for a period not exceeding 2 years; or
- (iii) deregister him as a veterinary surgeon.

(b) Where the report is in relation to a veterinary surgeon in respect of whom the Council holds a delegated power, the Council shall submit its own report to the Public Service Commission, in accordance with regulation 46E of the Public Service Commission Regulations.

(5) Where the sanction imposed by the Public Service Commission on a veterinary surgeon, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall determine whether or not it shall suspend or deregister the veterinary surgeon.

(6) A decision of the Council under subsection (4) or (5) shall be communicated to the veterinary surgeon not later than 14 days from the date of the decision.

34. Other disciplinary measures

Notwithstanding sections 30 and 31, where a veterinary surgeon has been convicted of an offence which, in the opinion of the Council, renders him unfit to practise veterinary surgery and medicine, and is serving a sentence of imprisonment or penal servitude, the Council may –

- (a) suspend him as a veterinary surgeon for such time as the Council may determine; or
- (b) deregister him as a veterinary surgeon.

35. Summary proceedings

Where the Council is satisfied, after having carried out an investigation against a veterinary surgeon, other than a veterinary surgeon in respect of whom the Council holds a delegated power, that he has committed an act or omission which, in its opinion, is not considered to be of a serious nature, it may administer a warning or a severe warning to him.

36. Effect of suspension or deregistration

The Council shall cause the Registrar –

- (a) to remove from the Register the name and other particulars of any veterinary surgeon who has been deregistered under this Act;
- (b) to give notice of any suspension or deregistration under this Act in the Gazette and in 2 daily newspapers.

37. Restoration of name and other particulars to Register

(1) Where the name and other particulars of a veterinary surgeon have been removed from the Register in accordance with this Act, the name and other particulars of that person shall not be restored to the Register except by order of the Council or of the Supreme Court.

(2) The Council may, on its own motion or on application of the person concerned and after holding such inquiry as it may determine, cause the name of the veterinary surgeon and other particulars to be restored to the Register.

PART VII – FINANCIAL PROVISIONS AND ACCOUNTS

38. General Fund

The Council shall set up a General Fund –

- (a) into which shall be paid –
 - (i) any grant, donation and contribution received by it;
 - (ii) any fee, rental or interest; and
 - (iii) any other sum which may lawfully accrue to it;
- (b) out of which all payments required to be made by the Council shall be effected.

39. Execution of documents

(1) Subject to subsection (2), no deed, instrument, contract or other document shall be executed or signed by or on behalf of the Council unless it is signed by the Chairperson or, in his absence, by the Vice-chairperson.

(2) No cheque shall be signed by or on behalf of the Council unless it is signed by –

- (a) the Chairperson or, in his absence, by the Vice-chairperson;
- (b) a member so authorised by the Council; and
- (c) the Registrar.

40. Donations

Article 910 of the Code Civil Mauricien shall not apply to the Council.

41. Annual report

(1) The Board shall submit an annual report to the Minister, together with an audited statement of accounts, on the operations of the Council in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Council before the National Assembly.

42. Audit

(1) The Council shall keep proper accounts of all sums received and paid.

(2) The accounts for each financial year shall be audited by a licensed auditor appointed by the Council.

PART VIII – MISCELLANEOUS

43. Seal of Council

The seal of the Council shall bear such device as the Council may approve.

44. Legal proceedings

(1) The Council shall act, sue and be sued in its corporate name.

(2) Service of process by or on the Council shall be sufficient if made on behalf of or on the Registrar.

45. Confidentiality

(1) No member of the Council, the Registration Board or a committee or officer shall, during or after his relationship with the Council, use or disclose any matter which comes to his knowledge in the performance of his functions, except for the purpose of administering this Act.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

46. Review of decision of Council

(1) A person who is aggrieved by a decision of the Council –

(a) not to register him as a veterinary surgeon; or

(b) to take any disciplinary measure against him,

may apply for judicial review of the decision before the Supreme Court.

(2) On an application under subsection (1), the Supreme Court may make such order or give such directions in the matter as it may determine.

