



Tasmania

*Veterinary Surgeons Act 1987*

**Legislation Review Program Review**

**MINOR REVIEW STATEMENT**

**FEBRUARY 2000**

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## 1 Introduction

### **(A) *The National Competition Policy and the Tasmanian Legislation Review Program***

At the 11 April 1995 meeting of the Council of Australian Governments, Heads of Government agreed to adopt the National Competition Policy. This agreement, among other things, requires each participating government to review and, where appropriate, reform all legislation restricting competition by the year 2000.

In Tasmania, this program is known as the Legislation Review Program (LRP), which is administered by the Department of Treasury and Finance. It included a timetable for the review of all existing legislation, and the *Veterinary Surgeons Act 1987* has been scheduled for review beginning in 1999.

The guiding principle in the LRP is that legislation should not restrict competition unless it can be demonstrated that:

- a) the benefits of the restriction to the community as a whole outweigh the costs; and
- b) the objectives of the legislation can only be achieved by restricting competition.

The LRP specifies five criteria which should be addressed when reviewing legislation that restricts competition. These criteria require:

- the objectives of the legislation to be clarified;
- the nature of the restriction on competition and any impacts on business to be identified;
- the likely effect of the restriction on competition and on the economy generally to be analysed;
- the costs and benefits of the restriction and any impacts on business to be assessed and balanced; and
- alternative means for achieving the same result to be considered, including non-legislative approaches.

### **(B) *The Legislation and the Review Process***

The legislation under review comprises:

- the *Veterinary Surgeons Act 1987* (hereafter referred to as “the Act”); and
- the *Veterinary Surgeons Regulations 1988* (hereafter called “the Regulations”).

This legislation is administered by the Food Quality and Safety Branch of the Department of Primary Industries, Water and Environment (DPIWE). The legislation is available from the government web site <http://www.thelaw.tas.gov.au/>.

The Department of Treasury and Finance assessed the legislation as requiring a minor review.

The review is being carried out by a review group consisting of:

- Mr Rick Campbell, Food, Agriculture and Fisheries Division, Department of Primary Industries, Water and Environment (DPIWE), (Chairperson);
- Mr Rod Gobbey, Acting Director, Food, Quality and Safety, DPIWE; and
- Ms Deidre Wilson, Policy Analyst, DPIWE.

This paper is the third in a series produced as part of the Tasmanian Legislation Review Program, the others being the Preliminary Paper and the Issues Paper. These provide an overview of the industry in Tasmania, and are available upon request from the review group.

Submissions are to be forwarded to the Review Group at the following address:

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 Veterinary Surgeons Act Review Group  
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**Submissions should be received by 5:00pm on 10 March 2000.**

**(C) *Format of this Statement***

The Veterinary Surgeons Act Review Group addressed competition restrictions under four headings:

- Mandatory registration requirements for veterinary surgeons and veterinary specialists;
- The role of the Veterinary Board of Tasmania in approving educational qualifications and training courses for persons seeking to become registered;
- The regulation of the practices of veterinary surgeons, veterinary specialists and veterinary service companies by the Veterinary Board of Tasmania; and
- Bodies Corporate Providing Veterinary Services.

## 2 General Assessment of the Act and Regulations

### (A) Objectives of the legislation

The *Veterinary Surgeons Act 1987* replaced the *Veterinary Act 1918* and as such was a significant leap forward in the regulation of veterinary medicine and surgery. The objectives of the legislation were to simplify the regulation of veterinary medicine, remove restrictive provisions on practice, ensure veterinarians were appropriately trained and allow non-veterinarians to carry out specific procedures which would be of benefit to Tasmanian agriculture if veterinarians were unable to provide that service. It also aimed to regulate Incorporated bodies so that they were accountable to the Board in cases of mis-conduct.

The legislation set up a Board consisting of veterinarians and non-veterinarians to administer the Act and investigate complaints.

### (B) The legislation's effects on business

These can be seen under three headings:

#### *Removal of Registration Requirements*

The removal of the requirement for registration would theoretically allow any to practice veterinary medicine, which would reduce the income stream to those people who had veterinary qualifications this could affect their viability. Loss of this expertise from rural areas could expose our animal industries to outbreaks of exotic and endemic disease.

