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Veterinary Surgeons Act, 1997

Act 8 of 1997

Legislation as at 1 December 1998

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eSwatini

Veterinary Surgeons Act, 1997

Act 8 of 1997

Assented to on 25 June 1997

Commenced on 1 January 1998

[This is the version of this document at 1 December 1998.]

An Act to establish a Veterinary Council of Swaziland and to provide for the registration and control of veterinary surgeons and matters related thereto.

Part 1 – Preliminary

1. Short title and commencement

This Act may be cited as the Veterinary Surgeons Act, 1997 and shall come into operation on a date to be appointed by the Minister by notice in the *Gazette*.

2. Interpretation

In this Act unless the context otherwise requires—

“**Association**” means the Swaziland Veterinary Association existing at the commencement of this Act;

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

“**Minister**” means the Minister responsible for Agriculture;

“**Register**” means the register of veterinary surgeons kept under [section 8](#);

“**registered**” means registered under this Act as a veterinary surgeon;

“**veterinary practice**” means the practice and service of veterinary surgery and medicine and includes—

- (a) the diagnosis of diseases in, and injuries to, animals, including tests performed on animal tissue for diagnostic purposes;
- (b) the giving of advice based on such diagnosis;
- (c) the medical or surgical treatment of animals; and
- (d) the performance of surgical operations on animals.

Part II – The Veterinary Council of Swaziland

3. Establishment and composition of the Council

There is hereby established the Veterinary Council of Swaziland which shall consist of the following members:

- (a) the Director of Veterinary Services who shall be the Chairman of the Council;
- (b) four veterinary surgeons elected by the Association;
- (c) one registered government veterinary surgeon appointed by the Minister.

4. Power and functions of the Council

The Council shall exercise such powers and perform such functions as are generally or specifically authorised by this Act.

5. Tenure of office

- (1) Subject to subsection (2), a member of the Council appointed under [section 3\(b\)](#) shall hold office for a period of three years but shall be eligible for re-election.
- (2) The office of a member of the Council shall become vacant if—
 - (a) he becomes insolvent;
 - (b) he is convicted of an offence of which dishonesty, corruption or gross negligence is an element and for which he is sentenced to imprisonment without the option of a fine;
 - (c) he is by reason of physical or mental infirmity unable to exercise the functions of his office;
 - (d) as a veterinary surgeon he ceases to be registered;
 - (e) the period of his appointment or election expires;
 - (f) he resigns in writing addressed to the Chairman;
 - (g) he absents himself from more than three meetings of the Council within a calendar year without leave of the Chairman or without reasonable cause.
- (3) Where the office of a member becomes vacant for any reason specified in subsection (2), the Chairman shall notify the authority which appointed the member of the vacancy and that authority shall immediately fill the vacancy in the manner specified.

6. Vacancies not to invalidate proceedings

- (1) Subject to the quorum, the Council may act notwithstanding any vacancy in its membership.
- (2) Defects in the appointment or election of a person as a member of the Council shall not render any act or proceedings of the Council invalid.

7. Meetings of the Council

- (1) Council shall meet at least once a year.
- (2) The meetings of the Council shall be held on such days and at such time and place as the Chairman shall determine.
- (3) The Chairman shall convene and preside at all meetings of the Council and in his absence the member appointed under [section 3\(c\)](#) shall act as Chairman.
- (4) All decisions of the Council shall be by a majority of the members present and where there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.
- (5) Three members of the Council including the Chairman shall form a quorum.

Part III – Registration of veterinary surgeons

8. Registrar and register of veterinary surgeons

- (1) The Minister shall designate a public officer to be the Registrar of Veterinary Surgeons.

- (2) The Registrar shall keep a register of veterinary surgeons in the form set out in the Fourth Schedule, containing such information as the Council may determine.
- (3) The Registrar shall also act as the Secretary to the Council.

9. Application and requirements for registration

- (1) A person who wishes to be registered, shall apply to the Registrar in the form set out in the First Schedule and shall produce proof to the satisfaction of the Council that—
 - (a) he is of good character and a fit and proper person to be registered as a veterinary surgeon;
 - (b) he is ordinarily resident in Swaziland;
 - (c) he is of or above the age of 18 years;
 - (d) he has satisfied all the requirements for a degree, diploma or other qualification specified in accordance with [section 13](#).
- (2) An application under this section shall be accompanied by the registration fee paid to the Ministry of Agriculture and Co-operatives:

Provided that in an emergency situation and where the life of an animal is in danger and the Chairman considers it prudent to do so, he may consider an application by an applicant who in his opinion satisfies all the other requirements though may not ordinarily be resident in Swaziland.