47. Offences

- (1) Subject to section 19(2), any person who –
- (a) not being registered, or being suspended or deregistered, as a veterinary surgeon –
 - (i) practises veterinary medicine and surgery;
 - (ii) takes or uses the name, description or title “veterinary surgeon”, or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, word or letter;
 - (iii) holds himself out or conducts himself as a veterinary surgeon;
 - (iv) by any wilful act or omission, causes or induces any person to believe that he is a veterinary surgeon; or
 - (v) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to veterinary medicine and surgery he claims to have provided as a veterinary surgeon; or
 - (b) fraudulently procures or attempts to procure his registration as a veterinary surgeon,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) For the purpose of this section, the performance of a single act relating to the practice of veterinary medicine and surgery may be held to be sufficient evidence of such practice.

- (3) Any person who –
- (a) wilfully fails to attend a Professional Conduct Committee after having been summoned;

- (b) refuses to take an oath or make a solemn affirmation or declaration, as the case may be, before a Professional Conduct Committee;
- (c) refuses without reasonable excuse to produce any record, document or article before the Professional Conduct Committee;
- (d) gives false evidence or evidence which he knows to be misleading before a Professional Conduct Committee;
- (e) obstructs the proceedings of a meeting of the Council or a Professional Conduct Committee;
- (f) molests any member of the Council or a Professional Conduct Committee in the course of, or on account of, any investigation or proceedings under this Act; or
- (g) in any other manner contravenes this Act or regulations made under this Act,

shall commit an offence.

(4) Any person who commits an offence under subsection (3) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

48. Regulations

(1) The Minister may for the purposes of this Act make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) shall be made after consultation with the Council.

(3) Any regulations made under subsection (1) may provide, inter alia –

- (a) for a Code of Practice;
- (b) for rules and guidelines for Continuous Professional Development programmes;
- (c) for the levying of fees and the taking of charges;

- (d) for the amendment of the Schedule;
- (e) for any matter required to be prescribed under this Act; and
- (f) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

49. Repeal

The Veterinary Council Act is repealed.

50. Savings and transitional provisions

(1) Every person who, on the commencement of this Act, is registered as a –

- (a) professional member in the field of veterinary medicine and surgery;
- (b) veterinary surgeon with such other body as may be prescribed; or
- (c) is a veterinary surgeon at the Ministry,

shall, on the commencement of this Act, be deemed to be registered as a veterinary surgeon under this Act and shall, on payment of such fee as may be prescribed, be issued with a certificate of registration under this Act.

(2) Notwithstanding section 7, the Minister shall, on the commencement of this Act, appoint –

- (a) the Chairperson;
- (b) 4 veterinary surgeons posted at the Ministry;
- (c) 2 veterinary surgeons who are in private practice,

as the initial members of the Council.

(3) The Registrar shall, within 2 months of the commencement of this Act, transmit to the Minister a list of all veterinary surgeons who are deemed to be so registered or are so registered.

(4) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

51. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE
[Section 7(1)(h)]

PROCEDURE FOR ELECTION

1. Calling for nominations and appointment of nomination day

The Registrar shall, within 90 days of the commencement of this Act and, thereafter, not less than one month before the expiry of the term of office of the members specified in section 7(1)(h), publish, in the Gazette and such newspaper as he may determine, a notice –

- (a) inviting the submission of nominations; and
- (b) appointing a day, time and place for the nominations to be submitted.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member unless, on nomination day –

- (a) he is a veterinary surgeon who reckons at least 10 years' experience as a veterinary surgeon in Mauritius; and
- (b) he is a citizen of Mauritius;
- (c) his nomination is supported by 3 veterinary surgeons;
- (d)
 - (i) he is not subject to any investigation;
 - (ii) no disciplinary proceedings are being held against him under section 30 or 31; and
 - (iii) no disciplinary measure has been taken against him during the last 5 years preceding the nomination.

3. Procedure after nomination

(1) Where the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish, in the Gazette and such newspaper as he may determine, a notice –

- (a) specifying the names of the persons duly nominated;

- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

(2) A person who has been duly nominated shall not publish or distribute any manifesto which is calculated to or is likely to induce persons to vote for him to be a member of the Council.

4. Persons entitled to vote

(1) Every person who, on nomination day, is a registered veterinary surgeon shall be entitled to vote at an election of the members.

(2) Every veterinary surgeon shall vote for such number of candidates as there are vacancies available in the membership of the Council.

5. Election

(1) The election of the members shall be conducted under the supervision of the Office of the Electoral Commissioner, who shall communicate the results to the Registrar.

(2) The Registrar shall forthwith submit to the Minister the results of the election.

(3) The Minister shall, within 21 days of receipt of the results of the election, cause the composition of the Council to be published in the Gazette.
