

Statutes Amendment Bill (No 2)

Government Bill

Explanatory note

This Statutes Amendment Bill consists entirely of amendments to Acts and is therefore an omnibus Bill that may be introduced by virtue of standing order 263(1)(e). It is intended that the Bill will be divided into separate Bills at the committee of the whole House stage.

Clause by clause analysis

Clause 1 relates to the Bill's title.

Clause 2 provides that the Bill comes into force on the day after the date it receives the Royal assent.

Part 1 Biosecurity Act 1993

Part 1 amends section 102(2) of the Biosecurity Act 1993 to make clear that deputy chief technical officers have the power to appoint inspectors, authorised persons, and accredited persons.

Part 2 Cadastral Survey Act 2002

Part 2 amends the Cadastral Survey Act 2002.

Clause 6 repeals and substitutes section 34. This amendment provides that in Part 4, licensed cadastral surveyor or cadastral surveyor includes a former licensed cadastral surveyor and a person who was a registered surveyor under the Survey Act 1986.

Clause 7 amends section 35(4). This amendment provides that the chief executive must also provide to the Board any information that

he or she holds that is relevant to a complaint of professional misconduct under section 35. Prior to the Cadastral Survey Act 2002, the Surveyor-General held and maintained survey data. However, under section 9(e) of that Act (which relates to the functions of the chief executive), the chief executive is required to store and provide access to cadastral survey data, making it necessary for the chief executive to be referenced in section 35(4).

Clause 8 amends section 48 by inserting *new subsection (2A)*. *New section 48(2A)* provides that a cadastral surveyor must comply with regulations to provide digital cadastral survey datasets, unless the chief executive has determined that it is impractical or unreasonable to provide or receive a cadastral survey dataset, or specified parts or classes of cadastral survey datasets, as digital cadastral survey datasets. This amendment is necessary to take into account any operational constraints of the Landonline system that may make it impractical to receive some cadastral datasets in a digital form following 1 September 2007, from which date all cadastral survey datasets must be lodged electronically.

Clause 9(1) amends section 52(1) by providing that if an error is found in a cadastral survey dataset affecting any title under the Land Transfer Act 1952 or any title or tenure under any other Act, the Surveyor-General may, in writing, require the cadastral surveyor responsible for the error to undertake, or arrange the undertaking of, the work necessary to correct the error within a time that the Surveyor-General considers reasonable. This amendment extends section 52(1)—

- to require the person to arrange for any work (previously, the section only required the work to be undertaken):
- to provide that compliance must take place within a time that the Surveyor-General considers reasonable.

Clause 9(2) amends section 52 by adding *new subsection (3)*. *New section 52(3)* provides that in section 52(1), cadastral surveyor includes a former licensed cadastral surveyor and a person who was a registered surveyor under the Survey Act 1986.

Clause 10 amends clause 1(g) of Schedule 2 by inserting a new reference to the chief executive. This amendment provides that a licensed cadastral surveyor is guilty of professional misconduct if the cadastral surveyor is found in any proceedings or appeal under Part 4 to have supplied the Surveyor-General or the chief executive with any erroneous information in relation to any cadastral survey,

cadastral survey mark, or boundary, knowing the information to be erroneous in any material particular.

Part 3 Crimes Act 1961

Part 3 amends section 35(a) of the Crimes Act 1961 by removing an outdated reference to an offence punishable by death. Offences punishable by death were repealed by the Abolition of the Death Penalty Act 1989.

Part 4 Criminal Investigations (Bodily Samples) Act 1995

Part 4 amends the Criminal Investigations (Bodily Samples) Act 1995.

Clause 14 inserts a definition of video record that refers to the definition of video record in the Evidence Act 2006.

Clauses 15, 16, and 17 amend section 9(1)(b) and (3), section 24G(1)(b) and (3), and section 34(1)(b) and (3) to change references from “videotape” to “video record”.

Part 5 District Courts Act 1947

Part 5 amends Part 2 of Schedule 1A of the District Courts Act 1947 by omitting the references to section 132(2) and (3) of the Crimes Act 1961 (sexual conduct against a child under 12).

Section 132(2) and (3) were incorrectly incorporated into Schedule 1A by the Crimes Amendment Act 2005 and have, since then, created confusion because they are also listed in Part 1 of Schedule 1 of the Summary Proceedings Act 1957.

Part 6 Fisheries Act 1996

Part 6 amends the Fisheries Act 1996.

