



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

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

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ACTS REFERRED TO

Companies Acts

Companies Acts 1963 to 2003

European Communities (Amendment) Act 1993

1993, No. 25

Veterinary Practice Act 2005

2005, No. 22



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

BILL

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entitled

AN ACT TO ENABLE PERSONS OTHER THAN VETERINARY PRACTITIONERS AND VETERINARY NURSES TO CARRY OUT CERTAIN PROCEDURES ON OR IN RELATION TO ANIMALS, FOR THOSE AND OTHER PURPOSES TO AMEND THE VETERINARY PRACTICE ACT 2005, AND TO PROVIDE FOR RELATED MATTERS.

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BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means Veterinary Practice Act 2005. Definition.

15 2.—The following sections are inserted after section 54 of the Principal Act:

Regulations —
procedures carried
out by non-
registered persons.

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“Power of
Minister to
prescribe
procedures
that may be
carried out by
non-registered
persons.

54A.—(1) Subject to section 54B, the Minister may prescribe procedures (including, where appropriate, the nature and extent of a procedure) in relation to or connected with the practice of veterinary medicine that may, notwithstanding sections 54 and 55, be carried out by a non-registered person on or in relation to an animal.

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(2) Without prejudice to the generality of subsection (1), regulations under this section may require a non-registered person, before carrying out any procedure prescribed under subsection (1), to do all or any of the following:

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(a) to undertake, or to have undertaken, specified training before carrying out a prescribed procedure;

(b) to have, or to acquire, and to maintain specified skills or competence before carrying out a prescribed procedure;

- (c) to be a member of a prescribed body when carrying out a prescribed procedure and to adhere to any code of practice of that body;
- (d) in specified circumstances, to consult a person registered under Part 4 before carrying out a prescribed procedure; 5
- (e) to have and maintain a policy of indemnity insurance as specified in the regulations; 10
- (f) to maintain records in relation to prescribed matters;
- (g) to comply with any other prescribed conditions.

(3) Before making regulations under this section the Minister shall consult with the Council. 15

(4) In this section ‘non-registered person’ means a person who is not a registered person.

Considerations applicable to exercise of power conferred by section 54A.

54B.—(1) Before deciding to prescribe a procedure under section 54A(1), the Minister shall have regard to the following considerations: 20

- (a) whether the nature of the procedure is such that it is reasonable to expect that a non-registered person with appropriate skills and experience would be able to carry it out; 25
- (b) whether the procedure is surgical to an extent that it would require the skills of a registered person;
- (c) whether the carrying out of the procedure by a non-registered person would be likely to cause a significant risk to the health or welfare of an animal; 30
- (d) whether the carrying out of the procedure by a non-registered person would be likely to cause a significant risk to the health or safety of the person; 35
- (e) whether the procedure relates to a condition in an animal which would be likely to cause a significant risk to human health. 40

(2) In subsection (1) ‘non-registered person’ means a person who is not a registered person. 45

Offences — regulations under section 54A.

54C.—A person who contravenes or fails to comply with regulations made under section 54A commits an offence.”.

3.—The following section is inserted after section 59 of the Principal Act: Indemnity insurance.

5 “59A.—(1) The Council may, with the consent of the Minister, make regulations (referred to in this section as ‘indemnity regulations’)—

10 (a) specifying circumstances in which there shall be in place indemnity insurance against losses arising from claims in respect of civil liability incurred by a registered person arising from the practice of veterinary medicine, and

(b) otherwise making provision with respect to such indemnity insurance.

(2) Without prejudice to the generality of subsection (1), indemnity regulations may—

15 (a) prescribe specific types of veterinary medicine for which indemnity insurance is mandatory,

(b) require a registered person to effect and maintain a policy of indemnity insurance where he or she practises a specified type of veterinary medicine,

20 (c) specify circumstances in which a registered person or type of veterinary medicine may be exempted from the indemnity regulations,

25 (d) enable the Council to take such steps as it considers necessary or expedient to ascertain whether or not the indemnity regulations are being complied with,

(e) specify the manner in which a registered person shall bring their compliance with, or exemption from, the indemnity regulations to the notice of clients, or the Council, and

30 (f) include incidental, procedural or supplementary provisions in relation to any of the matters set out in paragraphs (a) to (e).

35 (3) Indemnity regulations do not apply to a registered person in so far as the registered person is, for the time being, acting as an officer or employee of, or under contract to, or otherwise with the authorisation of, a Minister of the Government, a local authority or a body established by or under statute (other than a company established under the Companies Acts).

40 (4) It shall be professional misconduct for a registered person to whom indemnity regulations apply, knowingly, to make a false or misleading declaration of a material nature for the purpose of obtaining indemnity insurance against losses arising from claims in respect of civil liability incurred by him or her.”.

