

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1058

10 December 2012

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

Act No. 16 of 2012: Veterinary and Para-veterinary Professions Amendment Act, 2012



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 6 December 2012)

ACT

To amend the Veterinary and Para-Veterinary Professions Act, 1982, so as to provide for the establishment of an appeal committee and its functions; to provide for the performance of compulsory community service by certain persons registering in terms of the Act, the inclusion of a physiological condition in the meaning of practising veterinary professions and para-veterinary professions and the registration of a person who has completed the relevant qualification but which has not been conferred; to provide for a registered foreign veterinarian to continue practising by attaining either citizenship or permanent residency; to provide for continuing professional development, the suspension of registered persons and the termination of such suspension; to provide for the appointment and powers of inspection officers, the investigation of complaints, and cost orders; and to provide for matters connected therewith.

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

Amendment of section 12 of Act 19 of 1982

1. Section 12 of the Veterinary and Para-Veterinary Professions Act, 1982 (hereinafter referred to as the principal Act), is hereby amended— 5
- (a) by the substitution for subsection (1) of the following subsection: 5
- “(1) The council may **[from time to time]** establish such other committees as it may deem necessary to exercise such powers and perform such functions as may **[from time to time]** be conferred or imposed upon or delegated to them by the council.”; 10
- (b) by the substitution for subsection (3) of the following subsection: 10
- “(3) The council shall designate a member of a committee, who shall also be a member of the council, as the **[chairman]** chairperson of that committee.”; 15
- (c) by the insertion of the following subsection after subsection (3): 15
- “(3A) Unless an appeal is lodged in terms of section 33A in the prescribed manner, a decision of a committee established in terms of subsection (1) to institute an inquiry in terms of section 31 or 31A into the conduct of any registered person shall be of force and effect from the date determined by that committee.”; and 20

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- (d) by the substitution for subsection (4) of the following subsection:
“(4) The provisions of sections 10(3), (5), (6) and (7) and 11(4) shall *mutatis mutandis* apply to a committee established [**under this section**] in terms of subsection (1).”.

Insertion of section 12A in Act 19 of 1982

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2. The following section is hereby inserted in the principal Act after section 12:

“Ad hoc appeal committees

- 12A.** (1) The council shall establish an *ad hoc* appeal committee to consider any appeal lodged in terms of section 33A against a decision of an inquiry instituted in terms of section 31 or 31A, in the prescribed manner. 10
- (2) An *ad hoc* appeal committee shall consist of—
- (a) a chairperson, with knowledge in the practice of law, for a cumulative period of at least 10 years; and
 - (b) not more than two registered persons drawn from the profession similar to that of the registered person in respect of whose conduct an inquiry was instituted. 15
- (3) An *ad hoc* appeal committee shall have the power to consider any appeal contemplated in subsection (1) and may, in the prescribed manner—
- (a) confirm the decision;
 - (b) amend, vary or set aside the decision; 20
 - (c) remit the matter back to the council or a committee with such instructions as it may consider necessary; or
 - (d) make such other order, including an order for cost, as it considers appropriate.
- (4) A decision of an *ad hoc* appeal committee in terms of this Act shall be final and of force and effect from the date determined by that appeal committee, subject to review by a court of law with competent jurisdiction.”. 25

Insertion of section 20A in Act 19 of 1982

3. The following section is hereby inserted in the principal Act after section 20: 30

“Compulsory community service

- 20A.** (1) From the date of commencement of section 3 of the Veterinary and Para-Veterinary Professions Amendment Act, 2012, any person registering for the first time to practise a veterinary profession or para-veterinary profession in terms of this Act, shall perform in the prescribed manner compulsory community service in that veterinary profession or para-veterinary profession for a period of one year and shall, upon completion of such service, be entitled to practise the profession for which he or she is registered. 35
- (2) The Minister may, after consultation with the council, prescribe the performance of compulsory community service contemplated in subsection (1), including but not limited to— 40
- (a) the registration of persons for compulsory community service;
 - (b) the conditions of employment pertaining to persons who perform such service; 45
 - (c) the places at which compulsory community service is to be performed; and
 - (d) the conditions subject to which the service may be interrupted.
- (3) The Minister may, after consultation with the council, prescribe the circumstances under which a person contemplated in subsection (1) may be exempted from performance of the compulsory community service.”. 50

Amendment of section 23 of Act 19 of 1982, as amended by section 6 of Act 19 of 1989 and section 2 of Act 13 of 1993

4. Section 23 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (2) of the following paragraph:

“(d) performing any act which has as its purpose diagnosing, treating or preventing any pathological or physiological condition in any animal or which constitutes a surgical operation on any animal and is deemed in terms of the rules to pertain specially to a veterinary profession.”. 5