#### *Industry Regulation*

Regulation of the industry occurs through the Veterinary Board, which consists of Veterinary surgeons and non-veterinarians who are appointed by the Minister of Primary Industries Water and Environment. The registration fees have been set to recover 90% of the cost of running the Board and the aim is to achieve 100% recovery in the next few years.

#### *Compliance costs for industry*

The only costs that the legislation imposes on the veterinarians is a registration fee which is currently \$96.50 per year. This does not represent a barrier, in itself, to entry to the profession.

#### *Status of other States*

It would be inappropriate to consider the Tasmanian *Veterinary Surgeons Act 1987* in isolation from other States' legislation when there is similar legislation in place in most States and Territories of Australia with mutual recognition legislation reinforcing registration provisions.

Reviews of most States and Territories legislation are currently being undertaken.

A review of the Victorian legislation has been completed. The *Veterinary Practice Act 1997* replaced the *Veterinary Surgeons Act 1958*. The *Veterinary Practice Act 1997* does not restrict veterinary practice to registered veterinary practitioners; rather it restricts people from holding out that they are registered veterinary practitioners. However, other

Victorian legislation may specify that only registered practitioners can undertake specific activities. The Veterinary Practitioners Registration Board of Victoria disciplinary powers only extend to persons registered as veterinary practitioners.

An informal Working Party, set up by the Standing Committee of Agriculture and Resource Management is monitoring the reviews of the Veterinary Surgery Acts in the various States to ensure that there is a consistent approach Nationally and that practitioners registered in one jurisdiction will be acceptable in another within Australia.

### **(C) Benefits of the Legislation**

The benefits can be seen under the following headings:

#### *Environment*

- Minimises the impact and accumulation of chemical residues in animals which could contaminate the environment. The correct diagnosis and treatment of animal disease by duly qualified practitioners ensures that the correct drugs are used in the correct amounts. Registration ensures that the practitioner must accept responsibility for his diagnosis.
- *Health and Welfare*
- Minimises the chemical and antibiotic residues in agricultural produce, and livestock, and hence the risk of contamination in humans.
- Prevents the occurrence of induced antibiotic resistance in live stock.
- Animal welfare is a primary function of veterinarians and the requirements of registration ensures they are held accountable.

#### *Trade*

- Helps Tasmanian agricultural produce to be competitive in both the domestic and export markets by ensuring that chemical residues are kept to a minimum.
- Forms an integral part of the National Veterinary Service which underpins Australia's reputation as the supplier of quality animal produce. Countries importing animal products from Australia rely on the knowledge that the certifying veterinarian is duly qualified and registered.

#### *Markets*

- Guarantees purchasers of Tasmanian animal products assurance about the quality of those products.
- Provides the basis of the Meat Inspection program which minimises the risk of food poisoning. All Meat Hygiene legislation in Australia is written and administered by veterinarians. Community confidence in the meat inspection system is dependant on veterinarians being duly qualified and registered.

***(D) Identification of Restrictions on Competition within the Veterinary Surgeons Act 1987 and the Veterinary Surgeons Regulations 1988***

A number of restrictions on competition contained within the Act and Regulations have been identified. They are as follows:

***The Act***

***Mandatory registration requirements for veterinary surgeons and veterinary specialists***

Part 3 of the Act prohibits a person engaging in the practice of veterinary surgery or rendering a veterinary service, unless that person is a registered veterinary surgeon. A person can apply to the Veterinary Board of Tasmania to be exempt from the relevant section of the Act. A person may be found guilty of an offence if they describe themselves as a veterinary surgeon or veterinary specialist, or permits or omits to correct an erroneous assumption that he or she is such a surgeon or specialist.

***The role of the Veterinary Board of Tasmania in approving educational qualifications and training courses for persons seeking to become registered.***

The Veterinary Board of Tasmania, constituted under Part 2 of the Act, has a number of functions, including the maintenance and review of standards for registration of veterinary surgeons, veterinary specialist, and veterinary services companies, and to approve courses for the training of persons seeking to become registered.

***The regulation of the practice of veterinary surgeons, veterinary specialists and veterinary service companies by the Veterinary Board of Tasmania.***

The Veterinary Board of Tasmania has the function of ensuring that registered veterinary surgeons and registered veterinary specialists provide veterinary services in a competent manner (section 5(1)(b)).