4.—(1) The Principal Act is amended—

45 (a) in section 79, by substituting for subsection (1) the following:

Reports of Fitness to Practise Committee.

“79.—(1) Following an inquiry under section 78, the Fitness to Practise Committee shall make a report of the inquiry and its findings to the Council and shall specify in the report—

- (a) the nature of the application, 5
- (b) the evidence laid before it,
- (c) any other matter in relation to the registered person to whom the inquiry relates as it considers appropriate, and
- (d) its opinion as to whether one or more of the grounds specified in section 76(1) were found to be proven.”, 10

and

- (b) in section 80(1), by substituting for all the words from “Where the Council receives a report” down to and including “any of the following—” with the following: 15

“80.—(1) Where the Council receives a report from the Fitness to Practise Committee under section 79(1), in which that Committee gives as its opinion that one or more of the grounds specified in section 76(1) were found to be proven, it may decide to do any of the following—”. 20

Register of
veterinary nurses.

5.—Section 93 of the Principal Act is amended by substituting for subsections (4) and (5) the following:

“(4) The Register of Veterinary Nurses shall contain the following parts, namely— 25

- (a) a part consisting of the names and particulars of persons registered under sections 95, 95A(1) and 96A,
- (b) a part consisting of the names and particulars of persons provisionally registered under section 96,
- (c) a part consisting of the names and particulars of persons registered for the purpose of provision of services under section 95A(4), and 30
- (d) a part consisting of the names and particulars of persons registered with limited registration under section 96B. 35

(5) A person shall be registered as a veterinary nurse by the entry in the Register of Veterinary Nurses, relating to that person, of—

- (a) his or her full name and address,
- (b) where appropriate, the educational qualifications of the person, 40
- (c) in the case of registration under section 95A(4) and where appropriate under section 96A, the date on which registration is to expire,

- (d) in the case of registration under section 96B, the date on which registration is to expire and any condition attached to it,
- (e) where appropriate, confirmation of compliance with any regulations under section 52 that apply, and
- (f) such other particulars (if any) as may be prescribed.”.

6.—The following sections are inserted after section 96 of the Principal Act: Registration of veterinary nurses.

“Registration of persons who would not otherwise qualify for registration under section 95 or 96.

96A.—(1) The Council, on application to it in writing in that behalf by a person to whom subsection (3) applies, in accordance with regulations under section 52(1), and on payment to it of the fee prescribed under section 33, shall register the person as a veterinary nurse.

(2) Registration of a person under subsection (1) may be for such period as decided by the Council.

(3) This subsection applies to a person who—

- (a) does not qualify for registration under section 95 or 96,
- (b) subject to subsection (9), has undergone programmes of training and education, passed examinations and obtained qualifications in veterinary nursing in a state other than of the State that, in the opinion of the Council, are of a standard that is not lower than the standard of such programmes, examinations or qualifications in the State necessary for the practice of veterinary nursing,
- (c) shows to the satisfaction of the Council that he or she has sufficient language skills for the purpose of the practice of veterinary nursing in the State,
- (d) is of good character and repute and is not an undischarged bankrupt,
- (e) has not been convicted by a court in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary nursing, and
- (f) is not prohibited from practising, or suspended from the practice of, veterinary nursing, either under Part 7 or provisions corresponding to those contained in that Part in force in another state, by reason of—
 - (i) a conviction for an offence, or

(ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary nurse.

(4) Registration of a person under this section may, if the Council decides that it is appropriate to do so, be subject to a condition that the practice of veterinary nursing by the person shall be supervised by a specified veterinary practitioner for a specified period of time after the person is registered. 5
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(5) If the Council decides that a person who applies to it for registration under this section should not be so registered or, that the person should be so registered subject to a condition imposed as respects supervision under subsection (4), it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made. 15

(6) A person who receives a notification under subsection (5) may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt. 20

(7) On the hearing of an appeal under this section, the High Court may make— 25

(a) an order affirming or setting aside any decision of the Council relating to the application for registration, or imposition of the condition as respects supervision concerned, 30

(b) an order remitting the application for registration or decision to impose the condition, with or without directions to the Council for reconsideration and the making of a new decision in relation to it, or 35

(c) any other order that it considers appropriate.

(8) Nothing in this section shall prevent the Council from exercising its functions pursuant to section 13(2)(m). 40

(9) In order that the Council may be satisfied that the standard that applies to the programmes of education and training undergone, examinations passed and qualifications obtained is not of a standard that is lower than the standard of such programmes, examinations or qualifications that is necessary for the practice of veterinary nursing, it may require a person to whom subsection (3) applies, to sit and pass an examination set by or on behalf of the Council in that regard. 45
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Limited registration — veterinary nurses.

