

OPTICIANS ACT.

Act No. 20, 1930.

An Act to provide for the registration and to regulate the practice of optometrists; and for purposes connected therewith. [Assented to, 11th June, 1930.] George V.
No. 20, 1930.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Opticians Act, 1930," and shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette. Short title
and com-
mencement.

2.

Opticians Act.

No. 20, 1930.

Application
of Act.

2. The provisions of this Act shall not apply to any person registered as a legally qualified medical practitioner under the Medical Practitioners Act, 1912, or any Act amending or replacing the same.

Division of
Act into
Parts.

3. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—THE BOARD OF OPTOMETRICAL REGISTRATION—*ss.* 5-10.

PART III.—REGISTER—*ss.* 11-23.

PART IV.—PRACTICE OF OPTOMETRY—*ss.* 24-29.

PART V.—REGULATIONS AND MISCELLANEOUS—*ss.* 30-34.

Definitions.

4. In this Act, except where the context or subject-matter otherwise indicates or requires,—

“Board” means Board of Optometrical Registration constituted by this Act.

“Optometry” or the “practice of optometry” means the employment of methods other than the use of drugs, medicine, or surgery for the measurement of the powers of vision and the adaptation of lenses and prisms for the aid thereof.

“Prescribed” means prescribed by this Act or by the regulations.

“Recognised certificate” means a certificate, diploma, membership, degree, letters, testimonial or other title, status or document granted by some university, college, or other public institution in Great Britain or Ireland or in a British possession or foreign country, recognised by the board as entitling the holder thereof to practise optometry in the place where it was granted, and as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of optometry.

“Registered

- “Registered optometrist” means a person who is the holder of a certificate issued under this Act entitling him to practise optometry. No. 20, 1930.
- “Registrar” means the registrar appointed under this Act.
- “Regulations” means the regulations made under this Act.

PART II.

THE BOARD OF OPTOMETRICAL REGISTRATION.

5. (1) On the commencement of this Act a board to be called the “Board of Optometrical Registration” shall be constituted. Constitution of first board.

Such board shall consist of five persons.

(2) The members of the first board shall be appointed by the Governor.

(3) The Governor shall appoint one of such persons to be chairman of the board. The members so appointed shall hold office for a period of three years or until their successors are elected and appointed.

6. If any vacancy occurs in the board during the period for which the members of the first board shall have been appointed or if afterwards the seat of any member appointed by the Governor to any board under this Act becomes vacant, the Governor may appoint some person to fill such vacancy, and the person so appointed shall hold office for the unexpired period of office of the person in whose place he was appointed and no longer. Vacancies—appointed members.

7. (1) On the expiration of the period for which the members of the first board shall have been appointed, another board which shall consist of five members shall be constituted in the manner provided in this section. Constitution of subsequent boards.

(2) Two members shall be appointed by the Governor. One of such members shall in and by his appointment be the chairman of the board. Three members, each of whom shall be a registered optometrist, shall be elected by the registered optometrists in the manner prescribed.

No. 20, 1930.

(3) Such persons, whether elected or appointed, shall hold office for three years or until their successors are elected and appointed.

(4) If any member of the board—

(a) dies; or

(b) resigns his office by writing under his hand delivered to the registrar or chairman of the board or to the Minister; or

(c) ceases to reside in the State; or

(d) becomes bankrupt, compounds with his creditors or assigns his estate for the benefit of his creditors; or

(e) becomes an insane person, an insane patient, or an incapable person within the meaning of the Lunacy Act, 1898; or

(f) is convicted of any felony or misdemeanour; or

(g) absents himself from three consecutive ordinary meetings of the board without leave obtained from the board in that behalf; or

(h) is removed from the board by the Governor; or

(i) being an elected member ceases to be a registered optometrist,

his seat shall become vacant.

(5) If the seat of an elected member of the board becomes vacant prior to the expiration of his term of office, the person elected to fill such vacancy shall hold office for the unexpired period of office of the person in whose place he was elected and no longer.

(6) At the expiration of the said period of three years, and after each successive period of three years, another board shall be constituted of persons appointed and elected as in this section provided, and the retiring members shall, if still qualified, be eligible for re-appointment and re-election, respectively.

