



Veterinary Services Regulations Development

Discussion Paper

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Information current as of January 2025

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Further information about the project

Further information can be found on:

PIRSA's Website: pir.sa.gov.au/legislation_reform

Contents

Abbreviations	5
Background.....	6
Transition to <i>Veterinary Services Act 2023</i>	6
Have your say	7
Key Questions.....	8
Proposed regulation	10
Corresponding law.....	10
Interpretation ‘corresponding law’	10
Deemed registration for specialists.....	11
Unprofessional conduct	11
Scope of <i>veterinary service</i> and provision of services by non-veterinary providers	12
Inclusions in the definition of veterinary services	12
Exclusions from definition of veterinary services.....	13
Application of offence to provide veterinary services for money or other consideration.....	17
Prescribed peak body	20
For purposes of Section 6(3) Composition of Board	20
For purposes of Section 14(4)(a) Functions.....	20
Governance training.....	21
Delegations.....	21
Board	21
Executive Officer	22
Registration of premises	22
Responsible person in respect of premises	22
Application of offence to carry on a business unless at registered premises.....	23
Complaints and disciplinary action	23
Complaints to be dealt with by Board resolution	24
Requirements of admitting or denying allegations	26
Areas where no further regulation is proposed.....	26

Abbreviations

AVA	Australian Veterinary Association
PIRSA	Department of Primary Industries and Regions
SA	South Australia
VSBSA	Veterinary Surgeons Board of South Australia as defined in the <i>Veterinary Practice Act 2003</i>
VP Act	South Australia's <i>Veterinary Practice Act 2003</i>
VP Regulations	South Australia's <i>Veterinary Practice Regulations 2017</i>
VS Act	South Australia's <i>Veterinary Services Act 2023</i>

Background

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

In December 2020, the Department of Primary Industries and Regions (PIRSA) began a review of the current Act to ensure that South Australia maintains a contemporary and flexible veterinary regulation and registration framework that continues to meet the objectives of protecting animal health, safety and welfare and the public interest (including users and providers of veterinary services).

Consultation was undertaken during 2020 and 2021, and following consideration of stakeholder feedback, a draft Bill was prepared. In 2022, consultation was undertaken on the draft Bill.

The Veterinary Services Bill 2023 passed through Parliament on 30 November 2023 and was assented to on 7 December 2023 and subsequently became the *Veterinary Services Act 2023* (VS Act). The *Veterinary Practice Act 2003* continues to remain in effect until the *Veterinary Services Act 2023* commences.

Transition to *Veterinary Services Act 2023*

Although the VS Act has passed Parliament, it is yet to commence. A crucial next step to bring the VS Act to commencement is the development of Regulations to expand on certain provisions of the Act. This discussion paper provides details on proposed regulations for stakeholder input. Feedback received during this process will form the development of the regulations to support the VS Act's operation.

The process to transition from the VP Act to the VS Act is being jointly undertaken by PIRSA and the Veterinary Surgeons Board of South Australia (VSBSA).

The VS Act will commence at an appropriate time following the development and making of the regulations. Until the VS Act commences, the VP Act will continue to be in effect.

Have your say

As part of the Regulations development process, feedback is sought on this discussion paper from stakeholders in the veterinary sector, to inform the development of Regulations required to expand on certain provisions in the VS Act.

Feedback is sought from but not limited to:

- animal welfare organisations
- consumers of veterinary services (including the public) and organisations representing consumers of veterinary services
- veterinarians
- professional veterinary and veterinary nurse membership associations
- universities and vocational education providers
- South Australian animal ethics committees
- Animal care providers
- legal practitioners

The consultation process is being run through YourSAy for a period of 4 weeks, closing on 14 May 2025.

Find out more:

- read the [Veterinary Services Act 2023](#)
- read the [documentation released for the purposes of consultation in December 2022](#) – Draft Veterinary Services Bill 2022, Explanatory Guide and Draft Bill
- read the [documentation released for the purposes of consultation in 2020](#) – Discussion Paper, Public Consultation Summary Report.
- refer to the [Veterinary Practice Act 2003](#)
- refer to the [Veterinary Practice Regulations 2017](#)

To get involved:

Visit yoursay.sa.gov.au/veterinaryservicesregulations

Email a submission to PIRSA.VeterinaryServicesAct@sa.gov.au

Posting written submissions to:

Department of Primary Industries and Regions
Veterinary Services Regulations Consultation
GPO Box 1671
Adelaide SA 5001

Your email address may be stored to enable us provide updates on how the development of Regulations progresses.

Please include “Veterinary Services Regulations Discussion Paper” as the title of your submission.

Your submission may be made publicly available online unless you request anonymity at the time of submission. Alternatively, PIRSA may publish submissions by stakeholder category, without your identity, if preferred and advised at the time of submission.

Anonymous submissions may still be subject to access under Freedom of Information laws.

Key Questions

Submissions are welcome on all questions, or on a specific question or questions relevant to you or your organisation. Answering each question is not required in order to provide feedback.

1. Is there any other conduct that should be considered within the scope of unprofessional conduct and that constitutes an offence that is not already covered by parts (a) to (d)? Please provide justification as to why.
2. Should extracorporeal shock wave therapy be included in the definition of 'veterinary service'? Please provide justification as to why.
3. Are there any other services (acts, activities, procedures, treatments etc.) that should be prescribed by the regulations to be included in the definition of 'veterinary service'? Please provide justification as to why.
4. Is there any other act or activity that should be prescribed by the regulations to be excluded from the definition of veterinary service? Please provide justification as to why including:
 - the relationship or potential relationship to the veterinary service definition in the VS Act
 - why the service does not need to be exclusively provided by a veterinarian.