96B.—(1) Notwithstanding any provision of this Act, subject to subsection (4), and, on satisfying itself of the need to effect registration under this section for the purpose specified in subsection (2), the Council—

(a) on application to it in writing in that behalf by a person to whom subsection (3) applies, in accordance with regulations under section 52(1), and

(b) on payment to it of the fee prescribed under section 33,

shall register the person as a veterinary nurse with limited registration.

(2) The Council shall be satisfied that the person making the application is required to participate in the provision of approved programmes of education or further education before registering the person.

(3) This subsection applies to a person who—

(a) satisfies the Council that he or she has the requisite knowledge and skill for the purposes of subsection (2),

(b) is of good character and repute and is not an undischarged bankrupt,

(c) shows to the satisfaction of the Council that he or she has sufficient linguistic skills for the purposes of subsection (2),

(d) has not been convicted by a court in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary nursing, and

(e) is not prohibited from practising, or suspended from practice of, veterinary nursing, either under Part 7, or provisions corresponding to those contained in that Part in force in another state, by reason of—

(i) a conviction for an offence, or

(ii) serious misconduct,

in connection with carrying out of professional duties as a veterinary nurse.

(4) Limited registration of a person may be made subject to such conditions as the Council considers it appropriate to impose, including conditions specifying—

(a) the duration of such registration,

(b) the places where the person may practise veterinary nursing,

(c) the class or classes of treatments or procedures that may be carried out by the person.

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(5) The Council may amend any conditions imposed under subsection (4) during the period of registration under this section where it is of opinion that it is appropriate to do so.

(6) The Council shall enter any conditions imposed under subsection (4), or any amendments to them, in the Register and in the certificate of registration that is issued to the person concerned.

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(7) A person who is registered under this section shall not put himself or herself forward for election, and shall not vote in respect of an election of members to the Council unless the person has been so registered for not less than 3 consecutive years.

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(8) If the Council decides that a person who applies to it for limited registration should not be so registered, or that the person should be so registered subject to conditions, or that the conditions imposed under subsection (4) should be amended, it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made.

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(9) A person who receives a notification under subsection (8) may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt.

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(10) On the hearing of an appeal under this section, the High Court may make—

(a) an order affirming or setting aside any decision of the Council relating to the application for limited registration concerned or to amend any conditions subject to which a person has been registered,

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(b) an order remitting the application for limited registration or the decision to impose conditions or to amend conditions imposed by the Council in relation to such registration, with or without directions to the Council, for reconsideration and the making of a new decision in relation to it, or

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(c) any other order that it considers appropriate.”.

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(a) by substituting for section 126 the following:

5 “Power to inspect premises for the purposes of section 125(a) or (c).

126.—(1) An authorised officer, in order to perform his or her functions under section 125(a) or (c), may do all or any of the following:

- 10 (a) enter and inspect, at all reasonable times, a premises in which he or she has reasonable grounds for believing veterinary medicine is carried on or which is otherwise connected with the practice of veterinary medicine;
- 15 (b) at such premises inspect and take copies of any books, records, other documents (including documents stored in non-legible form) or extracts from them, which he or she finds in the course of his or her inspection;
- 20 (c) remove any such books, records or documents from such premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act;
- 25 (d) carry out, or have carried out, such examinations, tests, inspections and checks as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act of—
- 30 (i) the premises,
- 35 (ii) any equipment at the premises,
- (iii) any animal remedies at the premises,
- (iv) any animals at the premises;
- 40 (e) require any person at the premises or the owner or person in charge of the premises and any person employed there to give to him or her such assistance and information and to produce to him or her such books, documents, or other records (and in the case of documents or records stored in non-legible form, produce to him or her legible reproductions of them) that are in that person’s power or procurement, as he or she may
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reasonably require for the purpose of his or her functions under this Act;

- (f) take samples of any animal remedy or any article used in the practice of veterinary medicine found at the premises for the purposes of analysis and examination; 5
- (g) secure for later inspection any premises or part of any premises in which an animal is or has been kept or where an animal remedy or an article used in the practice of veterinary medicine is found or ordinarily kept, or records, books or documents are found or ordinarily kept, for such period as may reasonably be necessary for the purposes of his or her functions under this Act; 10 15 20
- (h) take possession of or remove from the premises for examination and analysis any animal found on the premises or any animal remedy or article used in the practice of veterinary medicine and detain them for such period as he or she considers reasonably necessary for the purposes of his or her functions under this Act. 25 30

(2) Where, upon reasonable grounds, an authorised officer believes that a person has committed an offence under this Act he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides. 35

(3) An authorised officer shall not, except under a warrant under section 126A or with the consent of the occupier, enter a domestic dwelling for the purposes of this section. 40

(4) In this section— 45

‘premises’ means any place, ship or other vessel, aircraft, railway wagon or other vehicle, and includes a container used to transport animal remedies, animals, or equipment used in the practice of veterinary medicine but does not include a State premises within the meaning of section 105; 50

