

REPUBLIC OF SOUTH AFRICA

VETERINARY AND PARA- VETERINARY PROFESSIONS AMENDMENT BILL

(As amended by the Portfolio Committee on Agriculture and Land Affairs (National Assembly) (The English text is the official text of the Bill))

(MINISTER FOR AGRICULTURE AND LAND AFFAIRS)

[B 66B—2001]

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[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

To amend the Veterinary and Para-Veterinary Professions Act, 1982, so as to provide for the restructuring of the South African Veterinary Council; to provide for the examination of candidates with a veterinary degree not recognised by the council; to further provide for the registration of private companies to practise in terms of the Act; to amend the Pharmacy Act, 1974, so as to provide for the keeping and supply of medicines by veterinarians; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

1. Section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution for the definition of “officer” of the following definition:
 “ ‘officer’ means an officer as defined in section 1 of the Public Service Act, [1984 (Act No. 111 of 1984)] 1994 (Proclamation No. 103 of 1994);”; and
- (b) by the insertion after the definition of “prescribe” of the following definition: 10
 “ ‘private company’ means a company incorporated and registered as a private company in terms of the Companies Act, 1973 (Act No. 61 of 1973);”.

2. Section 5 of the principal Act is hereby amended— 15

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) Whenever it becomes necessary to designate or elect the members of the council, the following procedure shall be followed:
- (a) Before the expiration of the period of office of the outgoing council, an election shall be held in the prescribed manner for—
- (i) the election of ten veterinarians or veterinary specialists by persons registered or deemed to be registered in terms of this Act to practice veterinary professions;
- (ii) the election of one representative of each para-veterinary profession by persons registered or deemed to be registered in

- terms of this Act to practice the para-veterinary profession concerned.
- (b) The Minister shall, after consultation with the outgoing council, appoint a selection panel, which must consist of—
- (i) three veterinarians or veterinary specialists;
 - (ii) one para-veterinary professional;
 - (iii) one non-veterinary professional.
- (c) The selection panel shall select—
- (i) two persons on account of their knowledge of law;
 - (ii) eight veterinarians or veterinary specialists;
 - (iii) two non-veterinarians.
- (d) The rector or principal of each university in the Republic that has a faculty of veterinary science, shall nominate at least three veterinarians or veterinary specialists who are fit and proper persons.”;
- (b) by the substitution for subsection (2) of the following subsection: 15
- “(2) The council consists of—
- (a) one officer of the Department of Agriculture who is a veterinarian or veterinary specialist, designated by the Minister;
 - (b) six veterinarians or veterinary specialists from the ten persons elected as contemplated in subsection (1)(a)(i), of whom— 20
 - (i) the three persons with the most votes in that election qualify automatically to be members of the council;
 - (ii) three further persons shall be designated by the Minister;
 - (c) one representative of each para-veterinary profession elected as contemplated in subsection (1)(a)(ii); 25
 - (d) one person from the persons referred to in subsection (1)(c)(i), designated by the Minister;
 - (e) five persons designated by the Minister from the persons referred to in subsection (1)(c)(ii) and (iii), of whom at least one shall be a non-veterinarian; 30
 - (f) one person from each of the universities in the Republic that has a faculty of veterinary science, designated by the Minister from the nominations referred to in subsection (1)(d); and
 - (g) one representative designated by the South African Veterinary Association from its members.”; 35
- (c) by the insertion after subsection (2) of the following subsections:
- “(2A) The period of office of all the members of the council shall run consecutively.
- (2B) Within 30 days after the commencement of office of the members of the council, the Minister shall inform the parliamentary committees in writing of the designation or election of the members concerned.”; 40
- (d) by the substitution for subsection (3) of the following subsection:
- “(3) Whenever any designation in terms of subsection [(1)(b) or (c)] (2)(f) or (g) becomes necessary, the registrar shall request the rector or principal concerned or the South African Veterinary Association, as the case may be, in writing to designate or nominate within a specified period the [person] persons required to be designated or nominated in terms of that subsection.”; and 45
- (e) by the substitution for subsection (4) of the following subsection:
- “(4) If the registrar or principal concerned or the said Association fails to comply with such request within the said period, the Minister may designate any person holding the qualifications necessary for designation and whom he or she deems fit, to be a member of the council in the place of a person to be designated in terms of subsection [(1)(b) or (c)] (2)(f) or (g).”.

