

# STATES OF JERSEY



## **DRAFT VETERINARY SURGEONS (AMENDMENT No. 2) (JERSEY) LAW 201-**

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**Lodged au Greffe on 27th July 2015  
by the Minister for Planning and Environment**

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**STATES GREFFE**





Jersey

## **DRAFT VETERINARY SURGEONS (AMENDMENT No. 2) (JERSEY) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Planning and Environment has made the following statement –

In the view of the Minister for Planning and Environment, the provisions of the Draft Veterinary Surgeons (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Deputy S.G. Luce of St. Martin**

*Minister for Planning and Environment*

Dated: 17th July 2015

## REPORT

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To protect animal welfare and animal owners, The Veterinary Surgeons (Jersey) Law 1999 restricts the practice of veterinary medicine and surgery to suitable qualified individuals recognised by the Royal Court.

In common with practice elsewhere in Europe, certain procedures are exempt from the general restriction.

Approval may be granted to individuals with particular skills or training to carry out procedures which are otherwise prohibited.

### **Qualified Equine Dental Technicians**

Procedures exempt from the general restriction on the practice of veterinary medicine and surgery are stipulated in the Schedule to the Law with appropriate restrictions applied to prevent unnecessary suffering.

An absolute restriction is applied to the extraction of teeth of an animal.

Under the Veterinary Surgeons (Jersey) Law 1999 all diagnostic and treatment procedures in the horse's mouth are acts of veterinary surgery. The only exception is the manual removal of small dental overgrowths and sharp enamel points with hand instruments.

For several years it has been acknowledged there are welfare benefits of improved equine dental care and this can be achieved by permitting accredited technicians to perform selected non-invasive procedures in the horse's mouth. Consequent to advice from European veterinary dental associations including the British Veterinary Dental Association (BVDA) and from human dental specialists, the Royal College of Veterinary Surgeons (RCVS) and the British Equine Veterinary Association (BEVA) have evolved a grading system of procedures, accepted by the RCVS, the British Veterinary Association (BVA), the British Association of Equine Dental Technicians (BAEDT), the BVDA, and the European Veterinary Dental College (EVDC), that clarifies those procedures which can safely be delegated to technicians without compromising the animals' safety.

Amending the Veterinary Surgeons (Jersey) Law 1999 to permit suitable trained and accredited equine dental technicians (EDTs) who are members of the British Association of Equine Dental Technicians to conduct these specified procedures will ensure adequate safeguards to equine welfare are maintained while enabling suitably trained and qualified individuals to practise in Jersey.

The specified procedures are –

- examination, evaluation and recording of dental abnormalities;
- the removal of loose teeth or dental fragments with negligible periodontal attachments;
- the removal of erupted, non-displaced wolf teeth in the upper or lower jaw under direct and continuous veterinary supervision;
- palliative rasping of fractured and adjacent teeth; and
- the use of motorised dental instruments where these are used to reduce overgrowths and remove sharp enamel points only. Horses should be sedated unless it is deemed safe to undertake any proposed procedure without sedation, with full informed consent of the owner.

**Further exemptions**

Article 10 of the Law is amended to make it clear that exemptions enabling persons to carry out procedures such as transferring embryos between cattle, insertion of a transponder is restricted to certain persons.

**Financial and manpower implications**

There are no financial or manpower implications associated with the proposed Amendment Law.

**Human Rights**

The notes on the human rights aspects of the draft Law in the Appendix have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

## APPENDIX TO REPORT

### **Human Rights Note on the Draft Veterinary Surgeons (Amendment No. 2) (Jersey) Law 201-**

This Note has been prepared in respect of the Draft Veterinary Surgeons (Amendment No. 2) (Jersey) Law 201- by the Law Officers' Department. It summarises the principal human rights issues arising from the contents of the draft Law and explains why, in the Law Officers' opinion, the draft Law is compatible with the European Convention on Human Rights ("ECHR"). This note is included for the information of States Members. It is not, and should not be taken as, legal advice.

