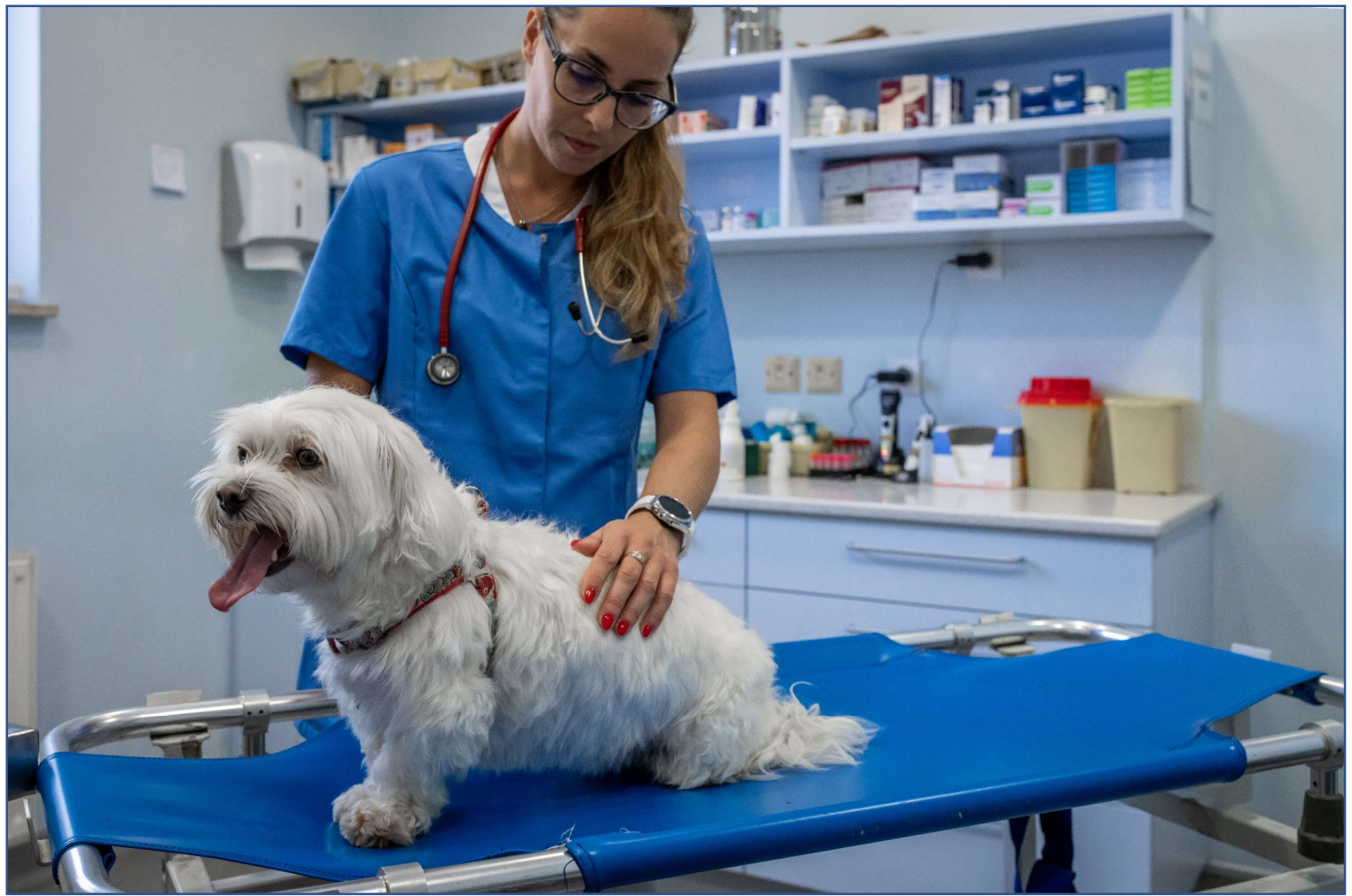




Draft Veterinary Services Bill

Explanatory Guide

Developing a new Veterinary Services Act for South Australia



Government
of South Australia

Department of Primary
Industries and Regions

Draft Veterinary Services Bill – Explanatory Guide

Information current as of December 2022

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About this document

This paper highlights key aspects of the draft Veterinary Services Bill 2022 (the draft Bill), which is intended to repeal and replace the *Veterinary Practice Act 2003* (the VP Act) in South Australia (SA). It summarises the significant changes proposed in the Bill to assist with providing feedback. It does not intend to address every change in detail and as such should be read in conjunction with the draft Bill and the VP Act.

It is recommended that you read the draft Bill in full to understand the ways in which it is proposed to regulate veterinary services in SA. This paper is set out in accordance with the Parts, Divisions and Sections of the draft Bill. This will enable easy reference between the draft Bill and this paper. Any corresponding sections of the VP Act are also highlighted as applicable.

Once the Act has passed Parliament and assented to by the Governor in Executive Council, associated Regulations will be prepared. The development of such Regulations will be subject to Cabinet approval processes including public consultation on the draft Regulations.

Have your say

The Department of Primary Industries and Regions (PIRSA) is seeking feedback on the draft Bill from, but not limited to:

- Animal welfare organisations
- Consumers of veterinary services (including the public) and organisations representing consumers of veterinary services
- Veterinarians
- Professional veterinary and veterinary nurse membership associations
- Universities and vocational education providers
- The Veterinary Surgeons Board of South Australia (the Board)
- South Australian animal ethics committees
- Organisations that represent non-veterinary animal care service providers (animal care providers)
- Government agencies
- Legal practitioners

Consultation will be undertaken for a period of 9.5 weeks, commencing on 14 December 2022 and closing on 19 February 2023.

Written submissions can be emailed to PIRSA.VeterinaryServicesBill@sa.gov.au or posted to:

General Manager, Strategy and Policy
Veterinary Services Bill Consultation
GPO Box 1671
Adelaide SA 5001

Your email address may be stored to enable us provide updates on how the draft Bill progresses.

Please include “Veterinary Services Draft Bill Feedback/Stakeholder Category” as the title of your submission, e.g. “Veterinary Services Draft Bill/Animal Welfare Organisation”.

Your submission may be made publicly available online unless you request anonymity at the time of submission. Anonymous submissions may still be subject to access under Freedom of Information laws. Your name will not be published unless you provide consent for this to occur.

Introduction

Veterinarians play a key role in animal, human and community wellbeing by maintaining the health and welfare of our pets and our livestock.

Currently, the *Veterinary Practice Act 2003* (the VP Act) and *Veterinary Practice Regulations 2017* (the VP Regulations) regulate veterinary practice in South Australia (SA). The legislation provides for the registration of veterinary surgeons (veterinarians) and regulates the provision of veterinary treatment for the purposes of maintaining high professional standards of competence and conduct.

PIRSA initiated a review of the VP Act in 2020 to identify if there were features of SA's veterinary practice framework that could be modernised. The review included a nine-week stakeholder consultation which received 189 submissions and provided overwhelming support for reform of the legislative framework supporting veterinary practice in South Australia. The changes required meant it was more effective to propose a new Act as opposed to amending the current Act. As such, a decision was made for new legislation to be drafted, the draft SA Veterinary Services Bill 2022 (draft Bill).

The draft Bill seeks to ensure veterinary practice regulation in the state is flexible and aligns with both the contemporary nature of the profession and the standards expected by users of veterinary services and providers. It seeks to maintain important functions from the current VP Act, and register and regulate veterinarians and veterinary services, while including important changes as presented in this paper.