***Restrictions on bodies corporate providing veterinary services.***

Part 5 covers the obligations of a company providing veterinary services. The Act provides that a veterinary service company shall not provide veterinary services unless it is the holder of an approval granted by the Veterinary Board of Tasmania authorising the company to provide those services.

The sole object of the company (identified in the memorandum and articles of association) has to be the provision of veterinary services (section 27(2)(a)). The memorandum or articles of association of a company cannot be changed without the approval of the Veterinary Board of Tasmania (section 36).

All members of a company must be registered veterinary surgeons, unless there are less than 3 members (section 27(3)(a)(i)). In the case of a company with only 2 members, one at least must be a registered veterinary surgeon (section 27(3)(a)(ii)). If one member is not a registered veterinary surgeon, that member can only hold shares for which there is no right to vote at a general meeting (section 27(iii)(a)(A),(B),(C)). The non-registered person also cannot be the Chairman of the company (section 27(3)(a)(iii)).

The Directors of a company must be registered veterinary surgeons, except the case when there are less than 2 members of the company (section 27(3)(a)(iv)).

That the total voting rights exercisable at a meeting of members of the company has to be held by registered veterinary surgeons who are directors of the company (section 27(3)(a)(vii)).

The transmission of shares of a deceased member of a company is also prescribed (Sections 27(3)(a)(v) and (3)(vi)).

## ***The Regulations***

### *Fees*

Regulations can be made with respect to the fees payable in respect of applications for registration, examinations arranged by the Veterinary Board of Tasmania, and for other matters.

Fees are currently set by the Regulations, Schedule 2. Currently fees for an application for registration as a veterinary surgeon is \$161.00, and the fee for a veterinary specialist is \$224.00. The annual registration fee is \$96.50. The fees recovered equate to 90% cost recovery. These fees are comparable with those charged by the Registration Boards in the other States. Other fees are as prescribed in the Regulations.

## ***(E) Advantages and Disadvantages of the Restrictions - Summary***

### *Advantages.*

The legislation -

- Provides assurance to the community that people calling themselves Veterinary Surgeons are appropriately qualified.
- Gives consumers a mechanism to address concerns about the standard of practice of veterinary surgery.
- Ensures that the animals are looked after better because the Veterinarians are properly trained and are therefore less likely to injure the animals or to behave recklessly.
- Gives consumers confidence that the animal products they consume are not contaminated with chemicals or produced from animals which are diseased, by the correct diagnosis and treatment of disease.
- Ensures that there is a competent body of professionals who are capable of recognising exotic and zoonotic diseases.
- Allows procedures normally considered acts of veterinary science to be carried out in an emergency where a registered veterinary surgeon is not reasonably or readily available. This provision recognises that an animal's health may require non-registered people to undertake an act that would be in contravention of the Act, and is in line with the objectives of the Act.



- Allows a person who is studying their National Veterinary Examination to engage in practice of veterinary surgery or render a veterinary service without being registered as a veterinary surgeon if that service is performed in a private practice and under the direct supervision and instruction of a registered veterinary surgeon.
- Ensures that the human health issues are addressed in the production of food from animals.
- Ensures that people who set themselves up as 'Specialists' are qualified to use the title.

#### *Disadvantages.*

The legislation -

- Prevents people, who are not appropriately qualified, from calling themselves veterinarians or carrying out acts of veterinary surgery.
- Limits access to the profession, by requiring people to be qualified and to be registered with the Board.

#### **(F) What are the costs and benefits of the Restrictions?**

##### *Mandatory registration requirements for veterinary surgeons and veterinary specialists*

The intention of providing for mandatory registration in the Act was to allow for the controls on who can be identified as veterinary surgeons and veterinary specialists, and to allow a mechanism for control of the veterinary service industry by the Veterinary Board of Tasmania.

#### **Benefits**

- Allows controls on who can be identified and practice as veterinary surgeons and veterinary specialists.
- The community has an expectation that veterinary surgeons and veterinary specialists do have the skills to practice. There is also a lack of knowledge in the community to determine who has expertise to practice. Registration provides a mechanism to ensure that if a person is registered to practice as a veterinary surgeon or as a veterinary specialist, the community can be assured that a person has the skills and expertise to undertake a veterinary service and therefore the welfare of the animals is assured.
- Allows a person to undertake activities as prescribed in the regulations, without being in contravention of the Act. The Regulations list a number of exempt activities that are not considered to a veterinary service. These exemptions generally relate to on-farm activities. In all cases, specialised training is not required to do the act specified. The provisions of the *Animal Welfare Act 1993* apply to protect the welfare of an animal from the carrying out of any such exempt activity.