(7) All elections under this section and all vacancies in the seats of elected members occurring in the board shall be conducted and filled in accordance with the regulations made under this Act.

8. All acts and proceedings of the board shall be valid, notwithstanding any vacancy in the board or any irregularity in the appointment, election, or continuance in office of any member of the board, and notwithstanding that any person not qualified or ceasing to be qualified may have acted as a member of the board.

No. 20, 1930.

Proceedings
of board.

9. The Governor may remove any member of any board (including the first board) for neglect of duty, incompetency, dishonourable conduct, or other cause deemed sufficient by the Governor.

Removal
from office.

10. The board shall be a body corporate with perpetual succession and common seal and may sue and be sued in its corporate name.

Incorporation
and style of
board.

The corporate name of the board shall be "The Board of Optometrical Registration."

PART III.

REGISTER.

11. There shall be a register of optometrists, to be compiled in the manner and form prescribed by the regulations and kept in the custody of the registrar.

Keeping of
register.

12. The Governor may from time to time, in accordance with the Public Service Act, 1902, or any Act amending the same, appoint a registrar and such other officers as the Governor may think fit for carrying out the provisions of this Act, and may at any time remove any person so appointed.

Registrar and
other officers.

13. (1) The registrar shall, on payment of the prescribed fee, enter in the register the full names and addresses, date and description of qualifications in respect of which registration is granted, and all other prescribed particulars of all persons registered under the provisions of this Act, shall transmit in the month of January in each year a certified copy of the register to the Minister, and shall cause a copy of the same or such extracts therefrom as may be prescribed to be published in the Gazette.

Register.

No. 20, 1930.

(2) A copy of the Gazette shall be prima facie evidence, in all legal proceedings, that the persons mentioned therein are registered under this Act, and the absence of any name therefrom shall be prima facie evidence that such person is not so registered.

Powers and duties of board.

14. (1) The board shall do all acts or duties which may be necessary or expedient for the due and proper carrying out of the provisions of this Act.

(2) The board shall make all necessary arrangements through the Technical College for a course of training and tuition, and shall arrange with the said College to hold examinations once each year for the convenience of persons desirous of qualifying for registration under this Act, and shall fix the places where and the times when the examination shall be held.

(3) The board may issue and cancel certificates of registration.

Removal of names of deceased optometrists. Refusal to place name on, and removal from register.

15. (1) The board may refuse to register or may remove from the register the name of any person who—

(a) has been convicted of any felony or misdemeanour or of any offence which, if committed within the State, would be a felony or misdemeanour; or

(b) has been guilty of infamous conduct in any professional respect.

(2) In the case of a charge of infamous conduct, the person charged shall be afforded an opportunity of being heard in defence, either in person or by counsel.

(3) No person shall be refused registration or have his name removed from the register until he has been afforded an opportunity to explain any objection raised against him of which he shall be given full particulars.

(4) The name of any deceased person shall be removed from the register.

Registration of name removed.

16. (1) Where the board directs the removal from the register of the name of any person, the name of that person shall not be again entered in the register except by direction of the board or by order of a district court.

(2)

No. 20, 1930.

(2) The board may direct the registrar to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding the registration fee, as the board may direct, and the registrar shall restore the same accordingly.

17. (1) The board may examine any person upon oath or take a solemn declaration from any person for the purposes of this Act. Power of board to examine witnesses.

(2) If any person wilfully makes any false statement upon such examination or in such declaration he shall be guilty of perjury.

(3) If any person wilfully utters or attempts to utter or put off as true before the board any false, forged, or counterfeit certificate, diploma, letter, testimonial, or other document or writing he shall be guilty of an offence, and shall on summary conviction be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding twelve months.

18. All informations for offences against this Act shall be laid by the registrar or some other person appointed by the board for that purpose. All such penalties may be recovered in a summary manner before any stipendiary or police magistrate sitting in petty sessions. Offences and penalties.

19. Subject to the provisions of this Act any person of or over the age of twenty-one years, excepting a person qualified under paragraph (b) of this section, who shall be of or over the age of twenty years, and who proves to the satisfaction of the board that he is of good character and who— Qualifications for registration.