In particular:

- are there any other procedures relating to reproduction (artificial breeding procedures or pregnancy diagnosis) that should be excluded?
 - are there any other dental procedures that should be excluded?
 - are there any pig husbandry procedures that should be excluded?
5. Are there any other circumstances in which the offence in Section 49(1) should be disapplied? Please provide justification as to why.
 6. Are there any other capabilities that Board governance training should be required to cover? Please provide justification as to why.
 7. Are there any further requirements that should be specified in relation to governance training? Please provide justification as to why.
 8. Are there any other Board functions that must be exclusively carried out by the Board? Please provide justification as to why.
 9. Are there any Executive Officer functions that should be carried out exclusively by the Executive Officer and not further delegated? Please provide justification as to why.
 10. Are there any requirements relating to responsible persons in respect of registered premises in the case of premises owned or occupied by an entity? Please provide justification as to why.
 11. Are there any other circumstances in which the offence in Section 51 should be disapplied? Please provide justification as to why.
 12. Are there any other complaints or conduct that are appropriate for the Board to consider? Please provide justification as to why.
 13. Are there certain contraventions of the Act or regulations that are more appropriate to be dealt with by Board resolution than others? Please provide justification as to why.

14. Are there any complaints or conduct that are not suitable for the Board to consider or are more appropriate to be lodged with the Tribunal? Please provide justification as to why.
15. Are there any other procedures or matters that should be outlined in the regulations relating to the operation of Part 7 Division 3 of the Act? Please provide justification as to why.
16. Are there any other requirements that you think should be specified in the regulations in relation to admitting or denying allegations? Please provide justification as to why.

Proposed regulation

The VS Act includes a range of regulation making powers. The regulations will set out the administrative detail that will operate under the Act.

Some of the regulatory powers will not require regulations to be made immediately but have been included in the VS Act to provide flexibility to adapt to needs and the nature of the profession as they may evolve in the future.

To support operation of the VS Act, regulation is proposed in a range of areas as outlined in this discussion paper.

Corresponding law

Interpretation ‘corresponding law’

Under Section 3(1) of the VS Act, “corresponding law” means a law of another jurisdiction recognised by the regulations as a corresponding law under this Act

Corresponding law is referred to within in multiple sections of the VS Act, including:

- Section 27 Registers
- Section 28 Registration on general or specialist register
- Section 29 Removal from register
- Section 32 Fees and returns
- Section 33 Recognition of veterinarians registered in other jurisdictions
- Section 36 Registration to be subject to conditions
- Section 37 Suspension or cancellation of registration or disqualification
- Section 39 Registers
- Section 60 Use of certain titles or descriptions prohibited
- Section 79 Constitution of Tribunal
- Section 94 Confidentiality.

Recognising relevant law of another jurisdiction within the regulations will give effect to the above provisions where “corresponding law” is referenced.

It is proposed that the following are recognised as corresponding law under the VS Act:

- *Veterinary Practice Act 2018* of the Australian Capital Territory
- *Veterinary Practice Act 2003* of New South Wales
- *Veterinarians Act 1994* of the Northern Territory
- *Veterinary Surgeons Act 1936* of Queensland
- *Veterinary Surgeons Act 1987* of Tasmania
- *Veterinary Practice Act 1997* of Victoria
- *Veterinary Practice Act 2021* of Western Australia.

In comparison to the corresponding law prescribed by existing VP Regulation 4, the only proposed change is to update the following references:

- Australian Capital Territory - *Veterinary Surgeons Act 2015* updated to *Veterinary Practice Act 2018*
- Northern Territory - *Veterinarians Act* updated to *Veterinarians Act 1994*
- Western Australia - *Veterinary Surgeons Act 1960* updated to *Veterinary Practice Act 2021*

Deemed registration for specialists

Section 33(4) of the VS Act provides:

- (4) An individual with registration under a corresponding law of a kind recognised by the regulations as corresponding to registration on the specialist register under this Act will be taken to be registered on the specialist register under this Act in each specialty that is a corresponding specialty and in which the person has registration under the corresponding law (insofar as registration under the corresponding law corresponds to primary registration).

This requires that the regulations prescribe forms of authorisation under corresponding laws are recognised as corresponding to registration on the specialist register under the Act

This provision is similar to that in Section 38A of the VP Act and is supported by VP Regulation 4(2). It is proposed that this existing regulation be carried over into the new regulations under the VS Act with minor changes to wording to reflect updates to interstate legislation.

Unprofessional conduct

Section 3(1) of the VS Act defines **unprofessional conduct** as including:

- (a) improper or unethical conduct in relation to professional practice; and
- (b) incompetence or negligence in relation to the provision of veterinary services; and
- (c) a contravention of—
 - (i) a provision of this Act; or
 - (ii) a code of conduct or professional standards prepared or endorsed by the Board under this Act; and
- (d) conduct that constitutes an offence punishable by imprisonment for 1 year or more under this or any other Act or law; and
- (e) conduct that constitutes an offence prescribed by the regulations;

Part (e) provides for the definition of unprofessional conduct to be expanded by prescribing other relevant conduct that constitutes an offence.

At this stage, no conduct constituting an offence has been identified to be prescribed by the regulations.

Relevant conduct relating to unprofessional conduct is already prescribed in VS Act (parts (a) to (d) of the 'unprofessional conduct' definition).

Conduct that may be in scope for prescribing under part (e) of the definition is that which does not already fall into parts (a) to (d).

QUESTION: Is there any other conduct that should be considered within the scope of unprofessional conduct and that constitutes an offence that is not already covered by parts (a) to (d)? Please provide justification as to why.