Exempt activities include:

- tail docking of lambs that are 6 months old or less;
  - deworming except by oesophageal intubation (stomach tube); castration of oxen, sheep, goats or pigs that are 6 months old or less;
  - debeaking chickens; removal of horn or antler buds from any species before the formation of horn or of pedicels (antler bases);
  - collection of faecal samples; collection of milk samples;
  - collection of blood samples at the direction of a registered veterinary surgeon;
  - giving of advice on the nutrition and management of livestock;
  - foot trimming;
  - examination for pregnancy by the external application of ultrasound scanning in any species; and
  - artificial insemination, provided that the semen is introduced via the vagina and cervical canal.
- Registration provides a mechanism for control of the veterinary service industry by the Veterinary Board of Tasmania. The public has a right to expect that persons providing veterinary services be competent and responsible and answerable for their actions to a body that has the skills to properly assess those services.
  - If a person is registered as a veterinary specialist it is recognition that they have had additional training in a particular field and therefore are able to charge a premium commensurate with their investment in training.
  - Veterinary surgeons and veterinary specialists deal with the handling and dispensing of dangerous drugs, and registration ensures a mechanism to ensure that the persons so registered have the relevant expertise. Also if a person acts in a manner that is negligent, improper or illegal in handling or dispensing of dangerous drugs, then there is a capacity to institute disciplinary proceedings that could lead to the deregistration of that person.

### **Costs**

- Acts as a barrier to market entry by preventing people undertaking veterinary services.
- Imposes additional costs with registration fees.
- Potentially increases costs to clients as registered practitioners can only provide services identified as veterinary surgery.

## Options

The Review Group examined three options, retaining the status quo, amendment to the Act to define what constitutes veterinary surgery, and removal of the requirement for practitioners to be registered.

Currently the Act requires a person to be registered to undertake the practice of veterinary surgery or render a veterinary service (section 11), and they cannot hold themselves out to be a veterinary surgeon or veterinary specialist unless so registered (section 12). Veterinary services and veterinary surgery is broadly defined (section 3), with exceptions provided in the Regulations as to what is not considered a veterinary service (clause 4). Non-registered practitioners can perform the acts listed in the Regulations.

The Review Group considered that to remove the requirement for registration with no conditions being placed on whom can undertake veterinary services or veterinary surgery, or who could hold themselves out as veterinary practitioners is not a viable option. The benefit of not requiring registration is to open the field to all players, thus allowing increased competition, and, it is argued lower prices. However, veterinary practice requires expertise, as veterinary practitioners are required to deal with situations that can impact on animal and human health and the Tasmanian economy. It is in the public interest that some controls are maintained on whom can undertake veterinary services.

The Victorian model, as adopted in the *Veterinary Practice Act 1997 (Vic)*, does allow non-registered persons to perform acts of a veterinary nature outside the control of the Veterinary Practitioners Registration Board of Victoria. However, the *Veterinary Practice Act 1997 (Vic)* does allow for registration providing an individual meets certain requirements, such as having obtained appropriate educational qualifications. The *Veterinary Practice Act 1997 (Vic)* also restricts individuals from holding out that they are registered veterinary practitioners. Furthermore, other Victorian legislation may specify that only registered practitioners can undertake specific activities.

It is the opinion of the Review Group that in practice the Victorian model would mean no real change from maintenance of the status quo. The capacity for the Veterinary Practitioners Registration Board of Victoria to register suitably qualified practitioners is the same. The conditions restricting the use of the title veterinary practitioners means that individuals who have the capacity to be registered would gain little benefit in not registering, as they could not hold themselves out as veterinary practitioners or the like. The restriction of specifying that only registered practitioners can practice veterinary services is simply shifted from the *Veterinary Practice Act 1997 (Vic)* to other legislation.

The Review Group concluded that the Victorian model is not a significant change from the status quo. Further, it does not provide any practical benefit to practitioners, and any benefits to business would be negligible.