- (a) holds a recognised certificate;
- (b) has, for a period of three years prior to the commencement of this Act, been bona fide engaged in New South Wales in the practice of optometry either separately or in conjunction with the practice of any other profession or calling; and who has made application to the board for registration within one year from the commencement of this Act;
- (c) has passed the prescribed examinations; or
- (d)

No. 20, 1930.

(d) has been a pupil or apprentice for a period of not less than three years to a practising optometrist entitled to be registered under this Act and who has passed an examination recognised by the board: provided that such pupilage or apprenticeship has commenced at least six months before the commencement of this Act, and has expired before he applies to be registered as an optometrist,

shall be entitled to be registered.

Registration
of opto-
metrists with
recognised
certificates.

20. (1) Any person who proves to the satisfaction of the board that he has practised optometry for not less than three years elsewhere than in New South Wales, that he holds a recognised certificate, and that he is of good character, shall be entitled upon the payment of the prescribed fees and without examination, to be registered as an optometrist under this Act.

(2) On any application for registration under this or the last preceding section the applicant shall produce and supply such evidence of identity and bona fides as may be prescribed or as the board may require.

Certificates.

21. (1) The board shall upon registration, and thereafter annually upon payment therefor of the prescribed fee, issue to each person entitled thereto applying for the same, a certificate in the form prescribed.

(2) The certificate shall be in force until and inclusive of the thirty-first day of December next after the issue thereof.

(3) Any certificate if it purports to be signed by the chairman and registrar, shall be evidence of the matters stated therein, without proof of the signatures or of the official character of the persons appearing to have signed the same.

Omission to
take out
annual
certificate.

22. Any person who for a period exceeding two years ceases to hold a certificate and afterwards applies for a certificate, shall not be entitled thereto unless and until he satisfies the board as to the circumstances under which he omitted to take out his certificate and as to his conduct and employment in the meantime.

23.

23. Registration under this Act shall not confer upon any person any right or title—

- (a) to assume the title of doctor, oculist, ophthalmic surgeon, or any other name, title, or designation implying or tending to convey the belief that he is by law recognised as a medical practitioner, or that he is qualified to practise ophthalmic medicine or surgery; or
- (b) to administer or prescribe drugs to paralyse the eye; or
- (c) to sell, use, supply, or prescribe any drug for the treatment of any disease of the eye, or to treat any disease of the eye.

No. 20, 1930.

Registration not to imply medical qualifications.

PART IV.

PRACTICE OF OPTOMETRY.

24. (1) Subject to this Act, any registered optometrist shall be entitled to practise optometry in any part of the State.

Persons who may practise optometry.

(2) After the expiration of six months from the commencement of this Act, no person who is not a registered optometrist shall practise or pretend to practise optometry.

(3) The last preceding subsection shall not be construed to prevent any person from engaging in the actual craft of lens grinding and spectacle making, nor to debar any apprentice indentured to a registered optometrist while under the personal supervision of a registered optometrist from obtaining practice and experience in optometry.

(4) Any person offending against subsection two of this section shall be liable to a penalty not exceeding ten pounds for a first offence, and a penalty not exceeding fifty pounds for any subsequent offence.

25. After the expiration of six months from the commencement of this Act, any person not being a registered optometrist who—

Persons not to assume title implying registration.

- (a) takes or uses the name or title of "optometrist"; or

(b)

No. 20, 1930.

(b) takes or uses any name, title, designation, addition, or description, whether by means of initials or letters placed after his name or otherwise, implying that he is registered under this Act, or that he is a person qualified to practise optometry,

shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Prohibited practices.

26. Any person, other than a registered optometrist, who uses, advertises, or exhibits any notice, form of words, name, title, or addition upon his premises stating or implying or capable of being understood to indicate that he has an optometrist engaged or employed shall, unless he proves that a registered optometrist is a member of his staff and permanently engaged upon his premises as such, be liable on summary conviction to a penalty not exceeding twenty pounds.

Use of certain titles prohibited.

27. Any registered optometrist who without the consent of the board takes or uses in connection with the practice of optometry any title, designation, addition, or description other than that of "optometrist" shall be liable on summary conviction to a penalty not exceeding twenty pounds.

Obtaining registration by false pretences.

