

**MEMORANDUM ON THE OBJECTS OF THE VETERINARY AND PARA-VETERINARY PROFESSIONS AMENDMENT BILL, 2012**

**1. OBJECTS OF BILL**

The Veterinary and Para-Veterinary Professions Amendment Bill, 2012 (the Bill), seeks to amend the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982) (the Act) in order to provide for the following:

- establishment of an appeal committee;
- performance of compulsory community service by certain persons registered in terms of the Act (and incidental matters connected thereto);
- inclusion of physiological condition in the definition of veterinary services;
- registration of a person who has completed the relevant qualifications but which has not been conferred;
- continued registration of a foreign veterinarian who attain either citizenship or permanent residency;
- continuing professional development
- suspension of registered persons;
- appointment and powers of inspection officers;
- the investigation of complaints; and
- cost orders.

## **2. SUMMARY OF BILL**

### **2.1 Clause 1**

2.1.1 Clause 1 seeks to amend the Act in order to effect technical changes in section 12, including those related to gender neutral language.

2.1.2 The clause also seeks to insert subsection (3A) after subsection (3) of section 12 of the Act to provide for an appeal against a decision of a committee delegated by the South African Veterinary Council (the Council) to institute an inquiry in terms of section 31 of the Act into the conduct of any person registered in terms of the Act.

### **2.2 Clause 2**

Clause 2 seeks to insert section 12A in the Act to provide for the establishment, composition, powers and the effect of a decision of an *ad hoc* appeal committee established for the purpose of considering an appeal contemplated in subsection (3A).

### **2.3 Clause 3**

2.3.1 Clause 3 seeks to insert section 20A in the Act to provide for the performance of compulsory community service for a period of one year by certain persons registering for the first time in terms of the Act. Furthermore, the clause seeks to provide for regulations concerning the performance of compulsory community service, including circumstances under which exemption might be granted from performing the said service, as well as matters incidental thereto.

2.3.2 The Department of Agriculture, Forestry and Fisheries (Department) identified the following challenges:

- shortage of veterinarians within the country to serve agriculture and related industries;
- high emigration rate of newly qualified veterinarians to overseas countries; and
- skewed distribution of small number of available veterinarians in favour of more urbanised areas continue to be a challenge for the country.

2.3.3 The Department, in its endeavours to promote the delivery of veterinary services throughout South Africa and to respond to the aforesaid challenges, intend to introduce a compulsory community service programme, in order to –

- improve the delivery of veterinary services through regulation;
- manage the migration of newly qualified professionals; and
- address the skewed distribution of registered professionals.

## **2.4 Clause 4**

Clause 4 seeks to amend section 23 of the Act to provide for the inclusion of a physiological condition in the definition of veterinary services. Currently, only a duly qualified and registered veterinary professional and para-veterinary professional is allowed to diagnose, treat, prevent and advise on a physiological condition in an animal in terms of section 23(2)(a)(ii) read with Rule 2(a) of the Act.

## **2.5 Clause 5**

2.5.1 Clause 5 seeks to amend section 24 of the Act to provide for the registration of a person who has fulfilled the academic requirements and completed the relevant qualifications, but which has not been conferred, to practise a veterinary profession or para-veterinary profession. Applicable diplomas and degrees are conferred by the relevant institutions once the candidates who have complied with all the requirements of the qualification have also paid full tuition fees for the qualifications.

2.5.2 The clause also seeks to provide for the simultaneous registration of compulsory community service by a person who registers for the first time to practise a profession in terms of the Act.

## **2.6 Clause 6**

Clause 6 seeks to amend section 25 of the Act to provide for continued registration in terms of the Act of a registered foreign veterinarian who has attained citizenship or permanent residence status in the Republic in terms of Immigration Act, 2002 (Act No. 3 of 2002).

## **2.7 Clause 7**

Clause 7 seeks to insert section 28A in the Act to provide for suspension and the termination of suspension, pending the finalisation of an inquiry and appeal process, of veterinary professionals and para-veterinary professionals who fail to comply with conditions for continuing professional development as well as those who pose an imminent threat or danger to the public or any animal with regards to his or her professional practice.