‘record’ includes, in addition to a record in writing—

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(a) a disc, tape, sound-track or other device, including an electronic device, in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,

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(b) a film, tape or other device, including an electronic device, in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form,

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(c) a photograph,

and any reference to a copy of a record includes—

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(i) in the case of a record to which paragraph (a) applies, a transcript of the sounds or signals embodied in it,

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(ii) in the case of a record to which paragraph (b) applies, a still reproduction of the images embodied in it, and

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(iii) in the case of a record to which paragraphs (a) and (b) apply, such a transcript together with such a still reproduction;

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‘vehicle’ means any conveyance in or by which any person or thing, or both, is transported which is designed for use on land, or in water or in the air, or in more than one of those ways, and includes—

(a) part of a vehicle,

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(b) an article designed as a vehicle but not capable of functioning as a vehicle,

(c) a container or skip designed or used for carriage on a vehicle or a trailer designed for use or used with a vehicle.”,

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and

(b) by inserting after section 126 the following:

“Search warrants.

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126A.—If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that information

required by an authorised officer for the purpose of section 125(a) or (c) is held at any premises, place or vehicle, the judge may issue a warrant authorising the authorised officer, accompanied if the authorised officer considers it necessary by other authorised officers, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so required, to enter, if need be by reasonable force, the premises, place or vehicle and exercise all or any of the powers conferred on an authorised officer under section 126.”.

(2) Section 127 of the Principal Act is repealed. 15

Registration under European Union requirements.

8.—(1) The following sections are substituted for section 43 (inserted by the Regulations of 2007) of the Principal Act:

“Mutual recognition — veterinary practitioners. 43.—(1) The Council, when exercising its functions under section 13(2)(d) and Part 6, shall satisfy itself that Articles 21(6) and 38 of the Mutual Recognition Directive have been complied with by a provider of a programme of education in the State. 20

(2) The Council on application to it in that behalf in writing by a person to whom subsection (3) applies, in accordance with regulations under section 52(1), and on payment to it of the fee prescribed under section 33, shall register the person as a veterinary practitioner. 25

(3) This subsection applies to a person who shows to the satisfaction of the Council that he or she— 30

(a) holds a diploma, certificate or other evidence of formal qualification in veterinary medicine— 35

(i) awarded in accordance with Article 21(1) of the Mutual Recognition Directive, or

(ii) referred to in Article 23(1), (2), (3), (4), (5) or (6) or Article 39 of the Mutual Recognition Directive where the certification required by those Articles has been given by the competent authority of the home relevant State, 40 45

(b) is a citizen of the State or a relevant State,

(c) is of good character and repute and is not an undischarged bankrupt,

(d) has not been convicted by a court, in the State or elsewhere, of an offence that, 50

in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

5 (e) is not prohibited from practising, or suspended from the practice of, veterinary medicine either under Part 7 or provisions corresponding to those contained in that Part that apply in another state, by reason of—

- 10 (i) a conviction for an offence, or
(ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary practitioner.

15 (4) The Council, on application to it in that behalf in writing by a person to whom subsection (5) applies, in accordance with regulations under section 52(1), and on payment to it of the fee prescribed under section 33, shall register the person as a veterinary practitioner.

20 (5) This subsection applies to a person who shows to the satisfaction of the Council that he or she—

25 (a) holds a diploma, or certificate, or as regards whom there is evidence of formal qualification as, a veterinary practitioner granted by the competent authority of a third country where the diploma, certificate or other evidence had been recognised by a relevant State for the purpose of the practice of veterinary medicine in that State,

35 (b) has a minimum of 3 years professional experience as a veterinary practitioner in the relevant State referred to in paragraph (a),

(c) is a citizen of the State or a relevant State,

(d) is of good character and repute and is not an undischarged bankrupt,

40 (e) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

45 (f) is not prohibited from practising, or suspended from the practice of, veterinary medicine, either under Part 7 or provisions corresponding to those contained in that Part that apply in another state, by reason of—
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- (i) a conviction for an offence, or
- (ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary practitioner.

(6) The Council, on application to it in that behalf in writing by a person to whom subsection (7) applies, in accordance with regulations made under section 52(1) and on payment of the fee prescribed under section 33, shall register the person as a veterinary practitioner.

(7) This subsection applies to a veterinary practitioner who comes within the scope of Article 10 of the Mutual Recognition Directive and who shows to the satisfaction of the Council that he or she—

- (a) has complied with Article 13 of the Mutual Recognition Directive,
- (b) is a citizen of the State or a relevant State,
- (c) is of good character and repute and is not an undischarged bankrupt,
- (d) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and
- (e) is not prohibited from practising, or suspended from the practice of, veterinary medicine either under Part 7 or provisions corresponding to those contained in that Part that apply in another state, by reason of—

- (i) a conviction for an offence, or
- (ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary practitioner.