Abbreviations

AVA	Australian Veterinary Association
Draft Bill	Draft SA Veterinary Services Bill 2022
PIRSA	Department of Primary Industries and Regions
SA	South Australia
SACAT	South Australian Civil and Administrative Tribunal
The Board	Veterinary Surgeons Board of SA as defined in the <i>Veterinary Practice Act 2003</i> and the Veterinary Services Regulatory Board of SA as defined in the draft Bill
Veterinarians	Veterinary Surgeons as defined in the <i>Veterinary Practice Act 2003</i> and veterinarian in the draft Bill
VP Act	SA <i>Veterinary Practice Act 2003</i>
VP Regulations	SA <i>Veterinary Practice Regulations 2017</i>

Changes in terminology and contemporary updates

When reading the draft Bill, you will notice some terminology changes when compared to the VP Act.

These changes reflect common language and provide some alignment with terminology used in veterinary legislation of other jurisdictions and with human health legislation.

These changes include:

Draft Bill	VP Act
Veterinarian	Veterinary surgeon
Veterinary services	Veterinary treatment
Veterinary Services Regulatory Board of South Australia	Veterinary Surgeons Board of South Australia

In addition:

- The requirement for provision of contact details has been updated in the draft Bill to include email addresses.
- The draft Bill requires registers and prohibition orders to be published online rather than being made available for inspection upon payment of a prescribed fee.
- The draft Bill also removes some outdated terms such as microfilm, facsimile, telegram and telex.

Scope

The scope of the VP Act is recorded in its long title as follows:

An Act to protect animal health, safety and welfare and the public interest by providing for the registration of veterinary surgeons; to regulate the provision of veterinary treatment for the purposes of maintaining high standards of competence and conduct by veterinary surgeons; to recognise the registration of veterinary surgeons in certain jurisdictions; and for other purposes.

By comparison, the scope of the draft Bill is proposed as follows:

An Act to protect animal health, safety and welfare and the public interest by providing for the registration of veterinarians **and premises at which veterinary services are provided**, to regulate the provision of veterinary services for the purposes of maintaining high standards of competence and conduct by veterinarians, to recognise the registration of veterinarians in certain jurisdictions, and for other purposes.

This highlights a key change proposed in the scope of the draft Bill, in that it includes the registration of premises at which veterinary services are provided (see *Part 5 – Registration of premises*).

Part 1 – Preliminary

Draft Bill	Comment	VP Act
1 – Short title	Reflects new Act title	1 – Short title
2 - Commencement	Specifies Act comes into operation on day to be fixed by proclamation	

3 - Interpretation

VP Act Reference: Section 3

The most significant change in interpretation relates to the definition of veterinary services (veterinary treatment in the VP Act).

The definition of veterinary treatment in the VP Act is:

Veterinary treatment means–

- (a) the diagnosis, treatment or prevention of a disease injury or condition in an animal; or
- (b) the administration of an anaesthetic to an animal; or
- (c) the castration or spaying of an animal; or
- (d) the carrying out of a prescribed artificial breeding procedure on an animal; or
- (e) any other act or activity of a kind declared by the regulations to be veterinary treatment, but does not include anything excluded from the ambit of this definition by the regulations.

Prescribed ***artificial breeding procedures*** currently include laparoscopic artificial insemination and laparoscopic transfer of embryos.

The draft Bill proposes the following changes:

Veterinary service means a service which forms part of the practice of veterinary surgery or veterinary medicine and includes:

- (a) the diagnosis of a disease or physiological conditions in, and an injury to, an animal; and**
- (b) the medical treatment of animals; and**
- (c) the administration of an anaesthetic to an animal; and
- (d) the castration or spaying of an animal; and
- (e) the performance of an invasive or surgical procedure on an animal; and**
- (f) any other act or activity of a kind declared by the regulations to be veterinary treatment, but does not include anything excluded from the ambit of this definition by the regulations.

These updates will limit the treatment of animals considered to be a veterinary service to medical, surgical or other invasive treatment.

This definition no longer captures non-invasive physical therapy of animals which may be provided by non-veterinary animal care service providers (e.g., manual therapists). As non-invasive physical therapy is currently excluded from the definition of veterinary treatment in the VP Regulations this

does not represent a change in activities permitted to be performed by someone who is not a registered veterinarian and importantly does not permit anyone other than a veterinarian to diagnose a disease, physiological condition or injury to an animal by enabling non-invasive physical therapy.

The removal of 'prevention of a disease, injury or condition' will also avoid inadvertently capturing a number of husbandry procedures undertaken to prevent disease e.g., dehorning of livestock.

Including invasive and surgical procedures to the definition of veterinary services removes the need to specify laparoscopic artificial breeding procedures in this section. This provision does not intend to prohibit invasive procedures that are currently enabled, such as non-surgical artificial insemination. Instead, these would be enabled through the regulations as an exclusion from the definition of veterinary service.

Draft Bill	Comment	VP Act
4 – Application of Act	Specifies Act is in addition to, and does not derogate from, any other Act or law	

Part 2 - Veterinary Services Regulatory Board of South Australia

Draft Bill	Comment	VP Act
5 – Establishment of Board	Establishes Veterinary Services Regulatory Board of South Australia	5 – Continuation of Board

Division 2 – Membership

6 - Composition of Board

VP Act Reference: Section 6

Under the VP Act, the Board consists of 8 members appointed by the Governor of SA for a term of up to 3 years, after which they may be reappointed. The Governor may appoint deputy members.

There is 1 member nominated by the SA Division of the Australian Veterinary Association (AVA SA) and 1 by the Council of the University of Adelaide. A further 6 members are nominated by the Minister including at least 1 man and at least 1 woman:

- 1 member (the presiding member) who must be a legal practitioner
- 3 veterinary surgeons of whom at least 1 must have experience or knowledge relating to animals used for primary production or horses; and 1 must have experience or knowledge relating to other animals; and
- 2 must be persons (not being veterinary surgeons) of whom at least 1 must have experience or knowledge relating to animal health, safety and welfare

The draft Bill proposes a number of changes to Board composition to ensure membership is sufficient to fulfil Board responsibilities, access appropriate breadth of skills, knowledge and experience, avoid conflicts of interest, and to cover the diversity that exists within the profession in regard to practice and employment type, location and other demographic factors.

The draft Bill proposes the following key changes:

Presiding member: A veterinarian with management or governance skills, knowledge and experience must be appointed as the presiding member, unless the Minister considers that it is appropriate to appoint another member of the board as the presiding member. Whilst it is intended that the presiding member be a veterinarian, flexibility has been included to ensure the presiding member has the appropriate management, and governance skills, knowledge, and experience, should there be no suitable veterinarians to fulfill this role or as may be required on a temporary basis should a mid-term vacancy arise.

Number of members: An increase from 8 to 9 members, with the addition of 1 veterinarian member.

Board member skills, experience and knowledge:

Veterinarian members (6): The Minister should, as far as reasonably practicable, endeavour to ensure veterinarian members have the skills, knowledge, and experience in the following areas:

- management or governance
- teaching of veterinary science
- government agencies responsible for protecting animal health (whether State or Commonwealth)
- urban companion animal practice
- rural mixed or production animal practice
- another area that the Minister considers appropriate to enable the member to effectively carry out the functions of the Board.

‘Another area’ may include sectors such as equine, emergency, specialists etc. or other skills, knowledge, or experience, for example in the event all members were practice owners, this position could be filled by an associate for balance.

The draft Bill does not include members nominated by the University of Adelaide or the AVA. This is consistent with veterinary practice legislation in other Australian jurisdictions.

