
GOVERNMENT GAZETTE NO. 39380

DEPARTMENT OF AGRICULTURE, FORESTRY & FISHERIES

No. R1081

09 NOVEMBER 2015

VETERINARY AND PARA-VETERINARY PROFESSIONS ACT, 1982 (ACT NO 19 OF 1982)

REGULATIONS RELATING TO SUSPENSIONS, INSPECTIONS & APPEALS

The Minister of Agriculture, Forestry & Fisheries, has after consideration and approval of a relevant recommendation by the South African Veterinary Council, made the following regulations under sections 12A, 28A(2)(c), and 31A(6)(c) respectively, read with section 43, of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No 19 of 1982), as amended by the Veterinary and Para-Veterinary Professions Amendment Act, 2012 (Act No 16 of 2012), as set out in the Schedule.

SCHEDULE

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PART 3 REGULATIONS RELATING TO APPEALS

11. Lodging an appeal

- (1) An appellant must lodge his or her or its notice to appeal against a decision of an inquiry instituted in terms of section 31 of the Act within twenty (20) days after notice of such decision in writing is deemed to have come to the notice of the appellant in terms of regulation 16.
- (2) The notice of appeal must be in writing and under oath, stating in full the decision against which the appeal is lodged, the grounds on which such appeal is lodged and all relevant arguments, information and documentation, including the transcript of the inquiry, in support thereof.
- (3) An appellant who fails to lodge an appeal within the period contemplated in subsection (1) may apply to the ad hoc Appeal Committee for condonation for the late filing of the notice to appeal: Provided that the application for condonation -
 - (a) is in writing and is lodged simultaneously with a duly completed Notice of Appeal; and
 - (b) must be accompanied by a supporting affidavit setting out the reasons for the late filing of the notice to appeal with the documentation relating thereto.
- (4) The chairperson must, subject to the requirements of the application for condonation referred to in subsection (3), consider such application prior to the hearing of the appeal.
- (5) A ruling by the Chairperson to condone an appellant's late filing of a Notice of Appeal allows the appeal to proceed as if it was filed in accordance with Regulation 16.

12. Right to representation

- (1) An appellant has the right to appear in person and may be legally represented in proceedings before the ad hoc Appeal Committee, should he or she so choose.
- (2) A representative contemplated in sub-regulation (1) must be an admitted attorney or admitted advocate.

13. Procedural steps

- (1) The notice to appeal must be lodged with the registrar together with -
 - (a) payment of the fee as determined by Council; and
 - (b) four copies of the record of appeal consisting of the decision appealed against, the written reasons for such decision, including the transcript of the inquiry and all relevant documents, duly indexed and paginated.
- (2) The registrar must, within fifteen days of receipt of the notice of submit the appeal, together with all the documentation lodged with the appeal, to the chairperson of an inquiry contemplated in section 31(1) of the Act and must request the chairperson of such inquiry to furnish their comments to the registrar within twenty days after receipt of the request from the registrar.

14. Procedure at ad hoc Appeal Committee proceedings

- (1) The registrar must submit the appeal, together with all supporting documentation, as well as the comments referred to in Regulation 13(2) to the ad hoc Appeal Committee for consideration.
- (2) The registrar must then, in consultation with the members of the Appeal Committee, determine a date and a venue for considering the appeal.
- (3) Preliminary issues or points in limine, if any, must be heard and decided prior to the presenting of arguments.
- (4) The appellant and his or her legal representative, if a legal representative is appointed, must be given the opportunity to argue his or her case.
- (5) If the appellant and his or her legal representative are not present at the appeal proceeding, it must proceed in the appellants' absence.
- (6) Upon the conclusion of a case, the ad hoc Appeal Committee must deliberate thereon in camera.
- (7) The ad hoc Appeal Committee may reserve judgment for a reasonable period, provided that the estimated date on which the judgment will be made available is specified at the conclusion of the appeal procedure.
- (8) The judgment and the reasons for it must be provided to the appellant in writing, once it has been finalised.

15. Powers of ad hoc Appeal Committee

- (1) Any irregularity resulting from a failure to comply with any provisions of these Regulations before the ad hoc Appeal Committee has reached its decision does not in itself render the proceedings void.
- (2) Any clerical mistake or error may be regularised by the Chairperson of the ad hoc Appeal Committee, provided that it does not unduly prejudice the respondent.
- (3) The ad hoc Appeal Committee must rule on any application for condonation of any irregularity.
- (4) The ad hoc Appeal Committee may -
 - (a) confirm the decision;
 - (b) amend, vary or set aside the decision;
 - (c) remit the matter back to the inquiry contemplated in section 31(1) of the Act with instructions if it deems appropriate; or
 - (d) make any other order, including an order for costs in terms of section 32(9), as it considers appropriate.

16. Notice

Any notice to be given in terms these regulations -

- (a) must be in writing and addressed to and may be sent by registered mail to the registered address, provided that the respondent is alerted by telephone or e-mail to such posting, or may be delivered by hand to the physical address, or may be sent by telefax to the telefax address, or by e-mail, if so agreed in writing; and
- (b) shall be deemed to have been properly given and to have been received and to have come to the notice of the addressee -
 - (i) within ten (10) days after the day on which the notice or document was sent by pre-paid registered post, if posted;
 - (ii) within one (1) day after the date and at the time (if any) which appears on the acknowledgement of receipt of the notice or document, if delivered by hand;

- (iii) within three (3) days after the date appearing on the telefax control sheet of the sender, if sent by telefax;
- (iv) within one (1) day after the date appearing on the electronic mail message, if sent by electronic mail, provided that the person sending the electronic mail message confirmed receipt of such e-mail by telephone.