Scope of *veterinary service* and provision of services by non-veterinary providers

Section 3(1) of the VS Act defines ***veterinary service*** as meaning:

“a service which forms part of the practice of veterinary surgery or veterinary medicine and includes—

- (a) the diagnosis of a disease or physiological condition in, or an injury to, an animal; and
- (b) the medical treatment of an animal; and
- (c) the administration of an anaesthetic to an animal; and
- (d) the performance of an invasive or surgical procedure on an animal; and
- (e) the castration or spaying of an animal; and
- (f) the performance of a dental procedure on an animal; and
- (g) any other act or activity of a kind prescribed by the regulations to be a veterinary service,

but does not include anything excluded from the ambit of this definition by the regulations.”

The definition provides the ability to both expand (by prescribing acts or activities to be veterinary services) and limit (by excluding from the ambit of the definition) the definition of *veterinary services* via the regulations.

Consideration should be given to ensuring both inclusions in and exclusions from the definition of *veterinary service* in South Australia:

- fulfil, and continue to fulfil, the scope of the VS Act to support animal health, safety and welfare and the public interest
- contribute positively to animal care
- are not anti-competitive
- where appropriate, are consistent with other jurisdictions.

Inclusions in the definition of veterinary services

Inclusions in the *veterinary services* definition are only required for services that fall outside of the definition of veterinary services in the VS Act but must be provided by a veterinarian to support animal health, safety and welfare.

Extracorporeal shock wave therapy is under consideration for inclusion in the definition of *veterinary services*. This therapy may not fall within the definition of *veterinary service* as it is non-invasive, however to undertake the therapy requires both diagnosis and the administration of an anaesthetic or other Schedule 4 (prescription) drugs to manage pain and support animal health, safety and welfare.

QUESTION: Should extracorporeal shock wave therapy be included in the definition of ‘veterinary service’? Please provide justification as to why.

QUESTION: Are there any other services (acts, activities, procedures, treatments etc.) that should be prescribed by the regulations to be included in the definition of ‘veterinary service’? Please provide justification as to why.

Exclusions from definition of veterinary services

Exclusions from the definition of veterinary services are required for services that fall within the definition of *veterinary services* in the VS Act but are not exclusively required to be provided by a veterinarian.

Exclusions from the definition are also important to ensure certain services provided by non-veterinary animal care providers can continue to be provided in this way.

Key considerations in excluding a service from the definition include:

- Does the service fall within the definition of *veterinary services*? Only services that fall within the definition need to be excluded.
- Does the service need to be carried out by a veterinarian to support animal health, safety and welfare and the public interest?
- Do any non-veterinary animal care or service providers currently provide the service for money or other consideration and in a way that does not compromise animal health, safety and welfare and the public interest?

The following are proposed to be excluded from the definition of *veterinary services*.

Proposed exclusion	Rationale
1. the deworming of an animal other than by intranasal oesophageal tube	<p>Basis: VP Regulation 5(2)(a)</p> <p>Deworming can require diagnosis prior to treatment. It can be carried out in various ways such as nasal spray or drench as per normal husbandry duties. Deworming by intranasal oesophageal tube is invasive and appropriate to be undertaken by a veterinarian.</p>
2. the performance of the Mules operation on sheep	<p>Basis: VP Regulation 5(2)(b)</p> <p>Procedure is considered invasive but is a common husbandry practice for sheep and may be undertaken by contractors.</p>
3. the dehorning of cattle, sheep or goats if the animal is less than— <ul style="list-style-type: none"> • in the case of cattle where the dehorning is performed at the time of first yarding—12 months of age; or • in any other case—6 months of age 	<p>Basis: VP Regulation 5(2)(c)</p> <p>Procedure is considered invasive but is undertaken as part of cattle, sheep and goat husbandry.</p> <p>The existing regulation excludes “the dehorning of cattle or sheep if the animal is less than 6 months of age”.</p> <p>It is proposed that this exclusion be updated to:</p> <ul style="list-style-type: none"> • align with regulation 68 of the <i>Animal Welfare Regulations 2012</i> in relation to dehorning of cattle. • exclude dehorning of goats if the goat is less than 6 months of age.
4. the castration of cattle, sheep, pigs or goats if the animal is less than— <ul style="list-style-type: none"> • in the case of cattle where the castration is performed at the time of first yarding—12 months of age; or 	<p>Basis: VP Regulation 5(2)(d)</p> <p>The castration or spaying of an animal is included in the definition in general terms, however castration of cattle, sheep, pigs and goats is a common husbandry practice and may be undertaken by contractors.</p> <p>The existing regulation excludes “the castration of cattle, sheep or pigs if the animal is less than 3 months of age”.</p>