(8) Parts 1 and 2 of Schedule 3 apply to applications made under subsections (2), (4) and (6).

(9) Where a person who is legally established as a veterinary practitioner in a relevant State and who—

- (a) wishes to provide veterinary services within the limits and under the conditions laid down in Article 5 of the Mutual Recognition Directive, and

(b) furnishes—

5 (i) a prior declaration of his or her intention to provide services in accordance with Article 7 of the Mutual Recognition Directive in the manner prescribed,

10 (ii) a certificate from the competent authority of the relevant State where the applicant is established, which confirms such establishment and that he or she is lawfully entitled to practise as a veterinary practitioner in that State,

15 (iii) a copy of his or her qualification or a statement from the competent authority of the home relevant State that the applicant holds a diploma, certificate or other evidence of formal qualifications as a veterinary practitioner, and

20 (iv) proof of nationality,

and the documents referred to in this paragraph are in order,

25 the Council shall register that person as a veterinary practitioner for a period not exceeding 12 months.

30 (10) If the Council is satisfied to do so, and on application to it in that behalf from the person referred to in subsection (9), it may renew the registration for further periods not exceeding 12 months, provided that, in relation to an application for such renewal, the person complies with paragraphs (a) and (b) of subsection (9).

(11) Parts 1 and 3 of Schedule 3 apply to applications made under subsections (9) and (10).

35 (12) If the Council decides that a person who applies to it for registration under this section should not be so registered, it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made.

40 (13) A person who receives a notification under subsection (12) may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt.

45 (14) On the hearing of an appeal under this section, the High Court may make—

50 (a) an order affirming or setting aside any decision of the Council relating to the application for registration concerned,

(b) an order remitting the application for registration with or without directions to the Council for reconsideration and the making of a new decision in relation to it, or 5

(c) any other order that it considers appropriate.

(15) In this section—

‘competent authority’ means—

(a) in relation to a relevant State, the authority designated in accordance with Article 56(3) of the Mutual Recognition Directive, and 10

(b) in relation to the State, the Council;

‘home relevant State’ in relation to a veterinary practitioner, means the relevant State in which he or she acquired his or her diploma, certificate or other evidence of formal qualification or where he or she is registered as a veterinary practitioner; 15

‘Mutual Recognition Directive’ means Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005¹ on the recognition of professional qualifications; 20

‘relevant State’ means—

(a) another Member State, 25

(b) a state that is a contracting state to the EEA agreement (within the meaning of the European Communities (Amendment) Act 1993), or

(c) the Swiss Confederation; 30

‘third country’ means a country that is not a relevant State or the State;

‘veterinary practitioner’ has the same meaning as ‘veterinary surgeon’ in the Mutual Recognition Directive. 35

(16) A word or expression that is used in this section and is also used in the Mutual Recognition Directive has, unless the contrary intention appears, the same meaning in this section, as it has in that Directive.”. 40

(2) The following section is inserted after section 95 of the Principal Act:

“Mutual recognition — 95A.—(1) The Council, on application to it in that behalf in writing by a person to whom subsection (2) applies, in accordance with regulations 45
veterinary nurses.

¹OJ No. L255, 30.9.2005, p.22

made under section 52(1) and on payment of the fee prescribed under section 33, shall register the person as a veterinary nurse.

5 (2) This subsection applies to a veterinary nurse who comes within the scope of Article 10 of the Mutual Recognition Directive and who shows to the satisfaction of the Council that he or she—

(a) has complied with Article 13 of the Mutual Recognition Directive,

10 (b) is a citizen of the State or a relevant State,

(c) is of good character and repute and is not an undischarged bankrupt,

15 (d) has not been convicted by a court, in the State or elsewhere, of an offence that, in the opinion of the Council, is such as to render the person unfit to practise veterinary medicine, and

20 (e) is not prohibited from practising, or suspended from the practice of, veterinary nursing either under Part 7 or provisions corresponding to those contained in that Part that apply in another state by reason of—

25 (i) a conviction for an offence, or

(ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary nurse.

30 (3) Parts 1 and 2 of Schedule 3 apply to an application made under subsection (1).

(4) Where a person who is legally established as a veterinary nurse in a relevant State and who—

35 (a) wishes to provide services as a veterinary nurse within the limits and under the conditions laid down in Article 5 of the Mutual Recognition Directive, and

(b) furnishes—

40 (i) a prior declaration of his or her intention to provide services in accordance with Article 7 of the Mutual Recognition Directive in the manner prescribed,

(ii) where the profession of veterinary nursing—

45 (I) is regulated in the relevant State where the applicant is established, a certificate from

the competent authority of that State, which confirms such establishment and that he or she is lawfully entitled to practise as a veterinary nurse in that State, or 5

(II) is not regulated in the relevant State where he or she is established, proof that the person has practised the profession of veterinary nursing for not less than 2 years in the 10 year period immediately preceding the application, 10