Non-veterinarian members (3): Must not be, or have been, registered as a veterinarian and not work in an area relating to, or have a material interest in, veterinary services. These members include:

- 1 legal practitioner
- 1 who must have skills, knowledge, and experience in accounting, business, or finance; and
- 1 who must have skills, knowledge, and experience that the Minister considers appropriate to enable the member to effectively carry out the functions of the Board.

7 - Terms and conditions of membership

VP Act Reference: Section 7

Under the VP Act, Board members are appointed on conditions determined by the Governor of SA. Members may be appointed for a term not exceeding 3 years and are also eligible for reappointment. There is no maximum tenure for Board members.

The VP Act also provides for the Governor to remove a member of the Board from office for:

- breach of, or non-compliance with, a condition of appointment
- misconduct
- failure or incapacity to carry out official duties satisfactorily.

The draft Bill proposes the following key changes:

Maximum tenure: A maximum Board tenure of 9 years is specified to ensure Board renewal, consistent with principles of good governance.

Removal from office: This provision has been broadened, giving the Governor power to remove a member of the Board from office, at any time and for any reason that the Governor thinks fit.

8 - Direction if Board fails to carry out functions

The draft Bill includes a new section specifying that the Minister may direct the Board, and provide a reasonable time to comply, if the Minister is of the opinion that the Board has failed to carry out its functions satisfactorily.

Should this power be used, the Minister must lay a copy of the direction before each House of Parliament within 3 sitting days after giving direction.

The Minister also has the power of direction under section 16 of the draft Bill.

9 - Removal of all members of Board

The draft Bill includes a new section specifying that if the Minister is of the opinion the Board has failed to comply with a direction under section 8 (see *8 – Direction if Board fails to carry out functions*), the Minister may recommend that the Governor remove all members of the Board from office. In this instance the Governor, on recommendation of the Minister, may appoint an Administrator to carry out the functions of the Board until new members are appointed.

10 - Governance training

The draft Bill includes a new section regarding requirements for governance training. This section specifies that within 6 months of appointment, members must commence training related to corporate governance that has been approved by the Minister. This is considered essential to ensure the effective regulation of the veterinary profession. It will also assist in ensuring members are able to contribute in a manner that best represents the skills, knowledge, and experience they bring to the Board.

Draft Bill	Comment	VP Act
11 – Vacancies or defects in appointment of members	Consistent with VP Act	8 - Vacancies or defects in appointment of members
12 – Remuneration	Consistent with VP Act	9 - Remuneration

13 - Publication of appointments

The draft Bill includes a new section requiring that the name, initial date of appointment, current term and skills, knowledge, and experience, for each Board member, be published online. This provision is in keeping with standard, accepted governance practice.

Division 3 – General functions and powers

Draft Bill	Comment	VP Act
14 – Objects	Consistent with VP Act	12 – Objects

15 - Functions

VP Act Reference: Section 13

The functions of the Board in the VP Act are:

- (a) to recognise courses of education or training that provide qualifications for registration on the general register or the specialist register;
- (b) to determine the requirements necessary for registration on the general register or the specialist register;
- (c) to determine the specialties in which a person may be registered on the specialist register;
- (d) to establish and maintain the registers contemplated by this Act;
- (e) to prepare or endorse codes of conduct and professional standards for veterinary surgeons;
- (f) to prepare or endorse guidelines on continuing education for veterinary surgeons;
- (g) to establish administrative processes for handling complaints received against veterinary surgeons or veterinary services providers (which may include processes under which the veterinary surgeon or veterinary services provider voluntarily enters into an undertaking);
- (h) to provide advice to the Minister as may be appropriate;
- (i) to carry out other functions assigned to the Board by or under this Act, or by the Minister.

The draft Bill proposes the following key changes:

In the draft Bill, the function to establish and maintain the registers is proposed to be a function assigned specifically to the Executive Officer (Registrar in the VP Act) (see *30 – Functions*).

The function to establish administrative processes for handling complaints as provided in VP Act Section 13 (g) has been specifically provided for as a separate stand-alone provision in the draft Bill (see *Part 7 – Complaints investigations and proceedings*).

Additional Board functions proposed in the draft Bill include:

1. To determine applications for registration

In addition, a provision (draft Bill Section 15(2)) is included that the Board must ensure that applications for registration are determined in a timely and efficient manner.

2. To prepare and endorse a standard relating to minimum requirements for registered premises (see *Part 5 – Registration of premises*).

3. To provide information and advice to veterinarians and the public about relevant legislation, codes of conduct, professional standards and other standards and guidelines prepared and endorsed by the Board

Sufficient communication between the Board and the profession is considered necessary to fulfill the objects of the Act. Enabling vets to fulfil their obligations readily and confidently can only be beneficial to animal health, safety, and welfare, and public interest. The provision of information and advice to enable veterinarians to understand their obligations, learn from the shortcomings of others, maintain professionalism, and avoid complaints, directly supports the object of the Act.

Similarly, it is considered of great value to the public to readily understand what is considered appropriate conduct.

The public and the profession are generally not skilled in interpreting legislation, and support should be provided of a general nature. Veterinarians are likely to be complying with dozens of different pieces of legislation at any one time, therefore, adequate support and communication is vital and should be readily provided for the purpose of better fulfilling the objects of the Act.

4. To confer and collaborate with other veterinary regulatory authorities to ensure effective national exchange of information and promote uniformity and consistency in the regulation of veterinarians within Australia

This function is recommended to support national harmonisation, reduce duplication of effort and to provide veterinarians with consistent, nationally supported requirements.

This provision is also reflected in interstate legislation such as the New South Wales *Veterinary Practice Act 2003* Section 79(2), which states a function of the NSW Veterinary Practitioners Board being 'to co-operate with other jurisdictions in Australia and New Zealand to further a common and harmonious approach to the administration of legislation relating to veterinary practitioners'.

In relation to the Board's function **to prepare or endorse codes of conduct, professional standards and guidelines** the draft Bill includes the additional requirements to:

- **consult on the proposed code, standard or guideline**
- **review and, if necessary, update the code, standard or guideline at least once every 5 years**

The contemporary maintenance of codes, standards, and guidelines relevant to current practice is considered of importance given a contravention of, or failure to comply with a code of conduct or professional standards prepared or endorsed by the Board constitutes unprofessional conduct, which is a cause for disciplinary action. This is of relevance given, under the current Act, and prior to a draft being released for consultation in November 2022, the Code of Professional Conduct for Veterinary Surgeons was last updated in 2005.

- **advise all veterinarians of a new or updated code, standard or guidelines within a reasonable period after it is prepared, endorsed, or updated**

It is important that the profession is notified of any changes required of them. It is considered unfair for the onus to be on a veterinarian to check the Government Gazette or actively monitor the Board's website to become aware of any changes to codes, standards, or guidelines.

16 - Directions by Minister

The draft Bill includes a new section enabling the Minister to give written direction to the Board. Directions cannot relate to a particular person, application or investigation or the performance by the Board of its function to determine qualifications for registration on the general or specialist register.

All directions given must be laid before each House of Parliament within 3 sitting days.

This provision is intended to enable directions that are necessary and in the public interest.

Draft Bill	Comment	VP Act
17 - Committees	Consistent with VP Act	15 - Committees

18 - Delegations

VP Act Reference: Section 16

The draft Bill includes more detailed provisions regarding delegations.

In particular, the draft Bill specifies two functions that must not be delegated without the approval of the Minister. These relate to the Board's function to lay complaints before the South Australian Civil and Administrative Tribunal (SACAT) and the Board's function to conduct preliminary examinations of complaints.

Other powers of delegation remain unchanged.