Another option considered by the Review Group is to more clearly define what constitutes a veterinary service or veterinary surgery, so as to allow more activities to be performed by non-registered practitioners. The Review Group considered that this approach would be problematic, because definitive lists are cumbersome and would need to be constantly updated to reflect changing community expectations relating to animal husbandry and shifting scientific knowledge and advancements. The Regulations currently provide a mechanism whereby an individual may be given approval to carry out particular act of

veterinary surgery in areas of market failure. This then allows the Veterinary Board to have some supervision and influence over the standard of the individual exempted.

## **Conclusion**

The Review Group concluded that the benefits to the community as a whole of the restriction outweighed the costs. The Review Group recommends that the status quo be retained.

*The role of the Veterinary Board of Tasmania in approving educational qualifications and training courses for persons seeking to become registered.*

The role of the Veterinary Board of Tasmania in approving educational qualifications and training courses is to ensure that a course is of a sufficient standard appropriate to allow for registration of an individual upon successful completion of the course.

## **Benefits**

- The community expectation is that veterinary surgeons and veterinary specialists are appropriately trained.
- The owner of an animal can not be expected to be able to determine the qualifications or expertise of the veterinary surgeon that they engage to look at their animal. There is no indication the qualifications held are genuine or that they convey any particular level of expertise, for example there are degrees available from some universities which are in fact specialist degrees which only qualify the holder to work in a tightly prescribed area.
- Misdiagnosis of animal illness because of inadequate training may result in animal suffering and the exposure of members of the public to zoonotic diseases or to the build up of chemicals or pesticides in food producing animals, with their attendant adverse impact on human health.

## **Costs**

- Acts as a barrier to market entry by preventing people undertaking veterinary services.
- Imposes a minimal financial burden on the veterinary industry which may be passed on to the customers.

## **Options**

The Review Group examined two options, retaining the status quo, or removing the power of the Veterinary Board of Tasmania to assess educational qualifications and training courses and allowing a national body to take on that role.

In practice, the Veterinary Board of Tasmania is advised by a national University Review Group as to the suitability of University courses in Australia and the Veterinary Board of Tasmania takes this advice into account when considering applications for registration.

The Review Group considered that the requirement for the Veterinary Board of Tasmania to assess educational qualifications and training was important, for the protection of industry and the consumer. Consumers benefit from the assurance that registered practitioners have achieved a required level of training. Industry benefits through having a legislative mechanism that provides guidance as to what they are required to satisfy to become registered as a veterinary surgeon, and what additional qualifications will enable them to become registered as veterinary specialists.

The Review Group notes that the Veterinary Board of Tasmania does not have as of course a member with a background in education, and that the establishment of a National office to oversee skill recognition would be of significant benefit. The Royal Australian College of Veterinary Surgeons presently sets down standards for training that have to be satisfied, but there is no national body. In the absence of a national body, it is not possible to suggest this as a viable option.

### **Conclusion**

The Review Group concluded that the benefit to the community as a whole of the restriction outweighs the costs. The Review Group recommends that the status quo be retained.

*The regulation of the practice of veterinary surgeons, veterinary specialists and veterinary service companies by the Veterinary Board of Tasmania.*

The Veterinary Board of Tasmania has the function of ensuring that registered veterinary surgeons and registered veterinary specialists are competent and able to provide veterinary services (Section 5(1)(b)).

### **Benefits**

- The community expectation is that veterinary surgeons and veterinary specialists will practice in a suitable manner.
- Voluntary codes of practice issued by the Veterinary Board of Tasmania give guidance to veterinary surgeons and veterinary specialists.
- Voluntary codes of practice assist the community by establishing minimum standards of practices.
- The Veterinary Board of Tasmanian can use voluntary codes of practice as a tool in disciplinary proceedings.
- The requirement to maintain records by veterinary services companies (section 34) provides for the keeping of adequate records and documentation of treatment.

### **Costs**

- Could increase the costs to business, by requiring certain standards of practice.

## Options

The Review Group examined two options; retaining the status quo, or removing the power for the Veterinary Board of Tasmania to regulate the practice of veterinary surgeons and veterinary specialists.

The Review Group considered that the power for the Veterinary Board of Tasmania to regulate veterinary practice was important for the protection of the consumer. The Veterinary Board of Tasmania can issue voluntary codes of practice setting minimum standards. Consumers benefit from the assurance that registered practitioners are advised as to minimum standards of performance. The voluntary codes of practice are also useful in determining whether a registered practitioner has acted properly, and can be used in disciplinary proceedings brought by the Veterinary Board of Tasmania.