(iii) a copy of his or her qualification or a statement from the competent authority of the home relevant State that the applicant holds a diploma, certificate or other evidence of formal qualifications as a veterinary nurse, and 15 20

(iv) proof of nationality,

and the documents referred to in this paragraph are in order,

the Council shall register that person as a veterinary nurse for a period not exceeding 12 months. 25

(5) If the Council is satisfied to do so, and on application to it in that behalf from the person referred to in subsection (4), it may renew the registration for further periods not exceeding 12 months, provided that, in relation to an application for such renewal, the person continues to comply with paragraphs (a) and (b) of subsection (4). 30

(6) Parts 1 and 3 of Schedule 3 apply to applications made under subsection (4). 35

(7) If the Council decides that a person who applies to it for registration under subsection (1) or (4) should not be so registered, it shall notify the person in writing as soon as practicable stating the decision, the reason for the decision and the date on which it was made. 40

(8) A person who receives a notification under subsection (7) may appeal to the High Court against the decision specified in the notification within a period of 3 months beginning on the date of such receipt. 45

(9) On the hearing of an appeal under this section, the High Court may make—

(a) an order affirming or setting aside any decision of the Council relating to the application for registration concerned, 50

(b) an order remitting the application for registration with or without directions to the Council for reconsideration and the making of a new decision in relation to it, or

(c) any other order that it considers appropriate.

(10) In this section—

‘competent authority’, ‘Mutual Recognition Directive’, ‘relevant State’, and ‘third country’ have the meanings assigned to them, respectively, in section 43(15);

‘home relevant State’ in relation to a veterinary nurse, means the relevant State in which he or she acquired his or her diploma, certificate or other evidence of formal qualification or where he or she is registered as a veterinary nurse.

(11) A word or expression that is used in this section and is also used in the Mutual Recognition Directive has, unless the contrary intention appears, the same meaning in this section, as it has in that Directive.”.

(3) The following Schedule is substituted for Schedule 3 (inserted by the Regulations of 2007) to the Principal Act:

*Sections 43
and 95A.*

“SCHEDULE 3

MUTUAL RECOGNITION AND ESTABLISHMENT OF SERVICES

PART 1

INTERPRETATION

1. In this Schedule—

‘application’ means an application for registration under section 43 or section 95A(1) or (4);

‘competent authority’, ‘Mutual Recognition Directive’, ‘relevant State’, ‘third country’ and ‘veterinary practitioner’ have the meanings assigned to them, respectively, in section 43(15);

‘home relevant State’ in relation to a veterinary practitioner or veterinary nurse, means the relevant State in which he or she acquired his or her diploma, certificate or other evidence of formal qualification or where he or she is registered as a veterinary practitioner or veterinary nurse, as the case may be.

2. A word or expression that is used in this Schedule and is also used in the Mutual Recognition

Directive has, unless the contrary intention appears, the same meaning in this Schedule, as it has in that Directive.

PART 2

PROVISIONS TO APPLY TO APPLICATIONS UNDER MUTUAL RECOGNITION REQUIREMENTS OF THE EUROPEAN UNION 5

1. The Council shall acknowledge the application as soon as possible and in any event within 1 month of receiving it and shall identify any required documentation which has not been provided by the applicant or by the competent authority in the relevant State. 10
2. Subject to paragraphs 3 and 4, the Council shall determine the application as soon as possible, and in any event within— 15
 - (a) 3 months after receiving all documents prescribed under section 52 or required, in the case of an application by a person referred to in section 43(2), and 20
 - (b) 4 months after receiving all documents prescribed under section 52 or required, in the case of an application by a person referred to in section 43(4) or (6) or section 95A(1). 25
3. The Council shall not consider evidence that does not comply with the second subparagraph of Article 21(1) of the Mutual Recognition Directive. 30
4. The Council shall not consider, in relation to an application under section 43(2), (4) or (6) or section 95A(1), documentation from a competent authority in a relevant State which is more than 3 months old on the date such documentation is submitted to the Council for the purposes of section 43(3)(c) to (e), (5)(d) to (f) or (7)(c) to (e) or section 95A(2)(c) to (e). 35 40
5. The Council, following determination of an application for recognition, may satisfy itself that an applicant has the necessary language skills in accordance with Article 53 of the Mutual Recognition Directive and where the Council, in exceptional cases, considers this to be necessary, it may require the applicant to undergo a language test. 45 50
6. The Council may require the competent authorities of a relevant State to confirm or verify

any of the matters referred to in Article 50(2) or (3) of the Mutual Recognition Directive.

5 7. The Council shall ensure the confidentiality of any information issued or received under Article 50 of the Mutual Recognition Directive.

10 8. Prior to registering an applicant in accordance with section 43(2), (4) or (6), the Council may require him or her to make a declaration that complies with Article 50(4) of the Mutual Recognition Directive.