Clause 21 amends section 17B(5) of the Act in relation to stocks or species subject to the permit moratorium that the Minister determines should not be subject to the quota management system. At present, the stock or species concerned ceases to be subject to the

moratorium from the date of the Minister's notification of that decision in the *Gazette*. Under the amendment, the stock or species would cease to be subject to the moratorium with effect from the commencement of the fishing year following the date of the notification, in line with the position of moratorium stocks or species that the Minister determines should be subject to the quota management system.

Clause 22 removes from section 19(5A) a reference to a repealed provision.

Clause 23 amends section 35(3) to more correctly refer to a determination of fishers' eligibility for provisional catch history for a stock, rather than to an actual allocation of provisional catch history.

Clause 24 amends section 303, which generally requires notices under the Act to have the status of regulations. The amendment excludes from this requirement notices under section 186ZE (notification of location and hours of availability of the aquaculture agreements register) and section 265A (notification of remaining balances for cost recovery settlement).

Part 7 Historic Places Act 1993

Part 7 amends the Historic Places Act 1993.

Clause 26 inserts *new section 43A*. *New section 43A* provides a procedure for dealing with extraordinary vacancies that occur with respect to elected members of the Board.

Clause 27 amends section 104(d) by changing the phrase "damages and destroys" to "damages or destroys".

Part 8 Misuse of Drugs Act 1975

Part 8 amends section 31(5) of the Misuse of Drugs Act 1975 by repealing and substituting paragraphs (c) and (d).

The amendments, which relate to the definition of member of the police,—

- replace "a member of the Air Security Branch of the Royal New Zealand Air Force" (existing paragraph (c)) with "a member of the Senior Air Security Specialist trade, or of the

- Air Security Specialist trade, of the Royal New Zealand Air Force” (*new paragraph (c)*); and
- replace “an officer of the Air Security specialisation of the Administrative Branch of the Royal New Zealand Air Force” (existing paragraph (d)) with “an officer of the Air Security specialisation of the Operational Support Branch of the Royal New Zealand Air Force” (*new paragraph (d)*).

The amendments reflect changes in the terminology used in the Armed Forces.

Part 9 National Parks Act 1980

Part 9 makes a technical amendment to section 48(1) of the National Parks Act 1980 to correct the incorrect cross-reference to section 47(4). Section 47(4) does not relate to the requirement under section 48(1) that the Authority consider the plan and matters referred to it. The correct reference is to the matters that must be referred to the Authority by the Board under section 47(6).

Part 10 New Zealand Horticulture Export Authority Act 1987

Part 10 amends the New Zealand Horticulture Export Authority Act 1987 by—

- omitting “any” from section 10(1)(a)(ii) and substituting “either”; and
- repealing section 10(3) and substituting a *new subsection (3)*.

The amendments reflect the following name changes:

- the New Zealand Fruitgrowers Federation, the New Zealand Vegetable & Potato Growers Federation (Incorporated), and The New Zealand Berryfruit Growers Federation Inc have been changed to Horticulture New Zealand Incorporated; and
- the New Zealand Nurserymens Association Incorporated has been changed to The Nursery and Garden Industry Association of New Zealand Incorporated.

Part 11

Radiocommunications Act 1989

Part 11 amends the Radiocommunications Act 1989.

Clause 35 repeals and replaces section 47A(1)(c)(iv). The *new section 47A(1)(c)(iv)* provides that, in order for current and successive management rights to be aggregated, the records of management rights of both the current management rights and the successive management rights must have the same conditions applying to spectrum licences created in relation to those records.

This amendment means, for example, that a current management right with 1 or more licences created under it (each licence having conditions) may be aggregated with a successive management right without any licences created under it. The amendment requires spectrum licence conditions specified on the records of management rights to be the same, rather than the current law, which requires the spectrum licences to have the same conditions.

Part 12

Reserves Act 1977

Part 12 amends the heading to section 62 of the Reserves Act 1977 by omitting the reference to the Commissioner of Crown Lands. This is consistent with the definition of Commissioner in section 2(1), as amended by section 65(1) of the Conservation Act 1987. The Commissioner of Crown Lands, a statutory officer under the Land Act 1948, no longer has any powers under the Reserves Act 1977.

Part 13

Summary Proceedings Act 1957

Part 13 amends Schedule 1 of the Summary Proceedings Act 1957. Schedule 1 is a list of indictable offences that are triable summarily by District Court Judges. Part 1 of Schedule 1 lists indictable offences under the Crimes Act 1961, and Part 2 of that schedule lists indictable offences under other enactments.