The only right under the ECHR that is engaged by the draft Law is Article 6, the relevant part of which provides that, "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ...".

A civil right may be established by the draft Law with respect to a right to undertake specified professional activities if persons meet certain requirements. This is contained in Article 3 of the draft Law which would amend Article 10 of the Veterinary Surgeons (Jersey) Law 1999. Such persons must be approved by the Veterinary Officer.

The draft Law would also provide for approval to be refused, revoked or suspended by the Veterinary Officer, whose decision would not meet the requirements of Article 6 for such a decision to be taken by an independent and impartial tribunal; however, this will be rectified and the process rendered compatible with Article 6 because any such determination is subject to a right of appeal to the Royal Court, which will fulfil the requirements of Article 6, under Paragraph 5 of Schedule 2, which would be inserted by Article 7 of the draft Law. Therefore, the draft Law is considered to be compliant with the ECHR.

## Explanatory Note

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This draft Law would amend the Veterinary Surgeons (Jersey) Law 1999 (“Law”).

*Article 1* is an interpretation provision.

*Article 2* inserts a definition of “Veterinary Officer” in the interpretation provisions of the Law to refer to the person for the time being appointed under the Diseases of Animals (Jersey) Law 1956.

*Article 3* sets out the circumstances in which a person who is not a recognized veterinary surgeon may carry out certain activities comprised within the definition of “veterinary surgery” and specified in the Schedule to the Law. “Veterinary surgery” and “recognized veterinary surgeon” are defined in Article 1 of the Law. In some cases the activity described in the Schedule can be carried out only by persons of a specified description. *Article 3* amends Article 10 of the Law so that it more accurately describes the Schedule. (The Schedule is also renumbered as Schedule 1 by *Article 6* of this draft Law.) *Article 3* also amends Article 10 of the Law by referring to further activities specified in a new Schedule 2 (inserted by *Article 7*) provided that such activities are carried out with the approval of the Veterinary Officer and in accordance with that Schedule.

*Article 4* inserts a new Article into the Law which gives the Minister for Planning and Environment (“Minister”) the power to prescribe fees by Order for the giving of approvals by the Veterinary Officer under Schedule 2.

*Article 5* widens the Minister’s current power to amend the current Schedule so that the Minister can also amend by Order the provisions in Part 2 of that Schedule setting out exclusions from the activities specified in Part 1 of that Schedule. *Article 5* also allows the Minister by Order to amend the new Schedule 2.

*Article 6* makes changes to the description of the existing Schedule and renumbers it as Schedule 1. *Article 6* also removes the activities from the existing Schedule that require the approval of the Veterinary Officer and includes them in the new Schedule 2 (introduced by *Article 7* and explained in more detail below). These activities relate to artificial insemination, transferring embryos between cattle and the implantation into animals of transponders (that is, read-only passive frequency devices).

*Article 7* introduces the new Schedule 2 which covers all activities which, if not carried out by a recognized veterinary surgeon, require the Veterinary Officer’s approval. These include activities not included in the current Schedule relating to equine dentistry. Schedule 2 sets out the procedure for obtaining the Veterinary Officer’s approval, including requirements for having the appropriate training and provisions for imposing conditions of approval. Anyone who is not a recognized veterinary surgeon who wishes to carry out the equine dental activities described in the Schedule must be a member of the British Association of Equine Dental Technicians. For certain activities the Veterinary Officer must impose conditions relating to supervision or direction by a recognized veterinary surgeon. Schedule 2 also sets out the circumstances in which the Veterinary Officer may revoke or suspend approval and makes provision for appeals against such decisions.

*Article 8* sets out the title of this amending Law and provides that it will come into force 7 days after it is registered.