15 9. In the case of an application to which section 43(6) or section 95A(1) refers, the Council, where it considers it appropriate, may apply Article 14 of the Mutual Recognition Directive.

20 10. A person registered under section 43(2), (4) or (6) or section 95A(1) shall use the professional title applicable to that profession on the same basis as a person trained in the State.

25 11. The Council may register an applicant subject to a condition requiring him or her, when using any academic title in accordance with Article 54 of the Mutual Recognition Directive, being an academic title which is relevant to the application, to indicate by whom it was conferred or awarded.

30 12. Where the Council is of opinion that the academic title to which any diploma, certificate, or other document on which an application is grounded is capable of being understood as indicating that a person entitled to use such title or qualification has pursued a programme of education other than that which he or she has in fact undergone, the Council may, in accordance with Article 54 of the Mutual Recognition Directive, make it a condition of registration that the person concerned shall use the title, qualification or status in a manner directed by the Council.

45 13. Where a condition is attached by the Council under this Schedule and there is a failure by the person to whom the condition relates to comply with the condition, the Council, if it thinks fit, may—

50 (a) direct that, during such period as shall be specified in the direction, his or her registration shall not have effect, or

(b) remove his or her name from the Register.

14. Where the Council is requested by a competent authority in another relevant State to furnish certification as to any matters referred to in Annex VII (1)(d) to the Mutual Recognition Directive and where such certification relates to its functions deriving from that Directive, it shall do so within 2 months of receiving the request. 5

PART 3

PROVISIONS TO APPLY TO APPLICATIONS THAT RELATE TO PROVISION OF SERVICES 10

1. Subject to paragraph 2, documents referred to in sections 43(9)(b) and 95A(4)(b) shall be furnished to the Council before the first day, as notified by the applicant to the Council, on which the applicant intends to provide such services. 15
2. If the applicant cannot furnish the documents, referred to in section 43(9)(b) or 95A(4)(b), as the case may be, but he or she satisfies the Council that there are compelling reasons why he or she should commence providing services on the day as notified by the applicant, as being the first day on which he or she intends to provide such services, then the documents may be furnished to the Council within 15 days after that day. 20 25
3. The Council, where it considers it appropriate to do so, may request from the competent authority in the relevant State concerned, information on the legality of the applicant's establishment, his or her good conduct or confirmation of the absence of any disciplinary or criminal sanctions related to the practice of veterinary medicine as a veterinary practitioner or as a veterinary nurse. 30 35
4. The Council, following determination of an application for recognition, may satisfy itself that an applicant has the necessary language skills in accordance with Article 53 of the Mutual Recognition Directive and where it, in exceptional cases, considers this to be necessary, it may require the applicant to undergo a language test. 40
5. No fee shall be payable to the Council in respect of the application, and section 54, 58 or 97(2), as the case may be, shall not apply to the applicant during the period beginning on the day that his or her application is received and ending on the day that the Council decides whether or not to register the applicant. 45 50
6. A person registered under section 43(9) shall, for the purposes of providing professional services in the State, use a professional title

on the same basis as a person trained in the State.

5 7. A person registered under section 95A(4) shall, for the purposes of providing professional services in the State—

10 (a) use a professional title which is designated for a veterinary nurse by the competent authority in the relevant State where he or she is established, or

15 (b) where no professional title is designated for a veterinary nurse in the relevant State where he or she is established, use the formal qualification which he or she holds.

20 8. In the case of a person referred to in paragraph 7, the Council may, as a condition of registration, require the person to furnish recipients of his or her professional services with any relevant information referred to in Article 9 of the Mutual Recognition Directive.

25 9. Where a document, referred to in Article 7(2)(b) of the Mutual Recognition Directive, is issued by the Council and the Council subsequently takes a decision in respect of the person concerned in accordance with section 80, 81, 82 or 84, the Council shall immediately so inform the competent authority of each relevant State.

30 35 10. The Council shall participate in administrative co-operation with the competent authority in a relevant State in accordance with Articles 8(2) and 56(1) and (2) of the Mutual Recognition Directive.”.

(4) The Regulations of 2007 are revoked.

40 (5) In this section “Regulations of 2007” means European Communities (Veterinary Practice Act 2005) (Qualifications in Veterinary Medicine) Regulations 2007 (S.I. No. 745 of 2007).

9.—The Principal Act is amended—

Miscellaneous amendments.