Clause 39(1) amends Part 1 of Schedule 1 by correcting the reference to section 236 of the Crimes Act 1961. The reference to the whole of section 236 (assault with intent to rob) is incorrect because subsection (1) of that section contains offences that attract a maximum penalty of 14 years imprisonment. The correct reference is to

section 236(2), which provides that it is an offence with a maximum penalty of 7 years imprisonment to assault a person with intent to rob.

Clause 39(2) removes the reference to section 351 of the Gambling Act 2003 from Part 2 of Schedule 1. Section 351 (cheating in a casino venue) is removed because it is a summary offence and therefore does not belong in Schedule 1 (which relates only to indictable offences).

Part 14 Veterinarians Act 2005

Part 14 amends the Veterinarians Act 2005 by—

- including a requirement, in section 6(1), that a person seeking to be registered satisfies the Veterinary Council of New Zealand (the **Council**) that he or she is a fit and proper person to be registered. The amendment to section 6(1) also enables registration of a person who is eligible to have one of the qualifications specified in section 6(1)(a) and (b), but does not yet hold the qualification. This provision will remove the current need for a person in this position to obtain provisional registration for the time between completion of the course and graduation, and then obtain full registration on graduation:
- omitting the requirement, in section 7(1), for a notice to be published in the *Gazette* when the Council designates a branch of veterinary science as a branch in which a veterinarian may practise as a specialist. The amendment will enable the Council to make designations without notice in the *Gazette*. An amendment to section 7(1)(b) clarifies that the Council may amend or revoke any designation made under section 7(1)(a):
- omitting, from section 9(a)(i), the words “within the last 7 years”. The removal of these words will make the disqualification provisions of section 9 consistent with regimes applying to other health professionals and with the Criminal Records (Clean Slate) Act 2004. The amendment to section 9(b) enables the Council to take into account the matters specified in section 9(b)(i) and (ii), whether those matters occurred in New Zealand or elsewhere. In the existing section 9(b), the Council is limited to considering those matters only if they occurred “in another country”:

- repealing section 10 and substituting a *new section 10*. The current section 10 requires an application for registration to be in a form prescribed by the Council. Under section 88(1), matters prescribed by the Council must be notified in the *Gazette*. The *new section 10* will enable the Council to determine the form and content of the application without notification in the *Gazette*:
- inserting a *new section 14(2)(ab)*, which will require the Council to be satisfied that a person seeking limited registration is a fit and proper person to be registered. This requirement will make section 14(2) consistent with other provisions of the Act:
- repealing section 24(2) and substituting a *new section 24(2)*. The current section 24(2) requires an application for registration to be in a form prescribed by the Council. Under section 88(1), matters prescribed by the Council must be notified in the *Gazette*. The *new section 24(2)* will enable the Council to determine the form and content of the application without notification in the *Gazette*:
- inserting a *new section 43(2A)*. *New section 43(2A)* will enable the complaints assessment committee to make recommendations to the Council without investigating, or fully investigating, a complaint or referral. The provision will apply if the complaint or referral relates to the competence of a specified person or to a medical issue or requires urgent action by the Council. The current section 43 requires the complaints assessment committee to investigate all complaints and referrals before making a recommendation to the Council:
- inserting, in section 58, words that will enable the Council, of its own motion, to require a specified person to undergo an assessment. Under the current section 58, the Council may only impose such a requirement on the recommendation of a complaints assessment committee:
- inserting a *new section 75(e)(iii) and (iv)*. *New section 75(e)(iii)* confirms that one of the Council's functions is to designate branches of veterinary science as branches in which veterinarians may practise as specialists for the purposes of section 7(1). *New section 75(e)(iv)* specifies that one of the Council's functions is to determine the form and content of applications for registration under *new section 10(a) and (b)*,

and for a practising certificate under *new section 24(2)(a) and (b)*:

- repealing section 75(j)(ii) and (iv). The amendments to sections 10 and 24 will mean that the Council's functions no longer include prescribing forms for the purposes of those sections:
 - inserting, in clause 17(2) of Schedule 1, words that will enable the Council to delegate some of its less critical powers under Part 3 to a committee or the Registrar. The current clause 17(2) restricts the Council's ability to delegate its Part 3 powers: those powers may only be delegated to a judicial committee. However, the amendment still requires that certain Part 3 powers may be delegated only to a judicial committee.
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Hon Clayton Cosgrove