Amendment of section 6 of Act 19 of 1982, as amended by section 3 of Act 19 of 1989

3. Section 6 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) No person shall be designated as a member of the council in terms of section [5(1)(b) or (c)] 5(2)(f) or (g) or elected as a member of the council by virtue of section [5(1)(d)] 5(2)(b) if— 60

- (a) he or she is not a veterinarian or veterinary specialist;
- (b) he or she is not a South African citizen;
- (c) he or she is not permanently resident in the Republic;
- (d) he **[is a patient or a president's patient]** or she suffers from mental illness as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
- (e) his or her estate has been sequestrated or surrendered or he or she has entered into a composition with his or her creditors;
- (f) he or she has at any time been convicted of an offence in respect of which he or she was sentenced to imprisonment without the option of a fine and such sentence was not suspended; or
- (g) he or she does not satisfy the prescribed requirements with regard to the election of members of the council.”;
- (b) by the substitution for subsection (1A) of the following subsection:
 - “(1A)(a) No person shall be elected as a member of the council by virtue of section **[5(1)(e)] 5(2)(c)** unless **[he]** such person is registered or deemed to be registered in terms of this Act to practise the para-veterinary profession concerned.
 - (b) The qualifications specified in paragraphs (b), (c), (d), (e), (f) and (g) of subsection (1) shall *mutatis mutandis* apply to the election of a member of the **[council] standing committee** by virtue of section **[5(1)(e)] 5(2)(c)**.”; and
- (c) by the substitution for subsection (2) of the following subsection:
 - “(2) No person shall **[be qualified]** qualify to be a member of the council if **[he]** such person has been **[convicted of improper or disgraceful conduct after an inquiry under section 14 of the Veterinary Act, 1933 (Act No. 16 of 1933), or been]** found guilty of unprofessional, improper **[of]** or disgraceful conduct after an inquiry under section 31 **[of this Act]** and the council has exercised its disciplinary powers in terms of section 33(1)(b), (c) or (d).”.

Amendment of section 8 of Act 19 of 1982, as amended by section 4 of Act 19 of 1989

4. Section 8 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
 - “(c) he or she, in the case of a member designated **[in terms of section 5(1)(a)]**—
 - (i) in terms of section 5(2)(a) or (d), tenders his or her resignation in writing to the Minister; or
 - (ii) in terms of section 5(2)(a), ceases to be an officer;”;
- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
 - “(d) he or she, in the case of a member designated in terms of section **[5(1)(b)] 5(2)(f)**—
 - (i) tenders his or her resignation in writing to the rector or principal of the university in question; or
 - (ii) ceases to be a **[professor or lecturer in veterinary science at the said university]** fit and proper person;”;
- (c) by the substitution for paragraph (e) of subsection (1) of the following paragraph:
 - “(e) he or she, in the case of a member designated in terms of section **[5(1)(c)] 5(2)(g)**—
 - (i) tenders his or her resignation in writing to the president of the council; or
 - (ii) ceases to be a member of the South African Veterinary Association;”;
- (d) by the substitution for paragraph (f) of subsection (1) of the following paragraph:
 - “(f) he or she, in the case of a member elected by virtue of section **[5(1)(d) or (e)] 5(2)(b) or (c)** tenders his or her resignation in writing to the president of the council; or”;

- (e) by the substitution for subsection (2) of the following subsection:
 “(2) Any vacancy on the council arising from a circumstance referred to in subsection (1) or any vacancy caused by the death of a member, shall be filled within three months by designation or election, as the case may be, in consultation with the council, in the manner in which the member who vacates his or her office or dies, was required to be designated or elected, and any member so designated or elected shall hold office for the unexpired portion of the period for which the member who vacates his or her office or dies, was designated or elected.”; and 5
- (f) by the insertion of the following subsection after subsection (2): 10
 “(3) Any vacancy on the council arising from the expiration of the period of office shall be filled, as required by section 5, within three months from such expiration.”.

Amendment of section 9 of Act 19 of 1982

5. Section 9 of the principal Act is hereby amended by the deletion of subsection (1). 15

Amendment of section 14 of Act 19 of 1982

6. Section 14 of the principal Act is hereby amended by the deletion of subsections (4) and (6).

Amendment of section 20 of Act 19 of 1982

7. Section 20 of the principal Act is hereby amended— 20
- (a) by the substitution for subparagraph (ii) of paragraph (b) of subsection (5) of the following subparagraph:
 “(ii) in the case of the contemplated registration as a veterinary specialist, it is a post-graduate qualification connected with the speciality in respect of which registration is desired and the council is satisfied that the person in question has sufficient knowledge and experience to enable such person to practise the profession concerned, for which purpose such person, except if the council expressly determines otherwise, shall pass an examination determined by the council.”; and 25
- (b) by the substitution for paragraph (c) of subsection (5) of the following paragraph: 30
 “(c) An examination referred to in paragraph (b)[(i)] shall only be conducted after payment of such amount as may be determined by the council.”.