Industry also benefits through having a legislative mechanism that provides guidance as to what is required of them by the Veterinary Board of Tasmania. Codes of practice are voluntary, and are therefore less restrictive on industry than mandatory requirements. The codes of practice can be used against practitioners in disciplinary proceedings, but the Act provides for appropriate mechanisms for response and appeal.

The Review Group considers that the provision requiring the keeping of records by veterinary services companies should be amended by repealing subsection 2 of section 34, removing the onus on the company to notify the Veterinary Board of Tasmania where their records are kept.

The Review Group also considered that the mandatory requirement to keep records should also apply to registered veterinary surgeons and veterinary specialists. The Review Group considers that sections 34, 35 and 37 should be amended so that the obligations and restrictions in those sections also apply to registered veterinary surgeons and registered veterinary specialists. Although an additional impost on registered practitioners, the Review Group considers that the costs of keeping of records and maintaining records are outweighed by the community interest.

## Conclusion

The Review Group concluded that the benefit to the community as a whole of the restriction outweighs the costs. The Review Group recommends that the status quo be retained, with amendments to sections 34, 35 and 37 relating to the keeping of records.

### *Restrictions on bodies corporate providing veterinary services.*

The intention of the controls on body corporate providing veterinary services was to provide controls on the provision of services by corporations.

## Benefits

- Ensures control of companies rests with the people with the expertise in the provision of veterinary services.
- The aim is to stop over servicing. It is considered that if control of the company rests with those not undertaking the service, there could be a temptation to over service a patient to make additional profits.

- Ensures control of companies with the people with the expertise in the provision of veterinary services, meaning that the control of dangerous drugs remains with the expert.

### Costs

- Interferes with the free market in ensuring that only registered veterinary surgeons can run a company to provide veterinary services. Other types of companies do have non-experts directors and majority shareholders that control the company.
- Imposes additional costs on businesses by restricting who can be a Director.

### Options

The Review Group considered three options; keep the status quo, amend the legislation to remove a majority of the restrictions, or remove the restrictions completely.

The Review Group considered that the options of maintaining the status quo or removing the restrictions completely were not acceptable to veterinarians or the public.

The provisions of the Act as they stand are very restrictive and significantly restrict competition. The restrictions that the Review Group considers inappropriate are: the sole objective of the company to be the provision of veterinary services; the requirement to apply to the Veterinary Board of Tasmania; and, the limitations on the memorandum of association relating to members and Directors. The argument used to justify the restrictions is to ensure control of companies with the people with the expertise in the provision of veterinary services. It is also asserted that if control of the company rests with those not undertaking the service, there could be a temptation to over service a patient to make additional profits.

The Review Group considers that the restrictions are not justified, and costs of the restrictions are not outweighed by the public interest. That a company should have as its sole objective the provision of veterinary services limits the capacity for market entry. Companies can, and should be able to, undertake a variety of businesses under a corporate banner. Profitability or otherwise will determine the success of a corporation having more than one objective. The issue of over servicing, it is contended, is not adequately addressed by simply putting control of companies in the hands of registered practitioners. Over servicing can occur, even where a registered practitioner not part of a company provides veterinary services.

However the Review Group does not consider that it would be in the public interest to repeal all sections placing controls on veterinary services companies. The requirement in section 33 of the Act that veterinary services be only undertaken by registered veterinary surgeon on behalf of the company is in particular warranted as a safeguard to ensure that companies use registered veterinary surgeons with essential expertise. The Review Group also considered it appropriate that veterinary services companies provide notification that the company intends to provide veterinary services to ensure that people who may wish to use the services are not misled. Notification would be mandatory, but less restrictive than the present requirement for application for approval and renewal of approval from the Veterinary Board of Tasmanian

The Review Group considered that the following amendments should be made to the Act:

- Amend the definition of “veterinary services company” (section 3) to state that a veterinary services company is a body corporate with an object of which is the provision of veterinary services, removing the requirement that the sole objective of a company be the provision of veterinary services.
- Repeal sections 25, so that a veterinary services company does not have to apply for a grant of approval from the Veterinary Board of Tasmania.
- Amend section 26 to require that veterinary services companies must notify the Veterinary Board of Tasmania that the company intends to provide veterinary services. The notice to specify information such as the name of the corporation, the ACN Number, the registered office of the applicant within Tasmania, the place or places where the company proposes to carry on business, and the names and addresses of the members and officers of the company. Subsection (2) and (3) of section 26 to remain as is.