<ul style="list-style-type: none"> • in the case of pigs—21 days of age • in any other case—6 months of age 	<p>It is proposed that this exclusion be updated to:</p> <ul style="list-style-type: none"> • align with regulation 67(2) of the <i>Animal Welfare Regulations 2012</i> in relation to castration of cattle • align with regulation 30(3) of the <i>Animal Welfare Regulations 2012</i> in relation to castration of pigs • align with regulation 78(1) of the <i>Animal Welfare Regulations 2012</i> in relation to castration of sheep • align with standard 6.2 of the Australian Industry Welfare Standards and Guidelines for Goats (July 2020).
<p>5. the tail docking of lambs that are less than 6 months of age</p>	<p>Basis: VP Regulation 5(2)(e)</p> <p>Tailing is invasive and can also be a surgical procedure.</p> <p>The existing regulation excludes “the tailing of lambs that are less than 3 months of age”.</p> <p>It is proposed that this exclusion be updated to:</p> <ul style="list-style-type: none"> • align with regulation 77(2) of the <i>Animal Welfare Regulations 2012</i> in relation to tail docking of a sheep
<p>6. the treatment of an animal for ectoparasites</p>	<p>Basis: VP Regulation 5(2)(f)</p> <p>Treatment of an animal for ectoparasites may be considered within the scope of medical treatment. Such treatment is considered a common husbandry practice that does not need to be undertaken by a veterinarian.</p>
<p>7. the treatment of footrot in sheep or goats by foot-paring or foot-bathing</p>	<p>Basis: VP Regulation 5(2)(g)</p> <p>Common husbandry practice for sheep and goats.</p>
<p>8. farriery, hoof trimming and assessment of an animal for that purpose but not procedures that involve the entry into or beyond sensitive hoof structures</p>	<p>Proposed new exclusion</p> <p>This proposed exclusion will ensure farriers, hoof trimmers (including cattle) and farmers can legally undertake activities considered to routinely fall within the scope of their service or husbandry practices. This includes treatment of conditions in horses commonly attended to by farriers such as seedy toe and hoof abscesses.</p>
<p>9. desnooding, despurring, dubbing, beak trimming, beak treatment or toe trimming of day-old poultry chicks</p>	<p>Proposed new exclusion</p> <p>This proposed exclusion will ensure common husbandry practices can continue to be performed by non-veterinarians, including contractors, on day-old poultry chicks.</p> <p>This proposed exclusion aligns with the Australian Animal Welfare Standards and Guidelines for Poultry:</p> <ul style="list-style-type: none"> • SA 9.9 – a person must only perform desnooding, despurring and web marking on day old hatchlings selected as potential breeders. • SA 9.10 – a person must only perform tow trimming and dubbing on day-old hatchlings selected as potential breeders, except under veterinary advice.

<p>10. artificial insemination of cattle and pigs</p>	<p>Proposed new exclusion</p> <p>Procedures used for the artificial insemination of cattle and pigs are considered invasive, however these procedures are routinely carried out by non-veterinarians in the management of cattle and pigs.</p>
<p>11. the diagnosis of pregnancy of an animal by external ultrasound or by testing of blood or milk (other than the diagnosis of pregnancy of a horse by ultrasound)</p>	<p>Basis: VP Regulation 5(2)(i)</p> <p>Diagnosis of pregnancy is within the scope of the definition of <i>veterinary services</i>. Certain procedures used to diagnose pregnancy such as external ultrasound (non-invasive) and testing of blood and milk are commonly carried out by non-veterinarians and service providers and are therefore proposed to be excluded from the definition.</p>
<p>12. the diagnosis of pregnancy of cattle by rectal ultrasound or rectal examination</p>	<p>Proposed new exclusion</p> <p>Rectal ultrasound and examination are considered invasive techniques. This proposed exclusion will ensure such procedures for the purpose of diagnosis of pregnancy can continue to be carried out by non-veterinarians.</p>
<p>13. rasping the teeth, or removing a loose tooth or deciduous tooth cap, of a horse using manual instruments</p>	<p>Proposed new exclusion</p> <p>These are dental procedures and therefore fall within the scope of the definition of <i>veterinary services</i>. This proposed exclusion will ensure these dental procedures when performed using manual instruments can continue to be carried out by non-veterinarians.</p>
<p>14. the assessment of an animal, in relation to:</p> <ul style="list-style-type: none"> the non-invasive manual physical therapy of an animal the use of a therapeutic device on an animal in the course of non-invasive physical therapy of the animal (other than extracorporeal shock wave therapy (ESWT)) 	<p>Basis: VP Regulation 5(2)(m)</p> <p>The assessment of an animal is proposed to remain as an exclusion from the definition of <i>veterinary services</i>.</p> <p>“Assessment” of an animal relates only to assessment in relation to the provision of non-invasive therapy, or the use of a therapeutic device (other than ESWT) on an animal. That is, it is specific to any assessment required in order to safely, appropriately and effectively apply the therapy. It does not extend beyond this to an assessment for any other purpose. A diagnosis, or possible diagnoses, cannot be offered by a non-veterinary provider.</p> <p>By way of an example, a non-veterinary provider may need to watch a horse walk as part of an “assessment” to provide body work or feel a horse’s muscles to provide fascial release. It is clear that such an assessment is generally necessary or essential in order for the therapy to be provided. This is despite the fact that a veterinarian may also need to undertake similar activities, such as watching a horse walk or palpate areas of its body in order to confirm a diagnosis or differential diagnosis when an animal is unwell or unsound.</p> <p>An “assessment” may also include a non-veterinary provider identifying reasons for referral to a veterinarian or another non-</p>

	<p>veterinary provider (e.g. a farrier or saddle fitter) or identifying contra-indications to the provision of their therapy.</p> <p>Although all scenarios differ, a veterinary diagnosis would generally be required when there is reasonable suspicion that an animal is unwell or unsound. For example, the animal is injured (e.g. has open wounds), is unsound (e.g. sudden onset or significant/overt lameness), and/or likely requires pain relief or other medications (such as antibiotics or anti-inflammatories). Such cases would generally fall outside of the scope of an “assessment” for the purpose of providing non-invasive therapy or the use of a therapeutic device (other than ESWT) as per VP regulation 5(2).</p>
15. the performance of a faecal egg count	<p>Proposed new exclusion</p> <p>Faecal egg counts involve examining an animal’s faeces under a microscope for the presence of parasite eggs. They are not used exclusively when disease is suspected (e.g. scouring, weight loss, bottle jaw etc), they are also commonly performed to inform a strategic worm control program for a property, individual animal or group of animals. Faecal egg counts are an important tool to assist in preventing the development of drench resistance, a growing problem.</p> <p>Excluding the performance of this activity from being a <i>veterinary service</i> will ensure this can still be undertaken by non-veterinary service providers.</p> <p>Importantly however, it is not intended to enable someone to diagnose disease when an animal is unwell or interpret or utilise the results to treat an unwell animal.</p>