10. Registration

- (1) The Council shall consider all applications for registration and if satisfied that the applicant is qualified to be registered shall direct that he be registered.
- (2) In considering an application under this section, it shall suffice for the Registrar to circulate the application to all members of the Council who shall record their recommendations through the post.
- (3) The decision of the Council under this section shall be by a majority of the recommendations of the members.

11. Publication of an annual list of veterinary surgeons

- (1) As soon as possible after the first of January in each year, the Registrar shall publish in the *Gazette* a list containing the names and qualifications of all veterinary surgeons on the register on the preceding 31st December.
- (2) The Registrar shall publish in the *Gazette* the name of each veterinary surgeon subsequently approved by the Council for registration immediately after his registration.

12. Evidence of registration

A copy of or extract from entries in the register, upon which is endorsed a certificate purporting to be signed by the Registrar and stating that the copy or extract is a true copy or extract, shall be admissible in all legal proceedings as evidence of the matter stated therein without proof of the signature or authority of the person signing the certificate.

13. Qualifications for registration

With the approval of the Minister and by notice in the *Gazette*, the Council may prescribe the degrees, diplomas or other qualifications granted after examinations by a university or veterinary medical school, which, held singly or jointly with any other degree, diploma or other qualification may render the holder entitled to be registered as a veterinary surgeon under this Act.

14. Registration of additional qualifications

Upon application by a registered veterinary surgeon and if the Council is satisfied that he has obtained a qualification higher than or additional to the qualification in respect of which he was registered, the Council may have the higher qualifications or additional qualification inserted in the register in place of or in addition to the qualification previously registered.

15. Right to appeal

A person whose application under [section 9](#) or [section 14](#) has been refused by the Council may appeal against such refusal to the High Court.

16. Removal of names from the register

- (1) The Council may order the removal from the register of the name of any registered veterinary surgeon who—
 - (a) after the lapse of six months from the date of an inquiry directed to him by registered posts, fails to confirm his present address to the Registrar;
 - (b) subject to subsection (2), requests that his name be removed from the register;
 - (c) fails to pay the registration fee within three months of the date prescribed for payment; or
 - (d) is found guilty after inquiry of an allegation of misconduct under this Act.
- (2) A person who wishes to have his name removed from the register under subsection (1)(b) shall make a written application to the Registrar accompanied by an affidavit declaring that no proceedings of a disciplinary nature under this Act or proceedings of a criminal nature under any law are being or are reasonably likely to be taken against him.
- (3) If a person's name is removed from the register in terms of subsection (1) and (2) the Registrar shall, by notice in the *Gazette*, publish such removal.

17. Restoration of names to the register

If the Council has made an order to remove a person's name from the register or suspend a person's registration after holding such inquiry as it thinks fit, the Council may restore the name of the person in the register or terminate the suspension with or without the person having to pay the prescribed fee.

Part IV – Effect of registration

18. Right to sue for fee

A registered veterinary surgeon may—

- (a) use the title of veterinary surgeon and engage in veterinary practice;
- (b) recover in any court reasonable charges for professional services rendered and the value of any medicines or surgical appliances supplied by him unless precluded from doing so by the terms of his employment.

19. Validity of certificate

Unless signed by a registered veterinary surgeon, a certificate or document required by any law to be signed by a qualified veterinary surgeon shall not be valid if it was given or issued after the commencement of this Act.

Part V – Disciplinary powers of the Council

20. Inquiry into misconduct

Upon any complaint or allegation of professional misconduct made by any person and accompanied by an affidavit under [section 21](#) stating that a registered veterinary surgeon—

- (a) has committed or has been found guilty of professional misconduct;
- (b) has been convicted of a criminal offence;
- (c) has had his name fraudulently entered in the register;

the Council may institute an inquiry into the complaint or allegation.

21. Affidavit of allegation of misconduct

Any complaint or allegation under [section 20](#) shall be accompanied by an affidavit setting out the facts on which the person relies in proof of his complaint or allegation and if the affidavit has not been enclosed, the Council shall require the person who has made the complaint or allegation to make and produce such affidavit.

22. Appearance of veterinary surgeon

- (1) If the Council is satisfied that disciplinary proceedings should be taken against a veterinary surgeon following a complaint or allegation under [section 20](#), it shall inform him of the substance of the charge made against him and furnish him with a copy of the affidavit made under [section 21](#) together with any other relevant document at least twenty-one days before the date appointed for the inquiry.
- (2) The Council shall give a veterinary surgeon whose conduct is being inquired into under this Act, a reasonable opportunity to appear before it to exculpate himself from the allegation made against him or to submit any written representations to meet the allegation.