Amendment of section 24 of Act 19 of 1982, as amended by section 7 of Act 19 of 1989, section 8 of Act 10 of 2002 and section 36 of Act 12 of 2004 10

5. Section 24 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) (a) Subject to the provisions of subsection (1A) and paragraph (b), a person may be registered in terms of this Act to practise a veterinary profession or a para-veterinary profession if— 15

[(a)] (i) in the case of a natural person, that person is the holder of an appropriate degree, diploma or certificate prescribed or accepted under section 20; or

[(b)] (ii) in the case of a juristic person, that person is a corporation or a private company. 20

(b) A person contemplated in paragraph (a)(i) who registers for the first time to practise a veterinary profession or para-veterinary profession in terms of this Act may not be so registered, unless that person simultaneously registers for compulsory community service contemplated in section 20A.”; and 25

(b) by the substitution in subsection (1A)(a) for subparagraph (i) of the following subparagraph:

“(i) from the date on which the person fulfilled the academic requirements for the degree, diploma or certificate, contemplated in subsection (1) [was granted to a person], up to the date on which such person applies for registration in terms of section 25 for the first time; or”. 30

Amendment of section 25 of Act 19 of 1982, as amended by section 8 of Act 19 of 1989

6. Section 25 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection: 35

“(6) (a) If a person is registered by virtue of a degree, diploma or certificate which is accepted in terms of section 20(5), and such person is resident in the Republic but is not a South African citizen, his or her registration shall lapse seven years, or such further period as the council may in a particular case determine, after the date on which a certificate of registration was issued to him or her in terms of subsection (2), unless he or she becomes a South African citizen or has attained permanent residence status in terms of section 26 or 27 of the Immigration Act, 2002 (Act No. 13 of 2002), before the date on which his or her registration is so to lapse. 45

(b) A person whose registration has lapsed as contemplated in paragraph (a), shall not again be registered in terms of this Act before he or she is a South African citizen or has attained permanent residence status in terms of the Immigration Act, 2002 (Act No. 13 of 2002).”.

Insertion of section 28A in Act 19 of 1982 50

7. The following section is hereby inserted in the principal Act after section 28:

“Suspension of registration and termination of such suspension

28A. (1) A committee established in terms of section 12(1) may authorise the registrar to suspend the registration of any person who is registered or deemed to be registered in terms of this Act and who— 55

- (a) has failed to comply with the requirements in respect of continuing professional development as prescribed; or
 - (b) on the basis of a complaint lodged with the council or information available at the disposal of the council, is posing an imminent threat or danger to the public or any animal in terms of his or her professional practice. 5
- (2) The authorisation contemplated in subsection (1) shall be granted only after—
- (a) such person has been notified in writing by the registrar of the intended suspension of his or her registration; 10
 - (b) such person has been afforded the opportunity to furnish reasons why his or her registration should not be suspended;
 - (c) the committee has conducted a hearing in the prescribed manner; and
 - (d) such person has been informed of and has exercised or waived his or her right to lodge an appeal in terms of section 33A against the decision of the council or committee. 15
- (3) Subject to subsection (2), the registrar shall issue a written notice of suspension and forward such notice to such person by way of certified mail, fax or electronic transmission to the address appearing in respect of him or her in the register. 20
- (4) As from the date of receipt of the notice contemplated in subsection (3) by such person—
- (a) any registration certificate issued in terms of this Act to that person shall be deemed to be suspended; and
 - (b) he or she shall immediately cease to practise the veterinary profession or para-veterinary profession in respect of which he or she is registered or to perform any act which he or she, in his or her capacity as a registered person, is entitled to perform, until such time as the suspension of his or her registration is terminated by written notice in terms of subsection (5). 25
- (5) The suspension of any person in terms of subsection (1) shall be terminated by the registrar upon—
- (a) the expiry of the suspension period;
 - (b) such person complying with requirements in respect of continuing professional development as prescribed; or
 - (c) his or her compliance with such other requirements as the council may determine.”. 30 35

Insertion of section 29A in Act 19 of 1982

8. The following section is hereby inserted in the principal Act after section 29:

“Powers of officers and other persons 40

29A. (1) Any officer appointed in terms of this Act and who is required or authorised to perform any duty on behalf of the council, or any person appointed by virtue of the provisions of section 43(1)(k) to conduct any inspection, may, without a warrant, enter any veterinary facility at any time reasonable for the proper performance of such duty or to conduct such inspection, and perform such duty or conduct such inspection. 45

(2) An officer or a person referred to in subsection (1) may, where necessary, be accompanied by a police official and any other person reasonably required to render assistance to him or her.