Prevention

The existing VP Regulations exclude a number of acts that are considered preventative in nature. These are appropriate to exclude currently as the definition of *veterinary treatment* in the VP Act includes “...prevention of a disease, injury or condition in an animal”. Prevention however is not included within the scope of definition of *veterinary services* under the VS Act. For this reason, acts or procedures that exclusively relate to prevention are already excluded under the VS Act and do not need to be excluded from the veterinary services definition by regulation. Such acts or procedures include:

- the vaccination of livestock
- the removal of the whole or part of a horn of an animal that does not involve the removal of vascular or living tissue
- the administration of vitamins, minerals or similar supplements to livestock.

Non-invasive treatments

Similarly, the existing regulations exclude from the definition of veterinary treatment a number of treatments that are considered non-invasive. These are appropriate to exclude from the definition of veterinary treatment under the VP Act but are not required to be excluded from the definition of *veterinary services* given its scope. Such acts or treatments include:

- the removal of the whole or part of a horn of an animal that does not involve the removal of vascular or living tissue
- non-invasive manual physical therapy of an animal
- the use of a therapeutic device on an animal in the course of non-invasive physical therapy of the animal (other than extracorporeal shock wave therapy).

Reproductive procedures

The VP Act requires artificial breeding procedures to be prescribed in regulation to be included in the definition of *veterinary treatment* with the following procedures prescribed in regulation 5(1) of the *Veterinary Practice Regulations 2017*:

- laparoscopic artificial insemination
- laparoscopic embryo transfer.

Under the VS Act, artificial breeding procedures are no longer required to be prescribed in regulation to be included in the definition of *veterinary services* as these procedures are considered invasive and surgical.

The regulations do however need to exclude any artificial breeding or pregnancy diagnosis services or procedures that fall within the definition of a *veterinary service* but are routinely carried out by non-veterinarians.

Such procedures are proposed in the table above – refer proposed exclusions number 10, 11 and 12.

Dental procedures

The definition of *veterinary service* under the VS Act includes “the performance of a dental procedure on an animal”. This changes the way dental procedures need to be regulated. Specifically, the regulations under the VS Act need to consider the exclusion of dental procedures that are routinely carried out by non-veterinarians from the definition of *veterinary service*.

There are two ways this can be achieved:

- excluding from the definition of *veterinary service* – refer to proposed exclusion number 13.
- disapplying the offence to provide veterinary services for money or other consideration unless at the person is a veterinarian – refer to the section below [Application of offence to provide veterinary services for money or other consideration](#).

QUESTION: Is there any other act or activity that should be prescribed by the regulations to be excluded from the definition of veterinary service? Please provide justification as to why including:

- the relationship or potential relationship to the veterinary service definition in the VS Act
- why the service does not need to be exclusively provided by a veterinarian.

In particular:

- are there any other procedures relating to reproduction (artificial breeding procedures or pregnancy diagnosis) that should be excluded?
- are there any other dental procedures that should be excluded?
- are there any pig husbandry procedures that should be excluded?
- are there any sampling techniques (e.g. collection of blood, faeces, urine from live animals for laboratory examination) that should be excluded?

Application of offence to provide veterinary services for money or other consideration

Section 49(1) of the VS Act provides that a person must not provide *veterinary services* for money or other consideration unless, at the time the service is provided, the person is a veterinarian.

Section 49(2) of the VS Act disappplies this requirement in relation to:

- (a) veterinary services provided by an employee of the owner of the animal in the course of that employment; or

- (b) the provision of veterinary services, or veterinary services of a class, in prescribed circumstances.

While wording differs, this section of the VS is similar in intent to Section 39 of the VP Act. Given this, the circumstances prescribed VP Regulation 6 have been considered in scope for regulation under Section 49(2)(b) of the VS Act where still relevant.

In addition, consideration has been given to veterinary services commonly provided by persons in the course of their employment at a veterinary clinic, hospital or other premise where *veterinary services* are provided. These persons may not be veterinarians but may provide aspects of *veterinary services* in the course of their employment, typically under the supervision of a veterinarian. Disapplying the offence to provide veterinary services in certain circumstances is considered appropriate so that these persons can lawfully undertake the role they have been employed to carry out.

In relation to Section 49(2)(b) of the VS Act, it is proposed that the following circumstances are prescribed so that the offence in Section 49(1) does not apply:

Proposed circumstance	Rationale
1. the provision of veterinary services to an animal for the purpose of treating a disease by an inspector appointed under the <i>Livestock Act 1997</i> in the course of the inspector's duties	<p>Basis: VP Regulation 6(a)</p> <p>This proposed circumstance has been based on VP Regulation 6(a) with relevant references updated to reflect the VS Act.</p>
2. the provision of veterinary services to an animal by a person pursuant to a licence under the <i>Animal Welfare Act 1985</i>	<p>Basis: VP Regulation 6(b)</p> <p>This proposed circumstance has been based on VP Regulation 6(b) with relevant references updated to reflect the VS Act.</p>
3. the provision of veterinary services to an animal by a medical practitioner or dentist under the supervision of veterinarian	<p>Basis: VP Regulation 6(c)</p> <p>This proposed circumstance has been based on VP Regulation 6(c) with:</p> <ul style="list-style-type: none"> relevant references updated to reflect the VS Act “registered health professional in accordance with directions of veterinary surgeon” changed to “medical practitioner or dentist under the supervision of a veterinarian”. <p>It is important flexibility remains to ensure doctors and dentists remain legally able to provide their services to animals if occasionally required.</p> <p>A change is proposed to ensure any treatment of an animal by a doctor or dentist occurs only “under the supervision of a veterinarian” as providing <i>veterinary services</i> “in accordance with the directions” of a veterinarian by a dentist or doctor is not considered appropriate for the protection of animal health and welfare.</p>