(a) in section 2(1)—

45 (i) by substituting for the definition of “Minister” the following:

“ ‘Minister’ means Minister for Agriculture, Fisheries and Food;”, and

(ii) by inserting after the definition of “functions” the following:

“ ‘limited registration’ in relation to—

(a) a veterinary practitioner, means registration under section 44, and

(b) a veterinary nurse, means registration under section 96B;” 5

(b) in section 34(4)—

(i) in paragraph (a), by substituting “subsections (2), (4) and (6) of section 43” for “subsections (1) and (5) of section 43”, and

(ii) in paragraph (b), by substituting “section 43(9)” for “section 43(7)”, 10

(c) in section 34(5)(c), by substituting “section 43(9), or where appropriate under section 44,” for “section 43(7)”,

(d) in section 44—

(i) by inserting after subsection (1) the following: 15

“(1A) Registration of a person under subsection (1) may be for such period as decided by the Council.”, and

(ii) in subsection (2), by substituting for paragraph (f) the following: 20

“(f) is not prohibited from practising, or suspended from the practice of, veterinary medicine, either under Part 7 or provisions corresponding to those contained in that Part in force in another state, by reason of— 25

(i) a conviction for an offence, or

(ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary practitioner.”, 30

(e) in section 54—

(i) in subsection (1), by inserting “54A,” after “sections”, and

(ii) in subsection (3), by substituting “sections 54A and” for “section”, 35

(f) in section 57(1), by inserting at the beginning of that subsection:

“Subject to section 54A,”,

(g) in section 59(3), by inserting “54A or” after “section”, 40

(h) in section 60(1)—

(i) by inserting “54A,” after “54,” and

(ii) by substituting for paragraph (a) the following:

5 “(a) on summary conviction, to a class A fine or
to imprisonment for a term not exceeding
6 months, or to both,”

(i) in section 76—

(i) in subsection (1), by inserting “or veterinary nursing”
after “practise veterinary medicine”,

10 (ii) in paragraphs (a) and (b) of subsection (8), by substituting
“4 months” for “2 months”, and

(iii) in subsection (10), by substituting for the definition of
“professional misconduct” the following:

15 “‘professional misconduct’, in relation to a registered
person, means any act, omission or pattern of conduct that—

(a) is contrary to a code of professional conduct established by the Council under
paragraph (c) of section 13(2),

20 (b) is infamous or disgraceful in a professional
respect (notwithstanding that, if the same
or like act, omission or pattern of conduct
were committed by a member of another
profession it would not be professional
misconduct in respect of that profession),
or

25 (c) involves fraud or dishonesty of a nature or
degree which bears on the carrying on of
the profession of a registered person;”,

30 (j) in section 78(10), by substituting for paragraph (b) the
following:

35 “(b) In this subsection ‘under the care of a registered
person’ has the same meaning as it has in
Regulation 43 of the European Communities
(Animal Remedies) (No. 2) Regulations 2007
(S.I. No. 786 of 2007).”,

(k) in section 81(2), by substituting “subsections (2) to (4) and
(6)” for “subsections (2) to (6)”,

(l) in section 95(2), by substituting for paragraph (e) the
following:

40 “(e) is not prohibited from practising, or suspended
from the practice of, veterinary nursing, either
under Part 7 or provisions corresponding to
those contained in that Part in force in another
state, by reason of—

45 (i) a conviction for an offence, or

(ii) serious misconduct,

in connection with the carrying out of professional duties as a veterinary nurse.”,

(m) in section 97—

(i) in each of subsections (1) and (2), by inserting “54A,” after “sections”, and 5

(ii) in subsection (4), by substituting “sections 54A and 55” for “section 55”,

(n) in section 105, by substituting for the definition of “under the care of a registered practitioner” the following:

“ ‘under the care of a registered practitioner’ has the same meaning as it has in Regulation 43 of the European Communities (Animal Remedies) (No. 2) Regulations 2007 (S.I. No. 786 of 2007);”, 10

(o) by inserting after section 117 the following section:

“Non-application of Part 9 to registered persons acting on behalf of State, etc. 117A.—This Part does not apply to a registered person in so far as the registered person is acting, for the time being as an officer or employee of, or under contract to, or otherwise with the authorisation of, a Minister of the Government, a local authority or a body established by or under statute (other than a company established under the Companies Acts).”, 15 20

(p) in section 134(2), by substituting “Companies Acts” for “Companies Acts 1963 to 2003”, 25

and

(q) in Schedule 2—

(i) by substituting for subparagraph (c) of paragraph 13 the following:

“(c) where the vacancy relates to a person who was appointed by virtue of paragraph (h) or (i) of section 16(1), the Minister shall appoint a person nominated by the Council, being a person who under this Act would be eligible for election to fill such vacancy.”, 30 35

and

(ii) by substituting for paragraph 18 the following:

“18.—The quorum for a meeting of the Council shall be— 40

(a) where there is no vacancy in its membership, 8 members,

(b) where there are not more than 2 vacancies in its membership, 7 members, and

(c) where there are more than 2 vacancies,
such number of members as the Minister
shall direct.”.

5 **10.**—This Act may be cited as the Veterinary Practice Short title.
(Amendment) Act 2011.