The draft Bill also requires all delegations to be made in writing, provided to members of the Board and the Minister within 7 days, and published in the Board's annual report. This will ensure transparency regarding who is assigned responsibilities under the legislation at any time.

Division 4 – Procedures

19 - Procedures

VP Act Reference: Section 17

Given the increase to Board membership of one additional veterinarian member to 9 members, a quorum of 6, rather than 5 members, is included in the draft Bill.

The current Act requires the Board to keep accurate minutes of its meeting. Further to this, the draft Bill requires a copy of the minutes, and any written resolutions, to be provided to members and, if requested, the Minister.

Draft Bill	Comment	VP Act
20 - Application of Public Sector (Honesty and Accountability) Act	Consistent with VP Act	18 - Application of Public Sector (Honesty and Accountability) Act

Draft Bill	Comment	VP Act
21 - Powers in relation to witnesses etc	Consistent with VP Act	19 - Powers in relation to witnesses etc
22 - Power to require medical examination or report	Consistent with VP Act	20 - Power to require medical examination or report
23 - Principles governing proceedings	Consistent with VP Act	21 - Principles governing proceedings
24 - Representation at proceedings	Consistent with VP Act	22 - Representation at proceedings
25 - Costs	Consistent with VP Act	23 - Costs

Division 5 – Accounts, audits and reports

Draft Bill	Comment	VP Act
26 - Accounts and audits	Consistent with VP Act	24 - Accounts and audit

27 - Reporting and exercise of functions

The draft Bill includes a new provision enabling the Minister to request a written report from the Board about the exercise of the Board's functions either generally or in relation to a specified matter. The request must be made in writing. The Board must provide a report under this section within the time that the Minister reasonably requests.

28 - Annual Report

VP Act Reference: Section 25

The VP Act sets requirements relating to the Board's annual report including when it must be delivered, that it must incorporate the audited accounts of the Board and that the Minister must have copies laid before both Houses of Parliament within 12 sitting days of the annual report being received.

The draft Bill specifies additional information to be included in the Board's annual report including details of delegations made during, or in operation at, the end of the financial year, action taken in response to a direction made by the Minister, and any other information required by or under the Act.

Division 6 – Executive Officer and staff

29 - Executive Officer

VP Act Reference: Section 10

The VP Act provides for a Registrar appointed by the Board. Functions of the Registrar are not expressly outlined in Section 10 but are implied throughout other sections of the Act.

The draft Bill establishes that there will be an Executive Officer (Registrar under the VP Act) appointed by the Board and clarifies that at the end of the Executive Officer's term, they are eligible for reappointment.

30 - Functions

Functions of the Executive Officer have been included in the draft Bill as a new section. Specified functions in the draft Bill are to:

1. establish and maintain the registers contemplated by this Act; and
2. to manage the staff of the Board; and
3. to give effect to the policies and decisions of the Board; and
4. to carry out other functions assigned to the Executive Officer by or under this Act, or by the Minister or the Board.

The inclusion of these functions provides guidance regarding the Executive Officer's responsibilities and transparency as to the distinct role of the Executive Officer compared to the Board.

31 - Delegations

The draft Bill includes a new section enabling the Executive Officer to delegate functions or powers to another person. Such delegation must be made in writing and may be subject to conditions and limitations.

Draft Bill	Comment	VP Act
32 - Staff	Consistent with VP Act	11 - Staff

Part 3 - Registers

33 - Registers

VP Act Reference: Section 26

In addition to the registers required by the VP Act, the draft Bill includes a requirement for the Executive Officer to keep:

- a veterinary premises register, and
- a register of veterinary premises that have been removed from the veterinary premises register.

This reflects the additional requirement in the draft Bill that requires veterinary premises to be registered (see *Part 5 – Registration of premises*).

34 - Provisions of general application to registers

VP Act Reference: Section 30

The VP Act requires registers to be kept available for inspection, on payment of a prescribed fee, by any person during ordinary office hours and may be available to the public by electronic means. A person may also obtain a copy of any part of the register, on payment of the prescribed fee.

The draft Bill instead provides that a copy of the registers be published online, thereby being publicly available without payment of a prescribed fee. The Executive Officer may however, on their own initiative, on application, or at the direction of the Board, exempt information from inclusion on the published copy if it is deemed inappropriate for any reason.

Part 4 – Registration of veterinarians

Division 1 – Registers

Draft Bill	Comment	VP Act
35 – General and specialist registers	Consistent with VP Act	28 – General and specialist registers

36 - Register of persons removed from general or specialist register

VP Act Reference: Section 29

The VP Act requires that a statement that for each person on the register of those who have been removed from the general or specialist register, ‘the reason for removal of the person’ be recorded.

The draft Bill amends this provision to require that ‘the **general** reason for removal of the person’ be recorded. This is to clarify that the reason need not be specific, but can be a high-level category so as to not record potentially sensitive personal information unnecessarily.

Draft Bill	Comment	VP Act
37 – Register of decisions relating to deemed registration	Consistent with VP Act	29A – Register of decisions relating to deemed registration
38 – Requirement to inform Board of changes	Consistent with VP Act	31 – Requirement to inform Board of changes

Division 2 – Primary Registration

39 - Registration of natural persons on general or specialist register

VP Act Reference: Section 32

The VP Act includes detailed provisions relating to the registration of natural persons on the general or specialist register.

The draft Bill proposes the following key changes intended to increase workforce availability by enabling further flexibility in registration.

Enabling registration prior to degree conferral: a provision (draft Bill Section 39(2)) is included to enable Board recognition of graduate veterinarian qualifications if the graduate has completed the academic requirements of their degree but is yet to have their degree conferred.

This will ensure that graduates will be available to enter the workforce upon completion of the academic requirements of their degree if recognised by the University as having done so.

Limited registration: the draft Bill expands on current limited registration provisions in the VP Act to allow limited registration of veterinarians who, in the opinion of the Board, do not have the necessary qualifications or experience required for full registration, but have the appropriate qualifications or experience in a particular area of veterinary practice obtained in an overseas jurisdiction (draft Bill

Section 39(3)(f)). This can be used to enable the person to provide veterinary services or engage in other conduct as a veterinarian in that area of veterinary practice while residing or visiting the state.

Examples of when this type of registration may be used include veterinarians with a species-specific skill set seeking registration to practice in an area such as intensive livestock industries, e.g. the poultry industry. It could also be used for veterinarians visiting the state to support sporting teams e.g. overseas International Equestrian Federation (FEI) veterinarians who are required to perform duties at FEI rides (such as the Adelaide International Horse Trials). Such limited registration could be event specific, or time bound and apply to a single species.

Transition to practise: Section 39(8) and 39(9) contemplate veterinarians who are registered but not practising. Consultation highlighted the support for registration in a part-time or non-practising capacity. This may be enabled by the Board applying conditions on registration (see *Section 44 – Conditions on registration*) and could be associated with relevant fee relief should the Board determine (see *Section 43 – Fees and returns* and *108 – Regulations and fees notice*).

A non-practising veterinarian wishing to return to practise must comply with any requirements of the Board relating to this transition. This is intended to ensure that veterinarians returning to practise possess appropriate recent experience, knowledge, and competence.

Section 39(9) of the draft Bill specifies that such requirements must be published by the Board to ensure that veterinarians and prospective employers are afforded a transparent, clear, and pre-determined pathway.

Draft Bill	Comment	VP Act
40 - Application for registration	Consistent with VP Act	33 - Application for registration
41 - Removal from register or specialty	Consistent with VP Act	34 - Removal from register or specialty
42 - Reinstatement on register or in specialty	Consistent with VP Act	35 - Reinstatement on register or in specialty

43 - Fees and returns

VP Act Reference: Section 36

The VP Act provisions relating to fees and returns have been amended in the draft Bill to clarify that a variety of fees for registration can be set and may applied in a pro-rata manner. This may be utilised so that veterinarians that graduate at the end of the year, or vets that move to the state part way through the year for example, are not required to pay an entire annual practice fee.