The purpose of the proposed amendment is to ensure that information is accessible by the general public, and as a control for the Veterinary Board of Tasmania. It is not seen as essential to require registration of a corporation, as the individuals who undertake practice must be registered.

- Repeal section 27, to remove the requirement that a veterinary services company provide to the Veterinary Board of Tasmania a copy of its Memorandum of Association and for the Memorandum of Association to provide that the sole object of the company is the provision of veterinary services.
- Repeal the requirements restricting the membership and Directorship of a company.
- Repeal sections 28, 31 and 32, and replace with a section requiring a veterinary services company to notify the Veterinary Board of Tasmania of any changes to the particulars it is required to provide pursuant to section 26 or that the company no longer intends to undertake veterinary services.
- Retain sections 33.
- Retain sections 34, 35 and 37, with the amendments discussed in the previous section of this paper.
- Repeal section 36 and 38.
- Retain sections 39 and 40, relating to the liability of registered veterinary surgeons for veterinary services performed on behalf of veterinary services companies, and the offence provision.

The Review Group is of the opinion that the listed amendments will ease the current restriction on competition in the Act, whilst protecting the public interest.



## Conclusion

The Review Group concluded that the only viable option was to amend the Act, as described.

### **(G) Conclusions**

The Review Group concluded that the benefits of the restrictions contained within the Act, to the community as a whole, outweigh the costs. Therefore the status quo should be retained with amendments relating to the keeping of records and the controls on veterinary services companies.

## 3 Recommendations

**That the *Veterinary Surgeons Act 1987* be amended and *Veterinary Surgeons Regulations 1988* be maintained.**

Therefore the following amendments are recommended to the Act:

### 1 Amend section 3

The definition of "veterinary services company" by amended to allow for a company to have the provision of veterinary services as an objective, rather than it being the sole objective of the company.

### 2 Amend section 34, 35 and 37.

Sections 34, 35 and 37 relate to the keeping of records by veterinary services companies. It is recommended that subsection 2 of section 24 be repealed, removing an onus for the company to notify where their records are kept. Further, that sections 34, 35 and 37 should be amended so that the obligations and restrictions in those sections also apply to registered veterinary surgeons and veterinary specialists.

### 3 Amend Part V -

Repeal sections 25, 27, 28, 31, 32, 36 and 38. Retain sections 33, 29 and 40.

Amend section 26 to require that veterinary services companies must notify the Veterinary Board of Tasmania that the company intends to provide veterinary services. The notice to specify information such as the name of the corporation, the ACN Number, the registered office of the applicant within Tasmania, the place or places where the company proposes to carry on business, and the names and addresses of the members and officers of the company. Subsection (2) and (3) of section 26 to remain as is.

## **Appendix 1 - Terms of Reference for the Review of the *Veterinary Surgeons Act 1987***

### *Introduction*

At the meeting of the Council of Australian Governments (COAG) on 11 April 1995, the Tasmanian Government (along with the Commonwealth and all other State and Territory governments) signed three inter-governmental agreements relating to the implementation of a national competition policy (NCP). The agreements signed were:

- the Conduct Code Agreement;
- the Competition Principles Agreement; and
- the Agreement to Implement the National Competition Policy and Related Reforms.

The Competition Principles Agreement (CPA), among other things, requires the State Government to review and, where appropriate, reform by the year 2000 all legislation restricting competition. This requirement is outlined in clause 5.

The State Government's Legislation Review Program (LRP) meets Tasmania's obligations under clause 5 of the CPA by outlining both a timetable for the review of all existing legislation that imposes a restriction on competition and a process to ensure that all new legislative proposals that restrict competition or significantly impact on business are properly justified. Further, the LRP details the procedures and guidelines to be followed by agencies, authorities and review bodies in this area. Details of the LRP's requirements are contained in the Legislative Review Program: 1996-2000 Procedures and Guidelines Manual (the "Manual").