	<p>The more general reference to “registered health professional” includes a doctor, dentist, physiotherapist and chiropractor and was previously required when non-invasive manual physical therapy of an animal was included in the definition of <i>veterinary treatment</i> under the VP Act. Reference to physiotherapists and chiropractors is no longer required given the definition of <i>veterinary service</i> under the VS Act which has enabled providers, including human physiotherapists and chiropractors who provide services to animals, to provide their services when a veterinary diagnosis is not required, or after a veterinary diagnosis has been made.</p>
<p>4. the provision of veterinary services to an animal, under the direct supervision of a veterinarian, by a person who is undertaking a course of instruction to obtain a qualification approved or recognised by the Board for the purposes of registration under the Act</p>	<p>Basis: VP Regulation 6(d)</p> <p>This proposed circumstance has been based on VP Regulation 6(d) with:</p> <ul style="list-style-type: none"> • relevant references updated to reflect the VS Act • Clarification that “direct” supervision by a veterinarian is required <p>It is proposed that the supervision of veterinary students providing <i>veterinary services</i> only occurs under the direct supervision of a vet rather than the supervision of a vet.</p> <p>It must be noted this only applies to veterinary students providing veterinary services for money or other consideration.</p> <p>Supervision, which could mean indirect or remote supervision, is not considered an appropriate level to support animal health safety and welfare for the provision of <i>veterinary services</i> by someone who is yet to complete their veterinary training.</p>
<p>5. the administration of an anesthetic, drug or vaccine to an animal by a person in accordance with the directions of a veterinarian</p>	<p>Basis: VP Regulation 6(f)</p> <p>This proposed circumstance has been based on VP Regulation 6(e) with relevant references updated to reflect the VS Act.</p>
<p>6. Dubbing and toe trimming of poultry (other than day old poultry chicks) in accordance with the directions of a veterinarian</p>	<p>Proposed new circumstance</p> <p>This proposed new circumstance aligns with the Australian Animal Welfare Standards and Guidelines for Poultry:</p> <ul style="list-style-type: none"> • SA 9.10 - a person must only perform toe trimming and dubbing on day-old hatchlings selected as potential breeders, except under veterinary advice.
<p>7. scaling and polishing the teeth of an animal, under the direct supervision of a veterinarian, by a person in the</p>	<p>Proposed new circumstance</p>

ordinary course of their employment at a veterinary premise	Often undertaken by a person in the ordinary course of their employment at a veterinary premise (e.g. a veterinary nurse) under the direct supervision of a veterinarian.
8. the administration of a substance to an animal (being an act that would otherwise constitute veterinary services), under the supervision of a veterinarian, by a person in the ordinary course of their employment at a veterinary premise	Proposed new circumstance Often undertaken by a person in the ordinary course of their employment at a veterinary premise (e.g. a veterinary nurse) under the supervision of a veterinarian.
9. wound care (including dressing and bandaging), under the supervision of a veterinarian, by a person in the ordinary course of their employment at a veterinary premises	Proposed new circumstance Often undertaken by a person in the ordinary course of their employment at a veterinary premise (e.g. a veterinary nurse) under the supervision of a veterinarian.

QUESTION: Are there any other circumstances in which the offence in Section 49(1) should be disapplied? Please provide justification as to why.

Prescribed peak body

For purposes of Section 6(3) Composition of Board

Section 6(3) of the VS Act provides that “Before recommending veterinarians with primary registration for appointment as members of the Board, the Minister may consult with a ***prescribed peak body representing the veterinary profession in the State***”.

It is proposed that the **South Australian division of the Australian Veterinary Association** be the prescribed peak body for the purposes of Section 14(4)(a). Note that prescribing the peak body does not bind the Minister to consulting with the prescribed peak body.

For purposes of Section 14(4)(a) Functions

Section 14(4)(a) of the VS Act provides that the Board must consult on a proposed code, standard or guidelines, or variation, substitution or revocation (as the case requires), with veterinarians, a ***prescribed peak body representing the veterinary profession in the State*** or relevant stakeholders in accordance with a scheme determined by the Board and approved by the Minister.

It is proposed that the **South Australian division of the Australian Veterinary Association** be prescribed peak body for the purposes of Section 14(4)(a).

Governance training

Section 12 of the VS Act provides that “A member of the Board must, ***in accordance with any requirements set out in the regulations***, complete training related to corporate governance.”

This is a new requirement for Board members with the purpose being to support the Board to successfully carry out their functions and provide for effective regulation of the veterinary profession. It will also support Board members who may not have previous Board experience to contribute effectively and in a manner that best represents the skills, knowledge and experience for which they were appointed.