**2.8 Clause 8**

Clause 8 seeks to insert section 29A in the Act to provide for the appointment and powers of officers and other persons to perform any duty on behalf of the Council.

**2.9 Clause 9**

Clause 9 seeks to insert proposed new sections 31A and 31B in the Act. Section 31A, on the one hand, seeks to provide for the appointment of investigation officers to investigate any alleged contravention of or failure to comply with any provision of the Act, to determine if any provision of the Act applies to or has been contravened by any registered person and any charge, complaint or allegation of unprofessional conduct by any registered person.

Section 31B, on the other hand, seeks to provide for entry and search by investigation officers of any premises or veterinary facility where clinical veterinary services are rendered and, where necessary, seizure of documents or records from any premises or veterinary facility being searched, on the authority of a warrant issued by a magistrate or judge.

**2.10 Clause 10**

Clause 10 seeks to amend section 33 of the Act to enable the Council or a committee of the Council to impose cost orders in an amount determined by the Minister by notice in the *Gazette* on registered persons whose conduct were inquired upon.

**2.11 Clause 11**

Clause 11 seeks to insert a proposed new section 33A in the Act in order to enable registered persons affected by a decision of the Council or a committee, as the case may be, to appeal against such decision.

#### **2.12 Clause 12**

Clause 12 seeks to amend section 41 of the Act to provide for new offences and penalties in relation to the insertion of sections 29A and 31A.

#### **2.13 Clause 13**

Clause 13 seeks to amend section 43 the Act by inserting paragraphs *(k)* and *(l)* in subsection (1) to provide for regulations regarding –

- the appointment of officers and other persons to inspect veterinary facilities where clinical veterinary services are being rendered;
- the duties of such officers and persons; and
- the fees payable to such officers and persons by the Council subsequent to inspections.

#### **2.14 Clause 14**

Clause 14 deals with the short title and commencement of the Act.

### **3. PERSONS OR BODIES CONSULTED**

- South African Veterinary Council (SAVC)
- University of Pretoria (Faculty of Veterinary Science)
- South African Veterinary Association (SAVA)
- National Society for the Prevention of Cruelty to Animals (NSPCA)
- Peoples' Dispensary for Sick Animals (PDSA)
- Animal Anti-cruelty League (AACL)
- Community Veterinary Clinics (CVCs)
- Animal Health Forum (which includes industry players such as Red Meat Producers Organisation (RPO), Red Meat Abattoir Association (RMAA), SA Ostrich Chamber (SAOBC), Milk Producer's Organisation (MPO), SA Pork Producers)
- Various specialist groups and private practice owners
- Veterinary students and academics
- Various government departments, including all nine provincial departments of agriculture, South African National Defence Force and the South African Police Services.

#### **4. FINANCIAL IMPLICATIONS FOR STATE**

The budget for the implementation of compulsory community services has been included in the Medium-Term Expenditure Framework (MTEF) of the Department.

#### **5. PARLIAMENTARY PROCEDURE**

5.1 The Department of Agriculture, Forestry and Fisheries and the State Law Advisers are of the opinion that this Bill should be dealt with in terms of the procedure prescribed by section 75 of the Constitution since it does not require the procedure set out in sections 74 or 76 of the Constitution.

5.2 Section 74 sets out the procedure for Bills amending the Constitution and, therefore, does not apply to this Bill. Section 76 sets out the procedure for ordinary Bills affecting provinces. Part A of Schedule 5 to the Constitution enlists "*Veterinary services, excluding regulation of the profession*" amongst the matters that fall within the functional areas of exclusive provincial legislative competence. [Own emphasis]

As mentioned under the "Objects of the Bill" in paragraph 1, the Bill seeks to further regulate the practice of the profession as encapsulated in the Veterinary and Para-Veterinary Professions Act, 1982, a matter which clearly does not fall under the functional areas of exclusive provincial competence.

5.3 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to National House of Traditional Leaders in terms of section 18(1)(a) of Traditional Leadership and Governance Framework Act, 2003 (Act



No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.