28. Any person—

- (a) who procures or attempts to procure registration or a certificate of registration under this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate, or representation either in writing or otherwise ; or
- (b) who wilfully makes or causes to be made any falsification in the register ; or
- (c) who forges, alters, or counterfeits any certificate ; or
- (d) who utters or uses any forged, altered, or counterfeited certificate knowing the same to have been forged, altered, or counterfeited ; or
- (e) who falsely advertises or publishes himself as having obtained registration or a certificate under this Act ; or

(f)

- (f) who falsely personates a registered optometrist of a like or different name, or buys, sells, or fraudulently obtains a certificate under this Act issued to another,

No. 20, 1930.

shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds.

29. After the commencement of this Act any person, whether registered under this Act or not, who—

Restriction on medical or surgical practice.

- (a) not being a legally qualified medical practitioner, practices or holds himself out by any means or device whatsoever as practising the profession or calling of an oculist or ophthalmic surgeon; or

cf. S. Aust. Act No. 1443, 1920, s. 37.

- (b) not being a legally qualified medical practitioner, assumes the title of oculist or ophthalmic surgeon or any other name, title, or designation implying that he is a medical practitioner or is qualified to practice ophthalmology or ophthalmic medicine or surgery; or

- (c) not being a legally qualified medical practitioner, prescribes or administers any drug for the purpose of paralysing the accommodation of the eye; or

- (d) not being a legally qualified medical practitioner or registered pharmacist, sells or supplies any drug or remedy for or for treating any disease of the eye,

shall be liable to a penalty not exceeding fifty pounds: Provided that the sale in the ordinary course of business by any retail storekeeper or shopkeeper of any patent medicine or proprietary medicine or drug commonly sold in a bottle, tin, packet, or other container shall not be an offence against paragraph (d) of this section.

PART V.

REGULATIONS AND MISCELLANEOUS.

Regulations.

30. (1) The board, subject to the approval of the Governor, may make regulations—

- (a) regulating the manner of keeping and controlling the register ;
- (b) regulating the granting and issue of certificates and the conditions of registration ;
- (c) prescribing what certificates, diplomas, membership, degree, letters, testimonials or other titles, status, or documents will be recognised by the board as qualifying persons holding them or any of them to be registered under this Act, whether immediately or after further examination or training or both ;
- (d) regulating the holding of examinations under this Act and prescribing the subjects of such examinations ;
- (e) prescribing a scale of fees to be charged and paid in respect of any application, examination, registration, certificate, inspection, or any other proceeding, act, or thing provided or required under this Act ;
- (f) prescribing forms to be used for any of the purposes of this Act ;
- (g) generally providing for anything which by this Act is expressed to be prescribed or which the Governor considers necessary in order to carry out the purposes of this Act.

(2) The regulations may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches ; but no such penalty shall exceed ten pounds.

Regulations
to be
published.

31. (1) The regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of publication or from a later date to be specified in the regulations ; and
- (c) be laid before both Houses of Parliament within fourteen sitting days of publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. (2)

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing the regulations or any part thereof, the regulations or part shall thereupon cease to have effect.

No. 20, 1930.

32. (1) Any person who thinks himself aggrieved by any decision, ruling, order, or direction of the board or registrar may in manner prescribed by rules of court, and until so prescribed by summons in chambers, appeal to a judge of a district court.

Right of appeal.

(2) No appeal shall be entertained unless it is made within two months next after the notification to such person of the decision, ruling, order, or direction, nor unless ten days' notice in writing of appeal, stating the nature and grounds thereof, is given to the registrar.

(3) An appeal against refusal to register or the removal of a person from the register shall be by way of rehearing.

(4) The judge may make such order as he thinks just (including any order as to costs) and such order shall be final and without appeal, and shall be observed by the board or registrar and by every person concerned.

33. (1) The fees paid and all penalties recovered under this Act or any regulation made thereunder shall be paid to the Registrar.

Fees and penalties.

(2) The amount of such fees and penalties shall be paid by the Registrar into the Treasury and carried to the Consolidated Revenue Fund.

34. No matter or thing done or suffered by the board, or by any member, or the registrar, or any officer of the board, bona fide in the execution, or intended execution, of this Act, or the exercise or discharge, or intended exercise or discharge, of any of its or his powers or duties, shall subject the board or any member, or the registrar, or the officer, or any other person, or the Crown, to any liability in respect thereof.

Officers, &c., not to be personally liable.