### *Terms of Reference*

The Veterinary Surgeons Act Review Group, as detailed in Attachment 1, will conduct a minor review of the *Veterinary Surgeons Act 1987* and all subordinate legislation under that Act, having regard to the following guiding principle:

"That legislation should not restrict competition unless it can be demonstrated that:

- (a) the benefits of the restriction to the community as a whole outweigh the costs; and
- (b) the objectives of the legislation can only be achieved by restricting competition."

As a minimum, the review will:

1. clarify the objectives of the legislation;
2. identify the nature of the existing restrictions on competition;
3. consider whether the existing restrictions, or any other form of restriction, should be retained by:

- \* analysing the likely effect of the existing restrictions or any other form of restriction on competition and on the economy generally;
  - \* assessing and balancing the costs and benefits of the restrictions; and
  - \* considering alternative means for achieving the same result, including non-legislative approaches; and
4. identify the broader impact of the legislation on business and assess whether this impact is warranted in the public benefit.

Without limiting the scope of the review, the Veterinary Surgeons Act Review Group will address the following issues:

- mandatory registration requirements for veterinary surgeons and veterinary specialists and the role of the Veterinary Board of Tasmania in approving educational qualifications and training courses for persons seeking to become registered;
- the requirement for veterinary services companies to receive the approval of the Veterinary Board of Tasmania prior to delivering veterinary services, and for veterinary service companies to:
  - comply with prescribed requirements for incorporation;
  - ensure that in the case of a company with more than two members, they must all be veterinary surgeons, and if there are only two members, one must be a veterinary surgeon;
  - have all voting rights held by registered veterinary surgeons; and
- the regulation of the practice of veterinary surgeons, veterinary specialists and veterinary service companies, by the Veterinary Board of Tasmania.

In considering the above-mentioned issues, the Veterinary Surgeons Act Review group will have regard, as a benchmark, to the regulatory arrangements for health care professionals.

The Veterinary Surgeons Act Review Group will take other broad policy considerations of the Tasmanian Government into account when determining whether legislative restrictions on competition or significant impacts on business are warranted. These considerations include, but are not limited to:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally or a class of consumers;

- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

### *Format of the Review*

The Veterinary Surgeons Act Review Group must complete a brief assessment of:

- the objectives of the legislation;
- the costs and benefits of any restrictions on competition;
- the impact of the legislation on business; and
- whether the restrictions on competition or the impact on business is warranted in the public benefit.

The Veterinary Surgeons Act Review Group must ensure that the scale of the assessment is commensurate with the relative impact of the legislation. Public consultation may be undertaken if considered appropriate by the Veterinary Surgeons Act Review Group.

The Veterinary Surgeons Act Review Group must prepare a Minor Review Statement (MRS) in accordance with Appendix 5 of the Manual. The Veterinary Surgeons Act Review Group must then seek endorsement from the Department of Treasury and Finance's Regulation Review Unit (RRU) for the MRS.

### *Reporting Requirements*

The Veterinary Surgeons Act Review Group must produce a final review report in accordance with the Manual. The final review report must contain:

- a copy of the MRS;
- a summary of any public consultation undertaken;
- clear recommendations on the possible actions that can be taken by the Government, including retaining, amending or repealing the specific legislative restrictions on competition in question. Where retention or amendment is recommended, the report must include a clear demonstration of the benefit to the public;
- clear recommendations on any possible actions that can be taken by the Government in relation to the broader impact of the legislation on business; and
- an outline of any transitional arrangements which may be required under the recommended course of action and the rationale for these arrangements.

### *The Date of Completion*

The Veterinary Surgeons Act Review Group shall provide a copy of both the completed review report and RRU endorsement of the MRS to the Minister for Primary Industry and Fisheries and the Treasurer by 31 December 1999.

## ATTACHMENT 1

### *Veterinary Surgeons Act Review Group*

The Veterinary Surgeons Act Review Group will consist of:

Mr Rick Campbell, Food, Agriculture and Fisheries Division, Department of Primary Industries, Water and Environment (DPIWE), (Chairperson);

Mr Rod Gobbey, Food, Agriculture and Fisheries Division, DPIWE; and

Ms Deidre Wilson, Policy Analyst, DPIWE.

The DPIWE will provide secretariat and funding support to the Veterinary Surgeons Act Review Group.