Jersey

## **DRAFT VETERINARY SURGEONS (AMENDMENT No. 2) (JERSEY) LAW 201-**

### **Arrangement**

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#### **Article**

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Jersey

## **DRAFT VETERINARY SURGEONS (AMENDMENT No. 2) (JERSEY) LAW 201-**

**A LAW** to amend further the Veterinary Surgeons (Jersey) Law 1999

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Interpretation**

In this Law, “Law” means the Veterinary Surgeons (Jersey) Law 1999<sup>1</sup>.

### **2 Article 1 amended**

In Article 1 of the Law after the definition “recognized veterinary surgeon” there shall be inserted the following definition –

“ ‘Veterinary Officer’ means the person for the time being appointed by the Minister under Article 2(1) or (2) of the Diseases of Animals (Jersey) Law 1956<sup>2</sup>;”.

### **3 Article 10 amended**

In Article 10 of the Law for paragraph (2) there shall be substituted the following paragraphs –

“(2) Nothing in Article 2 or 9(1) prohibits a person who is not a recognized veterinary surgeon from carrying out an activity that is described in Part 1 of Schedule 1 provided that –

- (a) in relation to an activity that must be carried out by a person of a description specified in that Part, the person falls within that description; and
- (b) such activity is not excluded from the application of Part 1 of Schedule 1 by Part 2 of that Schedule.

- (3) Nothing in Article 2 or 9(1) prevents a person who is not a recognized veterinary surgeon from carrying out any activity that is described in paragraph 1 or 2 of Schedule 2 provided that –
- (a) the person is approved to carry out that activity under paragraph 3(1) or (2) of that Schedule;
  - (b) the person carries out that activity in accordance with any conditions imposed under paragraph 3(4) or (5) of that Schedule; and
  - (b) the person's approval is not suspended or revoked in accordance with paragraph 4 of that Schedule.”.

#### 4 Article 10A inserted

After Article 10 there shall be inserted the following Article –

##### “10A Fees for certain exemptions

The Minister may prescribe by Order fees for the giving of approvals by the Veterinary Officer under paragraph 3 of Schedule 2.”.

#### 5 Article 11 substituted

For Article 11 of the Law there shall be substituted the following Article –

##### “11 Amendment of Schedules

The Minister may by Order amend Schedules 1 and 2.”.

#### 6 Schedule amended

In the Schedule –

- (a) for the heading and subheadings to the Schedule before paragraph 1 of Part 1 there shall be substituted the following heading and subheadings –

**“SCHEDULE 1**

(Article 10(2))

**EXEMPTIONS FROM RESTRICTIONS ON PRACTICE OF  
VETERINARY SURGERY NOT REQUIRING APPROVAL OF  
VETERINARY OFFICER**

**PART 1**

**ACTIVITIES THAT MAY BE CARRIED OUT”;**

- (b) paragraphs 8, 9 and 10 of Part 1 shall be deleted.

**7 Schedule 2 inserted**

After Schedule 1 there shall be inserted the following Schedule –

**“SCHEDULE 2**

(Article 10(3))

**EXEMPTIONS FROM RESTRICTIONS ON PRACTICE OF  
VETERINARY SURGERY REQUIRING APPROVAL OF  
VETERINARY OFFICER**

**1 Equine dental activities**

A person who is approved by the Veterinary Officer in accordance with paragraph 3 may carry out any of the following activities in relation to horses –

- (a) examination, evaluation and recording of dental abnormalities;
- (b) the removal of loose teeth or dental fragments with negligible periodontal attachments;
- (c) the removal of erupted, non-displaced wolf teeth in the upper or lower jaw;
- (d) palliative rasping of fractured and adjacent teeth;
- (e) the use of motorised dental instruments to reduce overgrowths and remove sharp enamel points.

**2 Other activities**

(1) A person who is approved by the Veterinary Officer in accordance with paragraph 3 may carry out any of the following activities for which such approval has been given –

- (a) artificial insemination of a domestic animal;
- (b) a procedure to transfer, or to assist in transferring, embryos between cattle; or
- (c) the implantation into an animal of a transponder.