44 - Conditions of registration

VP Act Reference: Section 37

Under the VP Act, conditions on a person's registration may only be varied or revoked by the Board on application by a person.

In addition to this, the draft Bill enables the Board on its own initiative to:

- impose conditions on a person's registration as a veterinarian
- vary or revoke conditions on a person's registration as a veterinarian on its own initiative.

The draft Bill also removes the entitlement of the Registrar and Minister to appear and be heard on an application under this section.

Consultation highlighted the support for registration in a part-time or non-practicing capacity. This may be enabled by the Board applying conditions on registration under this section and could be associated with relevant fee relief should the Board determine (see Section 43 – Fees and returns and 108 – Regulations and fees notice).

A non-practising registration may be utilised in a range of circumstances, including but not limited to retirees, veterinarians on parental leave, veterinarians unable to work due to illness or veterinarians maintaining registration for personal interest. Such registration is considered to offer a range of valuable community and personal benefits, including:

- to act as a reserve of qualified vets that could provide ‘surge capacity’ for emergencies, such as disease outbreaks or bushfire responses
- to serve on Boards of ancillary funds, witness legal documents and hold honorary roles
- to remain active adjudicating equine disciplines such as endurance or eventing
- to acknowledge retirees as members of the profession and assist in maintaining and supporting individuals’ mental health.

Part-time registration, if accompanied by a relative or pro-rata registration fee should the Board determine, may encourage a veterinarian to practice in a manner currently untenable for some. This may in turn assist the current shortage of veterinarians facing the profession in all jurisdictions including South Australia by minimising barriers to practice, encouraging qualified veterinarians to practice, or return to practice, in any capacity.

Draft Bill	Comment	VP Act
45 - Contravention of conditions of registration	Consistent with VP Act	38 - Contravention of conditions of registration

Division 3 – Deemed Registration

Draft Bill	Comment	VP Act
46 - Recognition of veterinarians registered in other jurisdictions	Consistent with VP Act	38A - Recognition of veterinarians registered in other jurisdictions
47 – Contravention of conditions of deemed registration	Consistent with VP Act	38C – Contravention of conditions of deemed registration

48 - Requirement to inform Board of contact details

Under the VP Act, the Board does not have access to the contact details of deemed registrants, only veterinarians with primary SA registration.

The draft Bill includes a new section that requires deemed registrants (interstate veterinarians temporarily working in SA) to provide their contact details to the Board to ensure any veterinarian working in the state at a given time is contactable by the Board, or by PIRSA (see 97 - *Contact details to be provided to Chief Executive*). It also sets penalties for not providing contact details or failing to notify change of contact details within 3 months.

An administratively efficient system for collecting these details will be required. This system is for the Board to determine.

This requirement will mean that, in accordance with section 97 of the draft Bill the government will be able to communicate with the profession in a direct and timely manner for several defined purposes only to provide relevant and important information to all veterinarians practicing in the State at any given time. Such information may include information relating to a notifiable disease, bushfire, public health emergency or another event that may significantly impact on animal welfare in the State.

Division 4 – Relationship between registration in participating jurisdictions

Draft Bill	Comment	VP Act
49 – Conditions of registration	Consistent with VP Act aside from draft Bill removing the entitlement of the Registrar and the Minister to appear and be heard in proceedings under this section	38B – Variation or revocation of conditions of registration 38D – Conditions of registration
50 – Suspension or cancellation of registration or disqualification	Consistent with VP Act aside from draft Bill removing the entitlement of the Registrar and the Minister to appear and be heard in proceedings under this section	38E – Suspension or cancellation of registration or disqualification

Division 5 – Suspension or variation of registration in urgent circumstances

51 - Suspension of registration or imposition of conditions in urgent circumstances

The draft Bill includes new provisions for the Board to suspend the registration of a veterinarian on a short-term basis (up to 6 months) or impose conditions on the registration in urgent circumstances. Such circumstances may include if the Board is of the opinion that:

- there are reasonable grounds to believe that the veterinarian has engaged or is engaging in conduct that constitutes grounds for disciplinary action, **and**
- it is likely that the veterinarian will continue to engage in that conduct, **and**
- there is a danger that an animal or animals or a person or persons may suffer significant harm, or significant loss or damage because of the conduct unless urgent action is taken

This provision is considered important to ensure there to be no delay in the protection of animal health, welfare and safety or the public interest in urgent and significant circumstances only.

Division 6 – Authority conferred by primary or deemed registration

Draft Bill	Comment	VP Act
52 - Authority conferred by primary or deemed registration	Consistent with VP Act	38F - Authority conferred by primary or deemed registration

Part 5 – Registration of premises

Sections 53 to 63

VP Act Reference: Section 52-54

The VP Act requires the accreditation of veterinary hospitals only.

Such accreditation requires a physical inspection of premises, which is currently undertaken by an external contractor. Accreditation renewal is required every 3 years.

For hospitals participating in the Australian Veterinary Association (AVA) Hospital of Excellence Accreditation scheme, this is in addition to accreditation under the VP Act and represents an additional cost.

In WA, ACT, QLD and NSW all veterinary premises, including hospitals, are required to be licenced or registered. In VIC, TAS and NT, however, there are no such requirements. SA is the only jurisdiction that requires only veterinary hospitals to be accredited by the Board.

Consultation feedback supported registration of all veterinary premises. The draft Bill accommodates this and proposes that a much broader range of veterinary premises be registered including clinics, practices, hospitals, emergency, and specialist centers.

Section 54 of the draft Bill requires that the Board must prepare or endorse a standard relating to minimum requirements for registered premises. Note that the Board must prepare or endorses such a standard in accordance with Section 15(4) (see *Section 15 – Functions*).

Registration of premises included in the draft Bill is intended to enable the Board to set minimum requirements and impose conditions on premise registration where required. It is not intended to enable a differentiation in the marketplace. Differentiation of standards and care provision, facilities and equipment would be encouraged through “industry” schemes, such as the AVA that recognise practices that achieve the highest levels of quality healthcare in innovative, state-of-the-art hospital facilities.

Providing for registration of veterinary premises also addresses a recommendation by the Deputy State Coroner to the Minister for Primary Industries and Regional Development in relation to a joint inquest into the death of two women who died as a result of self-inflicted euthanasia solution toxicity as follows:

1) That the Veterinary Practice Act 2003 be amended to provide the Veterinary Surgeons Board of South Australia with jurisdiction in respect of veterinary practices other than veterinary hospitals such that the Board would have power to impose requirements in respect of the storage of, and maintenance of records with respect to, substances kept on the premises of and transported by all veterinary practices including hospitals and other practices and service providers.

Whilst changes have subsequently occurred through the Controlled Substances legislation regarding the storage requirements for euthanasia solution, it is considered important to ensure the Board can impose requirements as necessary should the need arise.

The draft Bill also links premise registration to provision of veterinary services. This will streamline administration and fees imposed on veterinarians.

Other provisions included in the draft Bill to support registration of veterinary premises enable:

- **applications for registration:** to be made to the Board in a manner and form approved by the Board accompanied by a prescribed fee (that is payable, where relevant, prior to registration or reinstatement of registration)
- **suspension or cancellation of registration:** if the Board is satisfied that requirements necessary for registration have not been met
- **removal from register:** of those premises that cease to meet requirements necessary for registration or have had registration suspended or cancelled
- **reinstatement on register:** on application or on account of meeting minimum requirements necessary for registration
- **fees:** to be paid prior to premise registration being granted or reinstated
- **conditions of registration:** to be imposed by the Board
- **penalties to be applied:** for contravening or failing to comply with conditions of premise registration or failure to inform the Board of changes.