23. Evidence at inquiry

- (1) In the course of the inquiry, the Council may hear such witness and receive such documentary evidence as may assist it in coming to a conclusion as to the truth or otherwise of the allegation which is subject matter of the inquiry.
- (2) The Council may require any witness appearing before it to give his evidence on oath and the Chairman may administer such oaths.
- (3) A veterinary surgeon whose conduct is the subject of an inquiry may produce any documentary evidence or the evidence of any person in support of his defence.

24. Power to summon witness and order production of documents

- (1) If the Council is of the opinion that the evidence of any person or the production of any document is necessary for the purpose of the inquiry, the Chairman may issue a subpoena under his hand directing such person to attend at the time and place mentioned to give evidence or to produce the documents therein specified or to do both.
- (2) A subpoena under this section shall be in the form set out in the Second Schedule.
- (3) The subpoena shall be served by the Deputy Sheriff of the High Court in the same manner as any subpoena issued out of that Court and the Ministry of Agriculture and Co-operatives shall bear the costs of such services.

- (4) The Ministry of Agriculture and Co-operatives shall pay a person attending an inquiry in pursuance of a subpoena issued under this section such witness fees and allowances as are paid to witnesses in the High Court.

25. Disobedience to subpoena and refusal to give evidence

A person who has been served with a subpoena under [section 24](#) but refuses or omits without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Council or refuses or omits without sufficient cause to produce any document in his possession or under his control which is mentioned in the subpoena, shall be guilty of an offence:

Provided that a person giving evidence or required to produce a document before the Council shall not be compelled to incriminate himself, and such a person shall have all the privileges a witness in a trial before the High Court has in respect of evidence given by him or any document he is required to produce before that court.

26. Inquiry in absence of veterinary surgeon

- (1) After it has complied with the requirements of [section 22](#), the Council may inquire into the allegation made against a registered veterinary surgeon if within the time specified he fails to appear before the Council or to make written representations.
- (2) The Chairman shall preside at the inquiry.

27. Representation by legal practitioner

The veterinary surgeon whose conduct is being inquired into by the Council shall be entitled to be represented by a legal practitioner at the inquiry.

28. Decision of Council

- (1) If after the inquiry is completed, the Council is satisfied that a complaint or allegation has been proved against the veterinary surgeon, the Council may—
 - (a) order his name to be removed from the register;
 - (b) suspend him from engaging in veterinary practice for such period as it thinks fit;
 - (c) make an order reprimanding him; or
 - (d) suspend the making of an order for a period not exceeding six months.
- (2) If the Council acts under subsection (1)(d), it may make such further inquiry in relation to the conduct of a veterinary surgeon as it thinks fit at any time during the suspension period or if the matter has not been concluded sooner, immediately upon the expiration of the suspension period.
- (3) Upon the expiration of the suspension period or the completion of the inquiry under subsection (2) whichever occurs first, the Council shall make an order or make no order under subsection (1).

29. Procedure after order

- (1) The Registrar shall immediately serve a copy of any order made under [section 28](#) upon the veterinary surgeon concerned.
- (2) Service under subsection (1) may be effected personally or by registered post, but service by registered post shall be deemed to have been served on the fourteenth day after the day on which it is posted.

- (3) The Registrar shall not remove the name of the veterinary surgeon from the register in pursuance of that order.

30. Appeal against decision of the Council

- (1) A person who is aggrieved by a decision of the Council under this Part may appeal to the High Court in accordance with the High Court Rules, 1954:

Provided that the High Court shall not set aside the proceedings of the Council by reason only of an irregularity which did not embarrass or prejudice the applicant in answering the charge or in the conduct of his defence.

- (2) A person who wishes to appeal against the decision of the Council shall—
- (a) lodge a notice of appeal with the Registrar setting out the grounds of appeal within fourteen days after the decision of the Council has been communicated to him;
 - (b) lodge his application with the High Court within fourteen days after serving the notice of appeal to the Registrar.

Part VI – Miscellaneous

31. Offences by unregistered persons

- (1) A person who, not being registered, practises veterinary surgery for reward or otherwise, commits an offence:

Provided that—

- (a) any person may render first aid to an animal for the purpose of saving life or relieving pain or destroy any animal in an emergency;
 - (b) a registered medical practitioner or registered dentist may treat, test or operate on an animal at the request of a registered veterinary surgeon;
 - (c) a person specified in the Third Schedule or the owner of an animal or a person at the instance of the owner without payment or reward, or a person in the permanent employ of the owner may—
 - (i) inoculate an animal if the materials administered do not require a veterinary surgeon's prescription;
 - (ii) treat an animal if the treatment does not require a surgical operation;
 - (iii) castrate calves, sheep, goats and pigs with a knife, other bovines by a bloodless castrator;
 - (iv) disbud calves up to weaning age;
 - (v) dock lambs' tails;
 - (vi) dock tails and remove dew claws of puppies before their eyes open; and
 - (vii) take any sample or tissue for laboratory examination.
- (2) A person who not being registered—
- (a) pretends, or by any means hold himself out, to be a registered veterinary surgeon; or
 - (b) takes or uses the title of veterinary surgeon, veterinary practitioner or any other name, title, addition or description calculated to suggest that he is a registered veterinary surgeon,
- shall be guilty of an offence.