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Government Bill

Contents

		Page
1	Title	3
2	Commencement	3
Part 1		
Biosecurity Act 1993		
3	Principal Act amended	3
4	Deputy chief technical officers	3
Part 2		
Cadastral Survey Act 2002		
5	Principal Act amended	4
6	New section 34 substituted	4
	34 Interpretation	4
7	Complaints of professional misconduct	4
8	Regulations	4
9	Correction of errors in survey	4
10	Schedule 2 amended	5
Part 3		
Crimes Act 1961		
11	Principal Act amended	5
12	Arrest of persons found committing certain crimes	5
Part 4		
Criminal Investigations (Bodily Samples) Act 1995		
13	Principal Act amended	5
14	Interpretation	5
15	Consent to taking of bodily sample	5
16	Consent to taking of buccal sample	5
17	Consent to taking of bodily sample	6
Part 5		
District Courts Act 1947		
18	Principal Act amended	6

19	Schedule 1A amended	6
Part 6		
Fisheries Act 1996		
20	Principal Act amended	6
21	Determination that stock or species be subject to quota management system	6
22	Matters to be included in notice under section 18	6
23	Notification of eligibility to receive provisional catch history	7
24	Certain notices to have status of regulations	7
Part 7		
Historic Places Act 1993		
25	Principal Act amended	7
26	New section 43A inserted	7
	43A Extraordinary vacancies	7
27	Other offences	7
Part 8		
Misuse of Drugs Act 1975		
28	Principal Act amended	8
29	Evidence of analysis	8
Part 9		
National Parks Act 1980		
30	Principal Act amended	8
31	Approval of management plans	8
Part 10		
New Zealand Horticulture Export Authority Act 1987		
32	Principal Act amended	8
33	Membership	8
Part 11		
Radiocommunications Act 1989		
34	Principal Act amended	9
35	Aggregation of current and successive management rights	9
Part 12		
Reserves Act 1977		
36	Principal Act amended	9
37	Powers of Commissioner of Crown Lands	9

Part 13**Summary Proceedings Act 1957**

38	Principal Act amended	9
39	Schedule 1 amended	9

Part 14**Veterinarians Act 2005**

40	Principal Act amended	10
41	Entitlement to registration	10
42	Entitlement to registration as specialist	10
43	Disqualification from registration	10
44	Application for registration	10
	10 Application for registration	10
45	Application for limited registration	10
46	Application for practising certificate	11
47	Decision of complaints assessment committee	11
48	Competence assessments	11
49	Functions of Council	11
50	Schedule 1 amended	12

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Statutes Amendment Act (No 2) **2007**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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Part 1**Biosecurity Act 1993****3 Principal Act amended**

This Part amends the Biosecurity Act 1993.

4 Deputy chief technical officers

Section 102(2) is amended by inserting “, including the power to appoint inspectors, authorised persons, and accredited persons” after “under this Act”.

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Part 2 Cadastral Survey Act 2002

- 5 Principal Act amended**
This **Part** amends the Cadastral Survey Act 2002.
- 6 New section 34 substituted** 5
Section 34 is repealed and the following section substituted:
- “34 Interpretation**
In this Part, unless the context otherwise requires,—
“**licensed cadastral surveyor** or **cadastral surveyor** includes a former licensed cadastral surveyor and a person 10
who was a registered surveyor under the Survey Act 1986
“**professional misconduct** means the professional misconduct described in Schedule 2.”
- 7 Complaints of professional misconduct** 15
Section 35(4) is amended by inserting “or the chief executive” after “the Surveyor-General”.
- 8 Regulations**
Section 48 is amended by inserting the following subsection after subsection (2):
- “(2A) A cadastral surveyor must comply with regulations made 20
under subsection (1) unless the chief executive has determined that it is impractical or unreasonable to provide or receive a cadastral survey dataset, or specified parts or classes of cadastral survey datasets, as digital cadastral survey datasets for the purposes of subsection (1).” 25
- 9 Correction of errors in survey**
- (1) Section 52(1) is amended by—
- (a) inserting “, or arrange to be undertaken,” after “to undertake”; and
- (b) adding “within a time that the Surveyor-General considers reasonable”. 30
- (2) Section 52 is amended by adding the following subsection:
- “(3) In subsection (1), **cadastral surveyor** includes a former licensed cadastral surveyor and a person who was a registered surveyor under the Survey Act 1986.” 35