(3) Every officer or person referred to in subsection (1) shall be issued with a certificate signed by the registrar and containing the name of that officer or person as well as a statement to the effect that— 50

- (a) the officer or person has so been appointed; and
- (b) he or she is empowered to perform any duty or conduct an inspection in terms of this Act. 55

(4) Whenever an officer or a person referred to in subsection (1) performs a duty or conduct an inspection in terms of this Act, he or she shall—

- (a) be in possession of a certificate referred to in subsection (3); and
- (b) produce that certificate to any person who is affected by his or her action.”. 60

Insertion of sections 31A and 31B in Act 19 of 1982

9. The following sections are hereby inserted in the principal Act after section 31:

“Manner in which certain investigations may be instituted

- 31A.** (1) If the registrar deems it necessary for the achievement of the objects of this Act and to establish more facts, he or she may institute or cause to be instituted an investigation—
- (a) into any alleged contravention of, or failure to comply with, any provision of this Act;
 - (b) in order to determine if any provision of this Act applies to or has been contravened by any registered person; and
 - (c) into any charge, complaint or allegation of unprofessional conduct by any registered person.
- (2) Subject to subsection (1), the registrar may with the approval of the council appoint—
- (a) an officer of the council as an investigating officer for a particular investigation; or
 - (b) any person other than an officer of the council and who is not in the full-time employment of the council as an investigation officer for a particular investigation or to assist the officer contemplated in paragraph (a).
- (3) Any person appointed in terms of subsection (2)(b) shall, for the purpose of the investigation in question, have the same powers and duties as an officer referred to in subsection (2)(a).
- (4) The registrar shall issue to every investigation officer appointed in terms of subsection (2)(a) or (b), as the case may be, a certificate signed by the registrar and containing the name of that officer or person as well as a statement to the effect that—
- (a) the officer or person has so been appointed; and
 - (b) he or she is empowered to perform any function or conduct an investigation in terms of this Act.
- (5) Whenever an investigation officer exercises any power or performs any function in terms of this Act, he or she shall—
- (a) be in possession of a certificate of appointment issued in terms of subsection (4); and
 - (b) produce that certificate to any person who is affected by his or her action.
- (6) (a) The registrar or an investigating officer who carries out an investigation under this Act, shall compile a report of the investigation, and a report compiled by an investigating officer shall be submitted to the registrar.
- (b) If such report—
- (i) reveals *prima facie* evidence of unprofessional conduct contemplated in this Act and no complaint or charge has been lodged or laid or no allegation regarding the conduct in question has been made for the purpose of an inquiry in terms of section 31, such report shall be deemed to be a complaint made for that purpose, and the registrar shall serve a copy thereof on the registered person concerned;
 - (ii) reveals *prima facie* evidence which makes it desirable that an inquiry in terms of section 31 be instituted, the registrar shall forward a copy thereof to a committee established in terms of section 12(1) to further investigate and deal with the matter in terms of this Act.
- (c) If such report does not reveal any *prima facie* evidence of unprofessional conduct contemplated in this Act, the registrar shall serve a copy thereof on the registered person concerned in the prescribed manner.
- (d) To the extent that such report contains statements of witnesses which would have been admissible as oral evidence at any inquiry in terms of section 31, the provisions of section 213 of the Criminal Procedure Act,

1977 (Act No. 51 of 1977), shall apply *mutatis mutandis* in respect of those statements at such inquiry.

(7) Any person who carries out or assists with an investigation in terms of this Act shall keep or assist in preserving confidentiality in respect of all facts which come to his or her notice in the performance of his or her duties, and shall not disclose any such fact to any person except the registrar, the president of the council or the public prosecutor concerned, in the case of the investigation of an offence in terms of this Act, or by an order of a court.

Entry and search

31B. (1) An investigation officer contemplated in section 31A(2) may, on the authority of a warrant contemplated in subsection (4) and without prior notice—

- (a) at any time reasonable for the proper performance of his or her duties in terms of this Act, enter upon and search any premises or veterinary facility where clinical veterinary services are rendered and specified in the warrant to carry out an investigation and make any enquiry, as he or she deem necessary;
- (b) while he or she is on the premises or at any other time, request the person whose conduct is being investigated to immediately or at a time and place determined by him or her or the registrar—
 - (i) produce to him or her such records or electronic data or both relating to, or which he or she on reasonable grounds believes to relate to, the matter which he or she is investigating, and such records or electronic data or both are or were present on the premises, or are or were in the possession or custody or under the control of that person or his or her employee or agent; and
 - (ii) furnish such explanations to him or her as he or she may require in respect of any such records or electronic data or both;
- (c) at any time and at any place—
 - (i) request any person who has or is suspected on reasonable grounds of having in his or her possession or custody or under his or her control any records or electronic data or both relating to the matter which is being investigated to produce such records or electronic data or both immediately or at a time and place determined by the registrar or him or her;
 - (ii) examine such records or electronic data or both;
 - (iii) make extracts from and copies of such records or electronic data or both; and
 - (iv) request any person to furnish such explanations to him or her as he or she may require,

(2) An investigation officer contemplated in subsection (1) may, where necessary, be accompanied by a police official.