Part 6 - Offences relating to veterinary practice

The draft Bill contains new or changed offence provisions as summarised below.

64 - Prohibition on provision of veterinary services for fee or reward by persons who are not veterinarians

VP Act Reference: Section 39

The draft Bill retains the prohibition on providing veterinary services for fee or reward by unqualified persons (persons who are not veterinarians) but removes the ability for the Governor of SA to exempt a person in this section. Stakeholder consultation reinforced the potential need for the ability to provide exemptions in some situations. The matter of exemptions is addressed in Section 95 and 96 of the draft Bill.

Draft Bill	Comment	VP Act
65 – Illegal holding out as veterinarian or specialist	Consistent with VP Act	40 – Illegal holding out as veterinarian or specialist
66 – Illegal holding out concerning limitations or conditions	Consistent with VP Act	41 – Illegal holding out concerning limitations or conditions

67 - Illegal holding out concerning registered premises

Consistent with new provisions relating to the registration of premises, the draft Bill makes it an offence to hold out that veterinary services of a specified kind are provided at particular registered premises, unless those services are lawfully provided at those premises.

68 - Use of certain titles or descriptions prohibited

VP Act Reference: Section 42

The VP Act makes it an offence to use the words ‘**veterinary surgeon**’ and ‘**veterinary practitioner**’ in advertising or promoting a service if the person engaged in providing the service does not hold general or specialist registration. The draft Bill expands the prescribed words in relation to general or specialist registration to include ‘**vet**’ and ‘**veterinarian**’ in addition to ‘**veterinary surgeon**’ and ‘**veterinary practitioner**’.

69 - Veterinarian to be indemnified against loss

VP Act Reference: Section 44

Existing provisions in the VP Act have been strengthened in the draft Bill to clarify that the Board must have regard to the type of veterinary services the veterinarian provides and whether the insurance is adequate and appropriate to those services. Given the type of insurance required for a specialist equine surgeon is likely to be considerably different to a veterinarian who works for an animal welfare organisation, it is considered important that the Board have regard for this variation in approving the extent to which a veterinarian must be insured against civil liabilities.

Draft Bill	Comment	VP Act
70 - Offence to give, offer or accept benefit for recommendation or prescription	Consistent with VP Act	49 - Offence to give, offer or accept benefit for recommendation or prescription

71 - Veterinary services must be provided at registered premises

Consistent with new provisions relating to registration of premises, the draft Bill makes it an offence for a veterinarian to provide veterinary services at a premise other than a registered premise, unless certain specified circumstances are met. These circumstances relate to practicality, emergencies, house calls, farm visits and telemedicine. Further circumstances may also be prescribed by the regulations.

72 - Undue influence

The draft Bill makes it an offence for a person to unduly influence, or attempt to unduly influence, a veterinarian in relation to provision of veterinary services. This offence applies to any person, as opposed to the offence provision in the VP Act (Section 51) relating to improper directions by veterinary services providers, which has been removed.

Part 7 – Complaints, investigations, and proceedings

Division 1 – Preliminary

Section 73 – Interpretation

This section of the draft Bill provides for definitions used in Part 7 – Complaints, investigations, and proceedings.

Division 2 – Complaints

Sections 74 to 79

The draft Bill includes new provisions relating to how complaints are to be made, the process for dealing with complaints, how complaints can be dismissed and how dismissal of complaints should be communicated. These provisions are intended to ensure certainty and transparency are provided to the public and the profession regarding the complaints process, clarify the steps involved and provide indicative timeframes.

Making of complaints: The draft Bill specifies how a complaint must be made and the information it must include.

Process for dealing with complaints: The process for dealing with complaints, which must be established by the Board, must be designed to:

- ensure that complaints are handled in a timely and efficient manner
- keep both the complainant and the veterinarian properly informed about the steps taken by the Board in response to the complaint and the outcome of the process.

This may include processes under which the veterinarian voluntarily enters into an undertaking (e.g. complete a course of continuing professional development) and the Board must publish the administrative processes (including expected time frames for handling complaints) online.

Preliminary examination of complaints: The Board must conduct a preliminary examination of each complaint to determine if the complaint should be investigated or dismissed.

Complaint dismissal: A complaint may be dismissed if the Board is of the opinion that the complaint has been made for an improper purpose, is otherwise frivolous, vexatious, or not in good faith or the subject matter of the complaint is trivial.

Additionally, the Board:

- must dismiss a complaint if the conduct or circumstances that give rise to the complaint occurred more than 7 years prior to the complaint being made, unless the Board considers that it is in the interests of justice to deal with such a complaint, and
- may dismiss a complaint if the conduct or circumstances that give rise to the complaint occurred more than 3 years, but less than 7 years, prior to the complaint being made.

This provision is important practically to ensure veterinarians are provided with a specified period for which records must be kept.

Notification of dismissal: Complainants must be notified in writing in the event their complaint is dismissed and advised of the grounds on which the decision was made. Veterinarians are only informed if the Board determines to dismiss a complaint under section 77(6).

Action after preliminary examination: On completion of a preliminary examination of a complaint, the Board must either investigate the complaint, lay the complaint before SACAT, take other action in accordance with the administrative processes for handling complaints established, or dismiss the complaint.

Division 3 – Investigations

The draft Bill includes two new provisions for increased clarity relating to investigations.

80 - Guidelines

Under the draft Bill, the Minister must publish guidelines about the conduct of investigations and may also vary, substitute or revoke those guidelines.

The publication of investigation guidelines will increase clarity for both the public and key stakeholders such as the Board and inspectors around how investigations are conducted.

81 - Inspectors

Under the VP Act, inspector powers are described along with offences against inspectors, however there are no provisions setting out how an inspector is authorised or identified.

The draft Bill provides for the Board to authorise persons to be inspectors for the purposes of the Act. Authorisations may be subject to conditions and the authorisation may also be revoked or varied at any time, including the ability to add a condition of authorisation.

The draft Bill also requires the Board to provide inspectors with identification that contains the person's name and photograph and states that the person is an inspector for the purposes of the Act. If an inspector has been limited by conditions as part of their authorisation, these must be stated on the inspector's identification. Further, an inspector must produce their identification at the request of a person in relation to whom the inspector has exercised or intends to exercise powers. These provisions will ensure inspectors under the Act are clearly identifiable when using powers under the Act.

82 – Powers of inspectors

VP Act Reference: Section 56

The majority of this section is consistent with the VP Act with the exception of the following:

- The draft Bill replaces provisions relating to investigation of veterinary hospitals with provisions relating to the investigation of veterinary premises. This is consistent with the proposed requirement for registration of premises.
- The draft Bill gives inspectors an additional power (Section 82(3)(b)) to give directions relating to the stopping or movement of vehicles for the purpose of inspecting a vehicle that is, or is reasonably suspected to be, used for the purposes of providing veterinary services. This addition reflects the increase in mobile veterinary services.