- 10 Schedule 2 amended**
 Clause 1(g) of Schedule 2 is amended by inserting “or the chief executive” after “the Surveyor-General”.
- Part 3**
Crimes Act 1961 5
- 11 Principal Act amended**
This Part amends the Crimes Act 1961.
- 12 Arrest of persons found committing certain crimes**
 Section 35(a) is amended by omitting “that is punishable by death or”. 10
- Part 4**
Criminal Investigations (Bodily Samples) Act 1995
- 13 Principal Act amended**
This Part amends the Criminal Investigations (Bodily Samples) Act 1995. 15
- 14 Interpretation**
 Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:
 “**video record** has the same meaning as in section 4 of the Evidence Act 2006”. 20
- 15 Consent to taking of bodily sample**
- (1) Section 9(1)(b) is amended by omitting “videotape” and substituting “video record”. 25
- (2) Section 9(3) is amended by omitting “videotape” in each place where it appears and substituting in each case “video record”.
- 16 Consent to taking of buccal sample**
- (1) Section 24G(1)(b) is amended by omitting “videotape” and substituting “video record”. 30
- (2) Section 24G(3) is amended by omitting “videotape” in each place where it appears and substituting in each case “video record”.

- 17 Consent to taking of bodily sample**
- (1) Section 34(1)(b) is amended by omitting “videotape” and substituting “video record”.
- (2) Section 34(3) is amended by omitting “videotape” in each place where it appears and substituting in each case “video record”.

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Part 5 District Courts Act 1947

- 18 Principal Act amended**
This Part amends the District Courts Act 1947.
- 19 Schedule 1A amended**
Part 2 of Schedule 1A is amended by omitting the items relating to sections 132(2) and 132(3) of the Crimes Act 1961.

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Part 6 Fisheries Act 1996

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- 20 Principal Act amended**
This Part amends the Fisheries Act 1996.
- 21 Determination that stock or species be subject to quota management system**
Section 17B(5)(b) is amended by repealing subparagraphs (ii) and (iii) and substituting the following subparagraphs:
- “(ii) the moratorium on the issue of fishing permits for that stock or species under section 93 ceases to apply with effect on and from the first day of the fishing year for that stock or species that follows the date of that notification; and
- “(iii) the stock or species concerned must be removed from Schedule 4C from the first day of that fishing year following the date of the notification, and the notice must amend Schedule 4C (including any appropriate consequential amendments) accordingly.”
- 22 Matters to be included in notice under section 18**
Section 19(5A) is amended by omitting “or section 41”.

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- 23 Notification of eligibility to receive provisional catch history**
 Section 35(3) is amended by repealing paragraph (a) and substituting the following paragraph:
 “(a) that eligibility for provisional catch history for the stock has been determined and notified under subsection (2); and”.
- 24 Certain notices to have status of regulations**
 Section 303(2) is amended—
 (a) by inserting “186ZE,” after “186Q,”;
 (b) by inserting “265A,” after “188,”.
- Part 7**
Historic Places Act 1993
- 25 Principal Act amended**
This Part amends the Historic Places Act 1993.
- 26 New section 43A inserted**
 The following section is inserted after section 43:
- “43A Extraordinary vacancies**
 “(1) An extraordinary vacancy occurs if an elected member of the Board—
 “(a) dies while in office; or
 “(b) resigns his or her office; or
 “(c) is removed from office.
 “(2) If an extraordinary vacancy occurs, it must be filled in the same manner as that of the person whose office has become vacant.
 “(3) A person who is elected to fill an extraordinary vacancy may hold office for the remainder of the term for which the vacating member of the Board was to hold office.
 “(4) This section does not apply if the extraordinary vacancy occurs within 12 months of the expiry of the term of office for the vacating member of the Board.”
- 27 Other offences**
 Section 104(d) is amended by omitting “and destroys” and substituting “or destroys”.

Part 8 Misuse of Drugs Act 1975

- 28 Principal Act amended**
This Part amends the Misuse of Drugs Act 1975.
- 29 Evidence of analysis** 5
The definition of **member of the police** in section 31(5) is amended by repealing paragraphs (c) and (d) and substituting the following paragraphs:
- “(c) a member of the Senior Air Security Specialist trade, or of the Air Security Specialist trade, of the Royal New Zealand Air Force: 10
- “(d) an officer of the Air Security specialisation of the Operational Support Branch of the Royal New Zealand Air Force”.