It is proposed that the following requirements be set out in the regulations in relation to governance training:

- Board members must complete training that covers the following capabilities within 6 months of being appointed to the Board and at least every 3 years thereafter:
 - Legal obligations – including legal responsibilities of being a statutory Board member in South Australia and under the *Veterinary Services Act 2023*.
 - Board and organisational governance – including strategy, effective oversight of operations, and monitoring and evaluation of Board and organisational performance
 - Financial management – including financial reporting, obligations, insolvency signs and consequences.
 - Risk management – the role of the Board in risk management.
- Training is to be provided by a training provider (or providers) external to the Board, approved by the Board.
- The Board must retain records of training undertaken by each member of the Board.

QUESTION – Are there any other capabilities that Board governance training should be required to cover? Please provide justification as to why.

QUESTION: Are there any further requirements that should be specified in relation to governance training? Please provide justification as to why.

Delegations

Board

Section 17(1) provides that the Board may delegate any of its functions under the VS Act other than a prescribed function. Section 17 also outlines how delegations may be made by the Board and requires that delegations made under this section be provided to members of the Board and the Minister within 7 days after they are made.

It is proposed that the following be prescribed functions for the purposes of Section 17(1), meaning that they must be exclusively carried out by the Board:

- the power of delegation
- the power of the Board to hear and determine proceedings regarding medical fitness under Part 7 Division 4
- the function of the Board to lay complaints before the Tribunal in accordance with Section 78(1)(a)

- the function to determine applications for registration on the general or specialist register
- the endorsement of codes of conduct, professional standards and guidelines for the purposes of the Act
- the endorsement of standards relating to minimum requirements for registered premises
- the approval of a training provider to deliver governance training

QUESTION – Are there any other Board functions that must be exclusively carried out by the Board? Please provide justification as to why.

Executive Officer

Section 26(1) provides that the Executive Officer may delegate any of their functions under the VS Act other a prescribed function.

It is proposed that no functions be prescribed under Section 26(1) thereby giving the Executive Officer discretion to delegate any of their functions under the Act as required.

QUESTION – Are there any Executive Officer functions that should be carried out exclusively by the Executive Officer and not further delegated? Please provide justification as to why.

Registration of premises

Responsible person in respect of premises

Section 41 of the VS Act provides that “there is to be a responsible person in respect of each registered premise”. The name of the responsible person must be included on the veterinary premise register (Section 39(3)(e)). The responsible person is also guilty of an offence if a condition of the registration of registered premises is contravened (Section 47).

Section 41(2)(b) of the VS Act provides that the responsible person in respect of registered premises is in the case of premises owned or occupied by an entity—the individual from time to time nominated by the entity in accordance with any requirements set out in the regulations as the responsible person in respect of the premises.

It is proposed that such requirements should reflect the role/responsibility of the responsible person.

It is not proposed that any requirements be prescribed for responsible persons in the case of premises owned or occupied by an entity.

The extent to which the responsible person should be based at the registered premise or required to be a veterinarian has been considered. Rather than prescribing these as requirements by regulation, it is proposed that this is a matter for the entity to determine itself in consideration of the responsibilities of a responsible person in respect of premises under the VS Act.

QUESTION: Are there any requirements relating to responsible persons in respect of registered premises in the case of premises owned or occupied by an entity? Please provide justification as to why.

Application of offence to carry on a business unless at registered premises

Section 51 of the VS Act provides that a business consisting of, or including, the provision of veterinary services must not be carried on at premises that are not registered premises.

This requirement is currently disapplied in two circumstances (VS Act Section 51(3)):

- if the veterinary services provided at premises are only provided by telephone or other means of electronic communication without the relevant animal being present at the premises; and
- if the veterinary services are provided in the course of teaching any science or research or experimentation pursuant to a licence under Part 4 of the *Animal Welfare Act 1985*.

The VS Act provides ability to prescribe further circumstances by the regulations (Section 51(3)(c)).

It is proposed not to prescribe any further circumstances pursuant to Section 51(3)(c) of the VS Act.

QUESTION: Are there any other circumstances in which the offence in Section 51 should be disapplied? Please provide justification as to why.

Complaints and disciplinary action

The VS Act increases transparency regarding the handling of complaints concerning the conduct of registered veterinarians. Under the VS Act the Board is the entry point for complaints concerning the conduct of registered veterinarians.

The Board must establish administrative processes for receiving and dealing with complaints received about the conduct of veterinarians and publish these on a website so they are transparent to veterinarians and the public alike.

The Board must cause each complaint made to be assessed to determine next steps; however, this does not apply to a particular complaint if:

- the subject of complaint is or has been dealt with under this or a repealed Act
- the matter raised in the complaint is trivial, frivolous, vexatious or not made in good faith
- the alleged conduct occurred more than 7 years prior to making the complaint
- further investigation is unnecessary or unjustifiable
- the Board determines to take no further action in relation to the complaint.

Following assessment, the complaint may be dismissed or referred to SA Police.

If the assessment determines that the alleged conduct would, if proven, amount to a proper cause for disciplinary action, the Bill then provides for the complaint to progress either by way of further investigation as outlined in Part 7 Division 4, being dealt with by way of Board resolution under Part 7 Division 3 or being dealt with under Part 7 Division 5 where the matter is lodged with the Tribunal. The provisions for handling complaints in the Act largely reflect current processes, however the VS Act includes a new option for the Board to resolve certain matters.

The intent of this is to provide the ability, where appropriate, to avoid formal disciplinary proceedings by the Board dealing with a complaint through education and improving the future conduct of the veterinarian concerned.

Board resolution of such matters is also intended to be conducted as expeditiously as possible and without undue formality.

The kinds of complaints and conduct that may be resolved by the Board, along with the procedures for dealing with these matters are to be specified by regulation (Section 73) and further determined by the Board after consultation with the Minister (Section 72).

The VS Act enables the option for the Board, should both parties agree and it is appropriate to do so, to provide conciliation between the complainant and the veterinarian.