(3) An investigation officer or a person assisting an investigation officer contemplated in subsection (1) who removes or seizes anything from the premises or facility being searched, shall—

- (a) issue a receipt for it to the owner or person in control of the premises or facility; and
- (b) unless it is an item prohibited in terms of the Act or the rules, return it as soon as practicable after achieving the purpose for which it was removed or seized.

(4) A warrant referred to in subsection (1) may be issued by a magistrate or a judge of a court of law with competent jurisdiction if it appears from information on oath or affirmation that there are reasonable grounds to believe that there is evidence available in or upon such premises or facility of a contravention or alleged contravention of this Act or the rules.

(5) No person is entitled to compensation for any loss or damage arising out of any *bona fide* action by an investigation officer, a person assisting an investigation officer or police official referred to in subsection (2) of this section.

(6) An investigation officer who enters and searches any premises under this section must conduct the entry and search with strict regard to decency and good order, including regard for each person's right to dignity, freedom and security and privacy.

(7) During any search under this section, only a female investigation officer or police officer may search a female person, and only a male investigation officer or police officer may search a male person.”

Amendment of section 33 of Act 19 of 1982, as amended by section 12 of Act 19 of 1989, section 4 of Act 13 of 1993 and section 11 of Act 10 of 2002

10. Section 33 of the principal Act is hereby amended by the addition of the following subsection:

“(9) The council may make an order as regards the costs incurred by the council or committee, as the case may be, relating to an inquiry or investigation to the conduct of a person registered or deemed to be registered in terms of this Act, of an amount not exceeding the amount determined by the Minister by notice in the *Gazette*.”

Insertion of section 33A in Act 19 of 1982

11. The following section is hereby inserted in the principal Act after section 33:

“Appeals against decisions of a Committee

33A. Any person whose rights may be adversely affected by a decision of a committee established in terms of section 12(1) to institute an inquiry in terms of this Act, may in the prescribed manner appeal against such decision, to the *ad hoc* appeal committee established in terms of section 12A(1).”

Amendment of section 41 of Act 19 of 1982, as amended by section 12 of Act 10 of 2002

12. Section 41 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (r) of the following paragraph:

“(r) supplies or offers to supply to any person who is not registered or deemed to be registered in terms of this Act, any instrument or appliance which can primarily be used for services which in terms of the rules are deemed to pertain specially to a veterinary profession or a para-veterinary profession, knowing that the instrument or appliance concerned will be used by such unregistered person for the rendering for gain of services of a kind of which he or she is in terms of this Act prohibited to perform for gain[.];”

(b) by the insertion in subsection (1) of the following paragraphs after paragraph (r):

“(s) fails to give or refuses access to an officer or investigation officer or a person assisting an officer or investigation officer or any person appointed by virtue of section 29A or 31A to conduct any inspection in terms of this Act, if that officer, investigation officer or person requests entrance to any veterinary facility or premises, or obstructs or hinders such officer, investigation officer or person in the execution of his or her duties under this Act, or fails or refuses to give information that he or she may lawfully be required to give such officer, investigation officer or person, or gives to such officer, investigation officer or person false or misleading information, knowing it to be false or misleading;

(t) impersonates the registrar or an officer, an investigation officer or a person assisting an officer, investigation officer or person appointed in terms of this Act; or

(u) contravenes or fails to comply with the provisions of section 31A(7) or 31B(1)(b) or (c);” and

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(c) by the substitution in subsection (1) for subparagraph (i) of the following subparagraph:

“(i) on a first conviction of a contravention referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), ~~or~~ (k), (s), (t) or (u), be liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment;”.

Amendment of section 43 of Act 19 of 1982, as amended by section 14 of Act 10 of 2002

13. Section 43 of the principal Act is hereby amended by the insertion in subsection (1) of the following paragraphs after paragraph (j):

“(k) the appointment of persons to carry out investigations at or inspect any premises or veterinary facilities where clinical veterinary services are being rendered;

(l) the duties of persons appointed in terms of paragraph (k) and the fees payable to them by the council in respect of investigations or inspections in terms of this Act.”.

Short title and commencement

14. This Act is called the Veterinary and Para-Veterinary Professions Amendment Act, 2012, and comes into operation on a date determined by the President by proclamation in the *Gazette*.