Part 9 National Parks Act 1980

- 30 Principal Act amended** 15
This Part amends the National Parks Act 1980.
- 31 Approval of management plans**
Section 48(1) is amended by omitting “47(4)” and substituting “47(6)”. 20

Part 10 New Zealand Horticulture Export Authority Act 1987

- 32 Principal Act amended** 25
This Part amends the New Zealand Horticulture Export Authority Act 1987.
- 33 Membership**
- (1) Section 10(1)(a)(ii) is amended by omitting “any” and substituting “either”. 30
- (2) Section 10 is amended by repealing subsection (3) and substituting the following subsection:

- “(3) The bodies referred to in subsection (1)(a)(ii) and (b) are the bodies that, on the commencement of the **New Zealand Horticulture Export Authority Amendment Act 2007**, were known, respectively, as Horticulture New Zealand Incorporated and The Nursery and Garden Industry Association of New Zealand Incorporated.” 5

Part 11 Radiocommunications Act 1989

- 34 Principal Act amended**
This Part amends the Radiocommunications Act 1989. 10
- 35 Aggregation of current and successive management rights**
Section 47A(1)(c)(iv) is repealed and the following subparagraph substituted:
“(iv) the same conditions applying to spectrum licences created in relation to those records; and”. 15

Part 12 Reserves Act 1977

- 36 Principal Act amended**
This Part amends the Reserves Act 1977. 20
- 37 Powers of Commissioner of Crown Lands**
The heading to section 62 is amended by omitting “**of Crown Lands**”.

Part 13 Summary Proceedings Act 1957

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- 38 Principal Act amended**
This Part amends the Summary Proceedings Act 1957.
- 39 Schedule 1 amended**
(1) Part 1 of Schedule 1 is amended by omitting the item relating to section 236 of the Crimes Act 1961 and substituting the following item: 30
236(2) Assault with intent to rob

- (2) Part 2 of Schedule 1 is amended by omitting the item relating to section 351 of the Gambling Act 2003.

Part 14

Veterinarians Act 2005

- 40 Principal Act amended** 5
This Part amends the Veterinarians Act 2005.
- 41 Entitlement to registration**
 Section 6(1) is amended by omitting “has” and substituting “is a fit and proper person to be registered and has, or is eligible to have,”. 10
- 42 Entitlement to registration as specialist**
 (1) Section 7(1) is amended by omitting “, by notice in the *Gazette*,”.
 (2) Section 7(1)(b) is amended by omitting “notice” and substituting “designation”. 15
- 43 Disqualification from registration**
 (1) Section 9(a)(i) is amended by omitting “, within the last 7 years,”.
 (2) Section 9(b) is amended by omitting “in another country” and substituting “in New Zealand or elsewhere”. 20
- 44 Application for registration**
 Section 10 is repealed and the following section substituted:
- “10 Application for registration**
 An application for registration must be made to the Council and must— 25
 “(a) be made in a form determined by the Council; and
 “(b) contain the information determined by the Council; and
 “(c) be accompanied by the prescribed fee.”
- 45 Application for limited registration**
 Section 14(2) is amended by inserting the following paragraph after paragraph (a): 30
 “(ab) is a fit and proper person to be registered; and”.

- 46 Application for practising certificate**
Section 24 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) An application under subsection (1) must—
- “(a) be made in a form determined by the Council; and 5
 - “(b) contain the information determined by the Council; and
 - “(c) be accompanied by the prescribed fee.”
- 47 Decision of complaints assessment committee**
Section 43 is amended by inserting the following subsection after subsection (2): 10
- “(2A) Despite subsections (1) and (2), the complaints assessment committee may make a recommendation to the Council without investigating, or fully investigating, a complaint or referral if the committee considers that the complaint or referral—
- “(a) relates to the competence of the specified person; or 15
 - “(b) relates to a medical issue; or
 - “(c) requires urgent action by the Council.”
- 48 Competence assessments**
Section 58(1) is amended by inserting “or of its own motion” after “committee”. 20
- 49 Functions of Council**
- (1) Section 75(e)(ii) is amended by omitting “:” and substituting “; and”.
 - (2) Section 75 is amended by inserting the following subparagraphs after paragraph (e)(ii): 25
 - “(iii) to designate branches of veterinary science as branches in which veterinarians may practise as specialists for the purposes of section 7(1); and
 - “(iv) to determine the form and content of applications for the purposes of **sections 10(a) and (b) and 24(2)(a) and (b):**”. 30
 - (3) Section 75(j)(ii) is repealed.
 - (4) Section 75(j)(iv) is repealed.

50 Schedule 1 amended

Clause 17(2) of Schedule 1 is amended by inserting “to hold a hearing, suspend or revoke a practising certificate or registration, or impose penalties or conditions” after “powers”.