Amendment of section 24 of Act 19 of 1982, as amended by section 7 of Act 19 of 1989 35

8. Section 24 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 “(b) in the case of a juristic person, that **[juristic]** person is a corporation or a private company.”; and 40
- (b) by the addition of the following subsection:
 “(5)(a) Notwithstanding the provisions of subsection (1), a private company shall be registered in terms of this Act only if—

- (i) the principal business of that private company is the practising of a veterinary profession or a para-veterinary profession, as the case may be;
 - (ii) all the shareholders of the company are registered in terms of this Act to practise a veterinary or a para-veterinary profession;
 - (iii) the name of the company has been approved by the council;
 - (iv) every shareholder of the company is a director and only a shareholder shall be a director thereof; and
 - (v) its memorandum of association provides that the directors and past directors shall be liable jointly and severally, together with the company, for such debts and liabilities of the company as are or were incurred during their periods of office.
- (b) If a private company ceases to conform to any requirement of paragraph (a), it shall forthwith cease to practise and shall, as from the date on which it ceases to conform, not be recognised to practise the veterinary or para-veterinary profession, as the case may be.”.

Amendment of section 28 of Act 19 of 1982, as amended by section 9 of Act 19 of 1989

9. Section 28 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (dA) of subsection (1) of the following paragraph:
 - “(dA) in the case of a corporation or a private company—
 - (i) that corporation or private company ceases to exist; or
 - (ii) the provisions of section 24(4) or 24(5), as the case may be, are no longer complied with;”;
 - (b) by the substitution for paragraph (a) of subsection (1A) of the following paragraph:
 - “(a) For the purposes of this Act, the member’s interest of a person in a corporation or a private company may, at [his] such person’s death or at the termination, withdrawal or suspension of [his] such person’s registration in terms of this Act, be held by [his] such person’s estate or by [himself] such person, as the case may be, for a period of 12 months in the case of a corporation or for a period of six months in the case of a private company, from [his] such person’s death or the termination, withdrawal or suspension of [his] such person’s registration, or for such longer period as the council may on application determine.”.

Amendment of section 31 of Act 19 of 1982, as amended by section 10 of Act 19 of 1989

10. Section 31 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (6) of the following paragraph:
- “(a) Any inquiry referred to in subsection (1) may be instituted simultaneously against a corporation or a private company, and a member or employee of that corporation or directors of that private company.”.

Amendment of section 33 of Act 19 of 1982, as amended by section 12 of Act 19 of 1989 and section 4 of Act 13 of 1993

11. Section 33 of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (1) of the following paragraph:
- “(aA) impose a fine not exceeding the amount determined by the Minister by notice in the Gazette;”.

Amendment of section 41 of Act 19 of 1982

12. Section 41 of the principal Act is hereby amended by the substitution for paragraphs (i), (ii), (iii) and (iv) of subsection (1), of the following paragraphs, respectively:

- “(i) on a first conviction of a contravention referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k), be liable to a fine **[not exceeding R2 000]** or to imprisonment for a period not exceeding one year, or to both **[such]** a fine and such imprisonment; 5
- (ii) on a second or subsequent conviction of any contravention referred to in **[subparagraph] paragraph (i)**, whether the same or any other contravention referred to in that **[subparagraph] paragraph**, be liable to a fine **[not exceeding R10 000]** or to imprisonment for a period not exceeding five years, or to both **[such]** a fine and such imprisonment; 10
- (iii) on a first conviction of an offence referred to in paragraph (l), (m), (n), (o), (p), (q) or (r), be liable to a fine **[not exceeding R500]** or to imprisonment for a period not exceeding three months, or to both **[such]** a fine and such imprisonment; 15
- (iv) on a second or subsequent conviction of any contravention referred to in **[subparagraph] paragraph (iii)**, whether the same or any other contravention referred to in that **[subparagraph] paragraph**, be liable to a fine **[not exceeding R2 000]** or to imprisonment for a period not exceeding one year, or to both **[such]** a fine and such imprisonment.”. 20

Deletion of section 42 of Act 19 of 1982

13. Section 42 of the principal Act is hereby deleted.

Amendment of section 43 of Act 19 of 1982

14. Section 43 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) A regulation may, for any contravention thereof or failure to comply therewith, prescribe **[penalties not exceeding a fine of R500 or not exceeding imprisonment for a period of three months]** a fine or imprisonment for a period not exceeding three months, or both **[such]** a fine and such imprisonment **[for any contravention of or failure to comply with its provisions]**.”. 30

Substitution of section 44 of Act 19 of 1982

15. The following section is hereby substituted for section 44 of the principal Act:

“Repeal of laws 35

44. Subject to the provisions of sections **[5(2), 6(2), 9(1), 14(6),]** 18(2) and (4), 20(4) and 25(7), the laws specified in the Schedule are hereby repealed.”.