The Board also have the ability to accept an undertaking made by a veterinarian, have powers to issue a reprimand, provide the veterinarian with counselling, require a veterinarian to complete specified remedial training or education to address any shortfalls, or impose conditions on their registration.

These avenues are seen as more appropriate to reduce the impact on all parties involved and will support the timely and efficient resolution of complaints.

Decisions made by the Board with regard to certain complaints resolved by the Board will be reviewable via the Tribunal.

The following are proposed for consideration in regulation development in relation to complaints and disciplinary action.

Complaints to be dealt with by Board resolution

Section 73 provides that:

The Governor may, by regulation—

- (a) specify the kinds of complaints and conduct that may, or may not, be the subject of a determination under section 72; and
- (b) set out procedures for dealing with matters under this Division (including, to avoid doubt, making provision for the conciliation of complaints); and
- (c) make further provisions relating to the operation of this Division.

Kinds of complaints and conduct that may be resolved by the Board

It is proposed that only complaints and conduct that **may** be considered by the Board are prescribed. Any complaints or conduct that fall outside of this scope would not be considered as matters for Board resolution under Part 7 Division 3 of the Act (Certain complaints may be resolved by Board).

Pursuant to Section 73(a), the following kinds of complaints and conduct that may be the subject of a determination under Section 72:

- conduct that if repeated or continued, is likely to:
 - cause unnecessary suffering to an animal
 - cause the inappropriate death of an animal
 - adversely affect the safety or health of any person
 - damage the international reputation of Australia in relation to animal exports, animal welfare, animal produce or sporting events
- a contravention of—
 - of a provision of this Act or regulations; or
 - a condition of a person's registration; or

- a code of conduct or professional standards prepared or endorsed by the Board under the Act;
- providing information relating to veterinarian qualifications for registration knowing the information to be false or misleading in a material particular
- failing to supervise a person adequately if the supervision is required by law and the veterinarian agreed to provide that supervision
- engaging in conduct that demonstrates the veterinarian is:
 - incompetent to provide veterinary services
 - lacks adequate knowledge, skill, judgement or care to provide veterinary services

It is also proposed that the above list of complaints and conduct be defined as “unsatisfactory professional conduct” with the intent that such conduct represents a subset of “unprofessional conduct” that can be appropriately addressed by powers available to the Board.

The above list has been developed through:

- consideration of the powers available to the Board under Section 74 - noting that the list of matters that may be considered by the Board for resolution should reflect those that can be adequately dealt with using powers available to the Board in Section 74
- consideration of relevant legislative provisions in other jurisdictions
- feedback received during consultation and finalisation of the draft Veterinary Services Bill
- early consultation with the Veterinary Surgeons Board of South Australia.

Prescribing the list of complaints that may be dealt with by the Board (unsatisfactory professional conduct) will not affect the Board’s ability to lodge any of the above complaints with the Tribunal. That is, despite powers available to the Board, the Board could still decide to lodge such a complaint with the Tribunal in relation to any of the kinds of complaints and conduct that the Board may have power to resolve.

QUESTION: Are there any other complaints or conduct that are appropriate for the Board to consider? Please provide justification as to why.

QUESTION: Are there certain contraventions of the Act or regulations that are more appropriate to be dealt with by Board resolution than others? Please provide justification as to why.

QUESTION: Are there any complaints or conduct that are not suitable for the Board to consider or are more appropriate to be lodged with the Tribunal? Please provide justification as to why.

Procedures and further provisions for dealing with matters that may be resolved by the Board

In addition to specifying the kinds of complaints and conduct that may be considered by the Board for resolution, there is also scope for the regulations to set out procedures for dealing with matters under Part 7 Division 3 (Section 73(b)) of the VS Act and to make further provisions relating to the operation of this Division (Section 73(c)).

No regulation is proposed in relation to Section 73(b) or (c). It is considered that relevant procedures for dealing with matters that may be resolved by Board resolution are sufficiently detailed in Part 7 Division 3 of the VS Act. The consideration of if further regulation may be required may be better informed once the procedures already outlined in the VS Act are implemented by the Board.

QUESTION: Are there any other procedures or matters that should be outlined in the regulations relating to the operation of Part 7 Division 3 of the Act? Please provide justification as to why.

Requirements of admitting or denying allegations

Section 74(3)(b) of the VS Act provides that in dealing with matters by way of Board resolution, the Executive Officer must ensure that the veterinarian is given the opportunity to admit or deny the allegations contained in the complaint in accordance with any requirements set out in the regulations.

It is proposed that the following requirement be set out in regulation:

- The admission or denial must be made in writing.

QUESTION: Are there any other requirements that you think should be specified in the regulations in relation to admitting or denying allegations? Please provide justification as to why.

Areas where no further regulation is proposed

The VS Act provides scope to regulate in a range of areas beyond those addressed in this discussion paper.

The proposals in this discussion paper represent the areas where regulation is being considered to support the commencement of the VS Act. Subject to consultation feedback, no further regulation is under consideration at this stage.

Next Steps

The *Veterinary Practice Act 2003* continues to remain in effect until the *Veterinary Services Act 2023* commences.

To support the commencement of the Act, regulations need to be drafted and made by the Governor in Executive Council.

The *Veterinary Service Act 2023* will come into operation after the regulations have been made and on a day to be fixed by proclamation.

Feedback received on this discussion paper will help inform the drafting of regulations.

Once the regulations have been drafted, PIRSA will provide to the Minister for Primary Industries and Regional Development for consideration and further progress.



Government
of South Australia

Department of Primary
Industries and Regions