



**AN BILLE UM CHLEACHTADH TRÉIDLIACHTA (LEASÚ),
2011
VETERINARY PRACTICE (AMENDMENT) BILL 2011**

EXPLANATORY MEMORANDUM

General

Regulation of the veterinary profession in Ireland was brought into line with modern principles with the enactment of the Veterinary Practice Act 2005, which came into force on 1 January 2006. Following the coming into effect of the Act, doubts arose as to whether a range of activities, traditionally carried out on animals by farmers and other persons with appropriate skills, had been inadvertently reserved to veterinary practitioners or veterinary nurses.

The main purpose of the Bill, therefore, is to fully clarify the legal position by amending the Veterinary Practice Act 2005 to enable the Minister for Agriculture, Fisheries and Food, subsequently, to exclude specified activities from being reserved to veterinary practitioners and veterinary nurses.

The Bill also includes a number of amendments to the existing Act which take account of experience with its operation since 2006 and also to reflect equivalent provisions in more recent legislation governing the regulation of professions.

The Bill will not impose any additional direct costs on the Exchequer.

Detailed Provisions

Section 1 refers to a definition for the purposes of the Bill.

Section 2 relates to the primary purpose of the Bill by inserting three new sections into the Act to provide for exercise of the Ministerial regulation-making power to exclude specified activities from being reserved to veterinary practitioners or veterinary nurses. Provision is also being made (*Section 54A(2)*) for the Minister to make a specified exclusion subject to appropriate conditions and to consult in advance with the Veterinary Council of Ireland. *Section 54B* defines the principles and policies governing the exercise of the Minister's regulation-making power, while *Section 54C* contains a standard offence clause for failure to comply with the regulations.

Section 3 inserts a new provision into the Act to enable the Veterinary Council of Ireland, with the consent of the Minister, by regulation, to make indemnity insurance mandatory for specified

types of veterinary practice. The requirement will not, however, apply to practitioners in respect of official duties.

Section 4 is designed to bring aspects of the disciplinary provisions into line with those in more recent legislation, viz. the Medical Practitioners Act 2007 and the Pharmacy Act 2007. The effect of the amendment is to give the Veterinary Council of Ireland a greater range of choice in terms of the sanctions it can apply (striking off, suspension, attachment of conditions) where its Fitness to Practise Committee has upheld a complaint against a veterinary practitioner or veterinary nurse. Currently, under the Act, the Council is enabled to apply any of these sanctions only where the Fitness to Practise Committee has made an explicit finding of unfitness to practise, as distinct from a finding that the grounds of the complaint had been partially upheld.

Section 5 is a purely consequential amendment arising from the next Section and is designed to restructure the parts to the Register of Veterinary Nurses to reflect the broader range of recognition options arising from the amendments in Section 6.

Section 6 provides the Veterinary Council of Ireland with a broader range of recognition options in the case of veterinary nurses (the Veterinary Practice Act 2005 introduced for the first time in Ireland a statutory basis for recognising the veterinary nursing profession). Currently, the Act provides for recognition of appropriately trained nurses from Ireland and from other EU states; the amendments provide the mechanisms to enable the Council to recognise appropriately trained veterinary nurses from Third Countries (Section 96A) and also to recognise persons, on a limited basis, whose expertise is necessary for the purpose of providing training for veterinary nurses in teaching establishments (Section 96B). These provisions are similar to those already enshrined in the Act in respect of veterinary practitioners.

Section 7 is designed to improve the effectiveness of the Council's investigative functions by enabling its authorised officers, without the need to first have a search warrant, to enter premises (other than a dwelling) where this is necessary for the purposes of carrying out an investigation. Currently, authorised officers of the Council are required to obtain a search warrant in order to enter any premises, unless the agreement of the person concerned is forthcoming. The amendment follows the approach in the Pharmacy Act 2007.

Section 8 relates to EU mutual recognition obligations for veterinary practitioners and veterinary nurses deriving from EU Directive 2005/36. Its main purpose is to avail of this legislative opportunity to consolidate the statute book by restating, in primary legislation, relevant provisions currently contained in the European Communities (Veterinary Practice Act 2005) (Qualifications in Veterinary Medicine) Regulations 2007 (S.I. No. 745 of 2007). In addition, however, to take account of observations received from the European Commission in relation to 3 minor aspects of S.I. No. 745 of 2007, the relevant provisions are being adjusted to align them more closely with the requirements of the Directive. The amendments concerned are in Section 43(9)(b)(ii), Section 95A(4)(b)(ii)(A) and paragraph 1 of Part 3 of Schedule 3 which deal with the status, in the home EU state, of the veterinary practitioner or nurse wishing to provide cross-border services on a temporary basis in this country and the time limit governing such applications.

Section 9 — Miscellaneous amendments.

Sections 9(a), (b), (c), (d)(ii), (e), (f), (g), (h), (j), (l), (m), (n), (p) are concerned with purely consequential amendments relating to updating of definitions or cross-referencing within the Veterinary Practice Act or updating references to other national legislation, to take account of amendments in the interim.

Section 9(d)(i) is designed to remove any legal doubt about the ability of the Council to register persons under Section 44 of the Act for a defined period. Section 44, itself, provides a mechanism enabling the Council to recognise appropriately qualified persons from Third Countries to practise as veterinary practitioners in Ireland. Of its nature, the requirement for registration under this Section may be for a defined or very short period (e.g. veterinary expertise required for a particular sporting event).

Section 9(i)(i) has the purpose of removing any legal doubt that, in terms of the Council's investigative remit, in the case of veterinary nurses, it may look into any aspect relating to the practice of veterinary medicine and not just the narrower range of activities that may legally be carried out by veterinary nurses.

Section 9(i)(ii) extends the periods of time (from 2 to 4 months in each case) allowed for the Council's Preliminary Investigation Committee (PIC) to consider a complaint and in turn for the Council to consider a report from the PIC. The amendment arises from the need to allow due process to be followed in all cases by affording those concerned, including those complained against, adequate time to consider the issues raised.

Section 9(i)(iii) extends the definition of professional misconduct in the current Act to align it with the equivalent provision in the Pharmacy Act 2007 by including certain behaviours or activities which, while not directly impinging on the carrying out the role of a veterinary practitioner or veterinary nurse, may, nevertheless, bring the profession into disrepute.

Section 9(k) amends the procedural requirements in the case of the lesser sanctions of advice, warn or censure which may be applied by the Council. Under the amendment, the Council would not be required to get High Court approval in cases where a person complained against chooses not to appeal against a proposed decision of the Council to advise, warn or censure him or her. High Court approval would continue to be required where the person complained against lodges appeal against any sanction proposed to be applied by the Council.

Section 9(o) is for the purpose of removing any legal doubt that the requirements for a Certificate of Suitability for practice premises do not apply to official premises.

Section 9(q)(i) is designed to make it less burdensome and less costly to fill a vacancy which might arise during the term of office of a Council in the case of one of the 9 elected veterinary practitioners or of the single veterinary nurse member by removing the requirement to hold fresh elections. Instead, it will be possible for the Council to nominate a person eligible for election for appointment by the Minister.

Section 9(q)(ii) amends the quorum for meetings of the Council from 10 to 8 members of its 19 membership (where there are no vacancies). The need for the amendment arises particularly from

problems in achieving the higher quota, particularly in disciplinary cases, where members who have been involved in the early stages of the procedure at Preliminary Investigation or the Fitness to Practise stage are precluded from participation or other members may be precluded on the basis of risk of perceived bias.

Section 10 defines the short title of the Act.

*Department of Agriculture, Fisheries and Food,
July, 2011.*