Draft Bill	Comment	VP Act
83 – Offence to hinder etc inspector	Consistent with VP Act	57 – Offence to hinder etc inspector
84 – Offences by inspectors	Consistent with VP Act	58 – Offences by inspectors

Division 4 - Medical fitness

Draft Bill	Comment	VP Act
85 – Medical fitness to provide veterinary services	Consistent with VP Act	4 – Medical fitness to provide veterinary treatment
86 – Obligation to report medical unfitness of veterinarian	Consistent with VP Act	59 – Obligation to report medical unfitness of veterinarian surgeon

87 - Medical fitness of veterinarian

VP Act Reference: Section 60

Although jurisdiction for hearing and determining disciplinary proceedings alleging unprofessional conduct against veterinarians was transferred to SACAT in 2021, the Board still hears and determines matters of medical fitness.

The draft Bill includes a provision to ensure that the member of the Board who is a legal practitioner must be sitting as a member of the Board for the purposes of hearing and determining matters of medical fitness. This is considered important to ensure the conduct of proceedings occur in accordance to established legal principles and procedures, designed to ensure a fair hearing.

Division 5 - Disciplinary action

Draft Bill	Comment	VP Act
88 – Cause for disciplinary action	Consistent with VP Act	61 – Cause for disciplinary action

89 - Hearing by Tribunal as to matters constituting grounds for disciplinary action

VP Act Reference: Section 62

Under the VP Act, a complaint can be laid before SACAT by the Registrar, Minister or a person who is aggrieved.

The draft Bill requires the Board to lay complaints before SACAT rather than the Executive Officer (currently the Registrar). Prior to SACAT hearing and determining disciplinary proceedings alleging unprofessional conduct against veterinarians, the Board heard and determined such proceedings. Accordingly, complaints were laid before the Board by the Registrar. Given the change of jurisdiction for hearing and determining disciplinary proceedings, which occurred in May 2020, the draft Bill reflects this change and specifies that complaints must be laid before SACAT by the Board, rather than by the Executive Officer (currently the Registrar).

The draft Bill also removes the ability for an aggrieved person to lay a complaint directly before SACAT. Similar to above, prior to SACAT hearing and determining disciplinary proceedings alleging unprofessional conduct against veterinarians, an aggrieved person could lay a complaint directly before the Board. Given the change of jurisdiction for hearing and determining disciplinary proceedings, the draft Bill reflects the appropriate pathway for complaints to be heard and determined by SACAT and removes the ability for aggrieved person to lay a complaint directly with SACAT.

These changes reflect that disciplinary proceedings are brought in the public interest and are not strictly inter parties' proceedings. It is important that a preliminary investigation or assessment has been conducted by the relevant professional body (the Board) as to whether there is a proper basis to bring a complaint, that applications are particularised and involve allegations of substance. This ensures the resources of SACAT and the respondents to proceedings are not unnecessarily impacted by avoidable direction hearings and lengthy hearings.

Should a member of the public be concerned that their notification has not be handled appropriately by the Board, they have the option to go to the Ombudsman for investigation or initiate civil proceedings against the veterinarian. These pathways are considered more appropriate than for an aggrieved party to lay a complaint directly with SACAT.

Draft Bill	Comment	VP Act
90 – Publication of prohibition orders	Consistent with VP Act, now a standalone section	62(10)

91 - Constitution of Tribunal

VP Act Reference: Section 63

The draft Bill amends the required skills, knowledge, and experience of SACAT's panel members. These amendments carry through the change in skills, knowledge and experience required of the Board members (see 6 - *Composition of Board*).

Part 8 - Reviews

92 - Review by Tribunal

VP Act Reference: Section 66

In addition to provisions in the VP Act, the draft Bill adds the ability for a person to apply to SACAT for review of a decision made by the Board to:

- suspend a person's registration (draft Bill Section 92(1)(d))
- any other decision prescribed by the regulations (draft Bill Section 92(1)(i))

93 - Variation or revocation of conditions imposed by Tribunal

VP Act Reference: Section 67

The draft Bill removes the entitlement for the Minister to appear and be heard by SACAT in relation to an application by a veterinary surgeon to vary or revoke a condition imposed by SACAT in relation to the persons registration.

94 - No internal review by Tribunal of decision under Part 8 Division 5

Section 70 of the *South Australian Civil and Administrative Tribunal Act 2013* provides for internal reviews of SACAT decisions.

The draft Bill includes a new provision whereby a decision of SACAT may not be subject of an application for internal review.

This is consistent with the Australian Health Practitioner Regulation Agency's (AHPRA's) enabling legislation whereby the right of appeal against SACAT disciplinary decisions concerning APHRA health professionals to the Supreme Court. The change is important as it is:

- considered inappropriate to run two disciplinary processes in the one jurisdiction (SACAT)
- an unnecessary duplication of the complex disciplinary process, generally heard over several days before a multi-disciplinary tribunal panel
- a high impost on SACAT's resources – which may become unmanageable to both SACAT and the Board. Note that SACAT costs are also recovered from the Board
- a high impost on the Board's resources – as a party to the internal review process.

A right of internal review provides an additional avenue for appeal, and an opportunity to delay or frustrate proceedings by the bringing of interim internal appeals. This is an important consideration as any delay or frustration of proceedings has the potential to jeopardise public protection.

Part 9 – Miscellaneous

95 - Exemptions

VP Act Reference: Section 39

The VP Act enables the Governor to exempt a person from the prohibition on provision of veterinary treatment for fee or reward by unqualified persons if there is good reason for doing so. The second reading articulated that this provision was intended for situations such as Emergency Animal Disease responses, however a Governor exemption is considered the inappropriate level for such an exemption to be provided.

Stakeholder consultation conducted in 2020 reinforced the potential need for exemptions, on an individual basis, should services in the future be limited in some sectors and some areas of the State. For example, ready access to veterinarians for the purpose of laparoscopic artificial insemination of sheep, is of concern to the Livestock industry.

The draft Bill includes a new section related to exemptions.

Section 95 enables the Minister to exempt a person or prescribed class of persons from specified provisions of the Act and sets associated penalties. A Ministerial exemption process will enable more flexibility with regard to exemptions while maintaining an appropriate level of oversight and responsibility for a decision given the significance of this power.

These exemptions could be applied to an individual, as outlined in the example of the provision of laparoscopic artificial insemination, or a class of persons, such as veterinary nurses or technicians.

Registration of veterinary nurses and veterinary technicians: Stakeholder consultation conducted in 2020 demonstrated support for veterinary nurses and technicians to be registered or approved by the Board. The Australasian Veterinary Boards Council (AVBC) is currently working with the Veterinary Nurses Council of Australia (VNCA) and Australian Veterinary Nurse and Technician

(AVNAT) Regulatory Council towards mandatory registration of veterinary nurses and technicians across Australia.

Registration of veterinary nurses and technicians is not proposed in the draft Bill. It is recommended that this be reconsidered as work toward a harmonised national scheme progresses. It is considered important however that the Regulations ensure tasks currently being undertaken by veterinary nurses, if appropriate, are legal. This is proposed to be accommodated through an exemption applied to these paraprofessionals as a group. For example, an exemption for qualified veterinary nurses and veterinary technicians to perform tasks under the direction or supervision of a veterinarian.

96 - Exemption does not operate in favour of a person who contravenes a condition

The draft Bill includes a new section specifying that should a person contravene or fail to comply with a condition specified in an exemption, the exemption approval does not operate in that person's favour. This means that if a specified exemption condition is not complied with, the person would be guilty of an offence by providing veterinary services for fee or reward.

97 - Contact details to be provided to Chief Executive

The draft Bill enables the contact details of registered veterinarians be provided to the Chief Executive of the administrative unit of the Public Service that is responsible for assisting a Minister in administration of the Act (currently PIRSA). Contact details provided under this section are to be utilised only in defined, specific circumstances including providing information in respect of:

- a notifiable disease, bushfire, public health emergency or another event that that significantly impacts, or could significantly impact, on animal welfare in the State
- to consult on, or obtain or provide advice in respect of, legislation relevant to veterinarians
- to advise of vacancies on the Board and provide information about recruitment for Board positions
- any other matter prescribed by the regulations.