Establishment of new council

16. (1) A new council shall be established in accordance with the procedure set out in section 5 of the principal Act, within six months of the date of the coming into operation of this Act. 40

(2) The Minister shall by notice in the *Gazette* determine the date on which the new council shall come into operation, which shall be the date on which the members of the outgoing council shall cease to hold office. 45

General amendment to Act 19 of 1982

17. The principal Act is hereby amended by the substitution for the words “he”, “his” and “him”, wherever they appear in the principal Act, of the words “he or she”, “his or her” and “him or her”, respectively.

Amendment of section 29 of Act 53 of 1974

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18. Section 29 of the Pharmacy Act, 1974 (Act No. 53 of 1974), is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) the keeping of medicines or the supply of medicines to his or her own patients or clients by any medical practitioner, dentist, practitioner, veterinarian or nurse in accordance with the provisions of the **[Medicine]** Medicines and Related Substances Control Act, 1965.”.

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Short title and commencement

19. This Act shall be called the Veterinary and Para-Veterinary Professions Amendment Act, 2001, and shall come into operation on a date determined by the President by proclamation in the *Gazette*.

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MEMORANDUM ON THE OBJECTS OF THE VETERINARY AND PARA-VETERINARY PROFESSIONS AMENDMENT BILL, 2001

Background and objects

1.1 The Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982) (“the Act”), establishes the South African Veterinary Council (“the Council”) to regulate veterinary and para-veterinary professions. One of the main reasons for the amendment of the Act is to change the composition of the Council. It has become apparent that the constitution of the Council no longer conforms to present-day requirements and that certain provisions of the Act are not in line with the principles laid down by the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (“the Constitution”).

1.2 After a broad process of consultation, the following issues were identified as motivation for the restructuring of the present Council:

- * The exclusion of certain members of the South African population from the profession as a result of past policies and the admission requirements of academic institutions.
- * The need for the Council to be more representative in terms of race and gender.
- * The concern that the majority of the present members of the Council are academics and this causes a sector imbalance with regard to representation.
- * The predominance of representation from Gauteng.
- * The importance of taking the needs of previously disadvantaged communities into account.
- * The importance of taking the needs of consumers and clients from all sectors of the community into account.
- * The lack of communicating information on the elected candidates to the electorate needs to be addressed.
- * The apathy of the profession.

After further discussions and in view of the motivation set out above, a revised model of the future constitution of the Council was proposed.

1.3 In addition thereto, the Council requested the following amendments to the Act:

- * Amendment of section 6 of the Act regarding the qualification of members of council: A person may not qualify to be a member of the Council if such a person is found guilty of unprofessional, improper or disgraceful conduct under section 31 of the Act.
- * Amendment to section 14 of the Act regarding the appointment of registrar and staff: Subsection (4) excludes persons who are not proficient in “both official languages” i.e. English and Afrikaans, from being appointed in terms of this section. This is unconstitutional.
- * Amendment to section 20 of the Act regarding the qualifications for registration in terms of the Act: In terms of subsection (5), the Council may accept a degree, diploma or certificate not prescribed under the Act, for the purpose of registration of the holder thereof to practise a veterinary or para-veterinary profession. In the case of registration as a veterinary specialist, the person concerned may be required to write an examination as determined by the Council.
- * Amendment to section 24 of the Act regarding requirements for registration: This section is amended to provide for private companies, that practise a veterinary or a para-veterinary profession as the principal business, to register in terms of the Act to practise that profession.
- * Amendments of section 33 of the Act regarding the disciplinary powers of the Council: If the Council finds a person registered in terms of the Act guilty of unprofessional, improper or disgraceful conduct, the Council may impose a fine not exceeding the amount determined by the Minister by notice in the *Gazette*.

- * Amendment of section 41 of the Act regarding the making of regulations: All fines specified in the said section are deleted as fines determined in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), shall be applicable.
- * Deletion of section 42 of the Act: This section is unconstitutional as it places an onus on the accused to prove the contrary.
- * Amendment of section of the Pharmacy Act, 1974 (Act No. 53 of 1974), in order to enable veterinarians to keep and supply medicines to their clients.

Consultation

2. In addition to the Bill being published in the *Gazette* for general comment, the following bodies were consulted:

- * Agricultural Research Council
- * Animal health technicians
- * KwaZulu-Natal Veterinarians
- * Medical University of South Africa
- * Medical University of South Africa: Alumni
- * National Department of Agriculture
- * Pig Veterinary Society
- * Private practitioners
- * South African National Defence Force
- * South African Veterinary Association
- * South African Veterinary Association: Northern Transvaal
- * South African Veterinary Council
- * Technikon South Africa
- * Veterinary nurses
- * Veterinary technologists

Financial implications for State

3. The Bill holds no financial implications for the State.

Parliamentary Procedure

4. The State Law Advisers and the National Department of Agriculture are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provisions to which the procedure set out in section 74 or 76 of the Constitution applies.

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