(2) In paragraph (1) ‘transponder’ means a read-only passive radio frequency device.

**3 Approval by Veterinary Officer**

(1) The Veterinary Officer may approve a person to carry out the activities described in paragraph 1 if –

- (a) the person is a current member of the British Association of Equine Dental Technicians; and
- (b) the requirements of sub-paragraph (3) are complied with.

(2) The Veterinary Officer may approve a person to carry out any activity described in paragraph 2 if –

- (a) the person –
    - (i) has successfully completed a course which entitles that person to carry out that activity under the law of the United Kingdom (or any part of the United Kingdom), or
    - (ii) is otherwise entitled under the law of the United Kingdom (or any part of the United Kingdom) to carry out that activity; and
  - (b) the requirements of sub-paragraph (3) are complied with.
- (3) Those requirements are that –
- (a) the person has made an application for approval to the Veterinary Officer in such form and accompanied by such information as the Veterinary Officer may require; and
  - (b) the application is accompanied by such fee as may be prescribed under Article 10A.
- (4) An approval under sub-paragraph (1) or (2) must be in writing and, subject to paragraph (5), may be subject to such conditions as the Veterinary Officer may determine.
- (5) The Veterinary Officer's approval must be subject to the condition that –
- (a) in the case of an activity described in paragraph 1(c), the person carries out the activity under the direct and continuous personal supervision of a recognized veterinary surgeon; or
  - (b) in the case of an activity described in paragraph 2(1)(c), where the person is a veterinary nurse, the person carries out the activity under the direction of a recognized veterinary surgeon who is available to assist but who may not necessarily be present.
- (6) In sub-paragraph (5)(b), 'veterinary nurse' means a nurse whose name is entered in the register of veterinary nurses maintained by the Royal College of Veterinary Surgeons.

#### **4 Suspension or revocation of approval**

- (1) If the Veterinary Officer reasonably considers that a person approved under paragraph 3 –
- (a) no longer meets the criteria described in paragraph 3(1)(a) or (2)(a), as the case may be;
  - (b) otherwise is no longer fit to carry out the activity to which the person's approval relates; or
  - (c) has breached a condition of approval,
- the Veterinary Officer may take the action described in sub-paragraph (2).
- (2) That action is either or both of the following –

- (a) suspension of the Veterinary Officer's approval with immediate effect; and
  - (b) revocation of the Veterinary Officer's approval after giving 21 days' notice to the person.
- (3) A person's approval shall not be revoked under this paragraph unless the person concerned has been given the opportunity to make representations to the Veterinary Officer and the Veterinary Officer has taken those representations into account.
- (4) A suspension or revocation under this paragraph shall be given in writing and with reasons.

## **5 Appeal against Veterinary Officer's decision**

- (1) A person aggrieved by a decision of the Veterinary Officer to –
- (a) refuse an application for approval under paragraph 3; or
  - (b) suspend or revoke an approval under paragraph 4,
- may, within 28 days of the decision, or within such longer period as the Court may allow, appeal to the Court on the ground that the decision is unreasonable having regard to all the circumstances of the case.
- (2) On hearing the appeal the Court may –
- (a) confirm, reverse or vary the decision against which the appeal is brought;
  - (b) make such order as it thinks fit; and
  - (c) make such order as to the costs of the appeal that it thinks fit, including any order with respect to the payment of costs.
- (3) Subject to any interim order the Court may make, an appeal to the Court shall not have the effect of suspending the Veterinary Officer's decision.”.

## **8 Citation and commencement**

This Law may be cited as the Veterinary Surgeons (Amendment No. 2) (Jersey) Law 201- and shall come into force 7 days after it is registered.

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- <sup>1</sup> *chapter 02.900*  
<sup>2</sup> *chapter 02.400*