It is considered important that legislation enables the government to communicate with the profession in a direct and timely manner for several defined purposes only.

Draft Bill	Comment	VP Act
98 – False or misleading statement	Consistent with VP Act	68 – False or misleading statement
99 – Procurement of registration fraud	Consistent with VP Act	69 – Procurement of registration fraud
100 – Victimisation	Consistent with VP Act	70 – Victimisation
101 – Self-incrimination and legal professional privilege	Consistent with VP Act	71 – Self-incrimination and legal professional privilege
102 – Punishment of conduct that constitutes offence	Consistent with VP Act	72 – Punishment of conduct that constitutes offence
103 – Confidentiality	Consistent with VP Act	74 – Confidentiality

Draft Bill	Comment	VP Act
104 – Arrangements between the Board and interstate registration authorities	Consistent with VP Act	75 – Arrangements between the Board and interstate registration authorities
105 – Notification of disciplinary action to interstate registration authorities	Consistent with VP Act	75A – Notification of disciplinary action to interstate registration authorities
106 – Evidentiary provision	Minor changes consistent with the revised scope and terminology of the draft Bill	76 – Evidentiary provision
107 – Variation or revocation of notices	Consistent with VP Act	78 – Variation or revocation of notices

108 - Regulations and fee notices

VP Act Reference: Section 79

Like the VP Act, the draft Bill enables the Governor to make regulations under the Act as required. In addition to the provisions in the VP Act, the draft Bill enables the Board to prescribe fees for the purposes of the Act by fee notice under the *Legislation (Fees) Act 2019*.

Provisions not included in the draft Bill

General Offences

The following general offences have been removed from the draft Bill:

Board's approval required where veterinary surgeon has not practised for 3 years

VP Act Reference: Section 43

This provision creates an offence for a veterinary surgeon to provide veterinary treatment without the approval of the Board if they have not practiced for 3 years. The provision also enables the Board to require the veterinary surgeon to obtain qualifications or experience specified by the Board and impose conditions in the applicant's registration.

It is recommended that veterinarians returning from a period away from practice, for a variety of reasons, including illness, parental leave etc. be afforded a transparent, clear, and pre-determined pathway that ensures appropriate recent experience, knowledge, and competence prior to providing veterinary treatment for fee or reward. These requirements however need not be an offence provision which is inflexible in relation to an arbitrary 3-year period.

Requirements relating to a veterinarians' contemporary experience, knowledge and competence can be readily outlined within the Code of Professional Conduct or stand-alone professional standard. A veterinarian would be legally required to comply with any such code or standard in order to not be found guilty of unprofessional conduct, which is a cause for disciplinary action pursuant to Section 88 of the draft Bill (section 61 of the current VP Act).

Requirements relating to continuing education, periods of supervised practice etc. can be readily specified in a code or standard, and approvals would not be subject to the Board's timeframes in relation to competing priorities and dates of sessional meetings. This will benefit individual veterinarians able to obtain financial equity commensurate with their skills, ensure cost to businesses is known and minimised at the outset and may encourage veterinarians to return to the workforce.

Section 39(8) of the draft Bill supports this revised approach by specifying that a person who is registered but is not practicing or practices in a part-time or temporary basis and is intending to transition to practicing, or practicing in a full time or permanent basis, must comply with the requirements of the Board relating to that transition. The Board must publish the requirements relating to the transition online.

Information relating to claim against veterinary surgeon to be provided

VP Act Reference: Section 45

This section requires a veterinary surgeon to provide the Board with prescribed information regarding claimed damages for alleged negligence committed by the veterinary surgeon while providing veterinary treatment.

Rather than a specific legislated offence provision, the Code of Professional Conduct or other standard could require a veterinarian to advise the Board of instances where legal proceedings have been initiated in association with claimed damages for alleged negligence.

Provisions for avoidance of conflicts of interest

Interpretation

VP Act Reference: Section 46

This provision defines terms used within Division 2 – Provisions for avoidance of conflicts of interest

Veterinary surgeon or prescribed relative to inform Board of interests in prescribed business

VP Act Reference: Section 47

This provision requires veterinarians to give the Board information relating to any interest they or their extended relatives may have in a ‘prescribed business’, including giving the Board further information should any details of their or their relatives’ interests change.

Veterinary surgeon to inform client of interests in prescribed businesses

VP Act Reference: Section 48

This provision prohibits a veterinarian from recommending to a client (of an animal they are treating) a veterinary service or veterinary product in which they have an interest (as defined in the VP Act), unless the veterinarian has informed the client in writing of their interest and/or that of their extended relatives.

VP Act Section 47 and 48 offence provisions aim to regulate veterinarians and their prescribed relatives (parents, spouse, domestic partner, child, grandchild, or siblings) with the purpose of avoiding conflicts should they have an interest in a prescribed veterinary business (e.g., a business which provides a veterinary service, or which manufactures and/or supplies veterinary products).

Like VP Act Sections 43 and 45, the avoidance of conflicts of interest can alternatively be addressed within a Code of Professional Conduct or other standard, as occurs in other jurisdictions.

While it is important that conflicts of interest are avoided, and that veterinarians are provided with clear guidance as to their responsibilities in relation to conflicts, specific offence provisions are unnecessary onerous and administratively burdensome for the Board and for an individual veterinarian.

It is unclear if these provisions have ever been used and the VP Act may be considered as overreaching in these sections.

With the removal of VP Act Section 47 and 48, the only remaining provision from this division is VP Act Section 49 – Offence to give, offer or accept benefit for recommendation or prescription. This remaining section has been moved to the draft Bill Section 70 with required terms defined in that section. This renders VP Act Section 46 obsolete.

Veterinary services providers

References to veterinary services providers have been removed in the draft Bill with the addition of the requirement for veterinary premises to be registered (see *Part 5 – Registration of premises*).

This extends to removing associated terminology and the following sections:

Information to be given to Board by veterinary services provider

VP Act Reference: Section 50

This provision stipulates all details, including contact details, required to be provided to the Board within 60 days of becoming a veterinary services provider or within 30 days of any changes.

Improper directions etc to veterinary surgeon by veterinary services provider

VP Act Reference: Section 51

This provision makes it an offence for a veterinary services provider to direct or pressure a veterinary surgeon to act unlawfully, negligently or unfairly in relation to the provision of veterinary treatment

A similar provision has been created in the draft Bill which extends to any person (see 72 – *Undue influence*).

Veterinary Hospitals

The requirement for veterinary hospitals to be accredited by the Board has been replaced in the draft Bill by the requirement for all veterinary premises to be registered (see *Part 5 – Registration of premises*). As such, the following offence provisions are no longer required:

Illegal holding out of facility as veterinary hospital

VP Act Reference: Section 52

This provision creates an offence for a person to hold out a facility as a veterinary (or animal) hospital) unless the facility is accredited by the Board.

Accreditation by Board of facility as veterinary hospital

VP Act Reference: Section 53

This provision outlines the eligibility, accreditation period and application requirements of veterinary hospital accreditation.

Requirement to inform Board on becoming owner or occupier of facility accredited as veterinary hospital

VP Act Reference: Section 54

This provision requires a person to inform the Board within 3 months of becoming the owner or occupier of an accredited hospital.

Other

Service

VP Act Reference: Section 77

This section addresses how a notice or document can be served on a person for the purposes of the Act.

This section is proposed to be removed as it is covered by the *Legislation Interpretation Act 2021*.