- (3) A person who not being registered uses any description in connection with any business carried on by him or any premises at which such business is carried on, in either case being a description calculated to induce a belief that he or any person acting for the purposes of the business is a registered veterinary surgeon, commits an offence.

32. Fraudulent registration

A person who makes or produces or causes to be made or produced any false certificate, representation or declaration, either orally or in writing for the purpose of procuring his own registration or that of another person shall be guilty of an offence.

33. Penalties

A person who is convicted of an offence under—

- (a) [section 31](#)(1) or (2) shall be liable to a fine not exceeding E2000 or imprisonment for a period not exceeding 24 months or both;
- (b) [section 25](#) or [31](#)(3) shall be liable to a fine not exceeding E1000 or imprisonment for a period not exceeding 12 months or both;
- (c) [section 32](#) shall be liable to a fine not exceeding E4000 or imprisonment for a period not exceeding 24 months or both:

Provided that in addition to any sentence imposed, the Court convicting a person under [section 32](#) shall order that his name be immediately removed from the register if such a person had already been registered.

34. Regulations

Subject to this Act and after consultation with the Council, the Minister may make Regulations by notice in the *Gazette* for—

- (a) prescribing the manner of election of specified members of the Council;
- (b) regulating the procedure for the meeting and proceedings of the Council;
- (c) prescribing the fees to be paid under this Act and the regulations;
- (d) generally exercising the powers and performing the duties and functions specified under this Act.

35. Power to amend Schedules

The Minister may amend the Schedules to this Act after consultation with the Council.

First Schedule (Section 9(1))

Form of application for registration as a Veterinary Surgeon

To: The Registrar, Veterinary Council of Swaziland

I, _____⁽¹⁾ of _____⁽²⁾ hereby apply under section 9 of the Veterinary Surgeons Act, 1997 to be registered as a Veterinary Surgeon.

(1)

Full name: _____

(2)

Permanent Address: _____

I was born at _____ on _____

My nationality and/or citizenship is _____

My professional qualifications are as follows: _____⁽³⁾

The two attached certificates of character under section 9 are signed by _____ and by _____ of _____ respectively to whom reference may be made.

I hereby solemnly declare that the particulars given by me above are true and correct to the best of my knowledge and belief.

Dated this _____ Day of _____ 20 _____

Signature of Applicant: _____

Thus done before me at _____ this _____ day of _____ 20 _____

the Deponent having stated that he fully understands the contents hereof.

 Commisioner of Oaths

Second Schedule (Section 24(2))

Form of subpoena to witness

Subpoena to witness

In the matter of _____ a registered Veterinary Surgeon

and

In the matter of the Veterinary Surgeons Act, 1997

_____ ⁽ⁱ⁾ You are hereby summoned to attend before the Veterinary Council of Swaziland at _____ ⁽ⁱⁱ⁾ on the _____ day of _____ 20 _____ at the hour of _____ and so from day to day until the above matter is heard to give evidence respecting such matter, and also to bring with you and produce at the time and place ⁽ⁱⁱⁱ⁾

_____ ^(iv)

Given under my hand this _____ Day of _____ 20 _____

(3)

Full details of Universities, etc., attended with dates of examinations passed, supported by all certificates and diplomas obtained.

(i)

Name and address of person summoned:

(ii)

Place

(iii)

Strike out if not applicable

(iv)

Here specify the documents required:

Chairman of the Council

Third Schedule (Section 31(1))

Officers authorised to perform the acts set out in section 31(1)(c)

- Chief Animal Health Inspector
- Senior Animal Health Inspector
- Animal Health Inspector
- Assistant Animal Health Inspector
- Senior Veterinary Assistant
- Veterinary Assistant
- Senior Animal Husbandry Officer
- Animal Husbandry Officer
- Ranch Manager
- Assistant Ranch Manager
- Farm Foreman
- Assistant Veterinary Education Officer
- Senior Poultry Officer
- Poultry Extension Officer
- Livestock Extension Officer
- Lecturer in Animal Science and Health

Fourth Schedule (Section 8(2))

Form of register of veterinary surgeons

No.	Date of local registration	Name in full	Qualifications	Date of qualifications	Address	Signature of Registrar