

OPTOMETRISTS (AMENDMENT) ACT.

Act No. 34, 1963.

Elizabeth II, An Act to make further provisions relating to the
No. 34, 1963 practice of optometry and the powers and
authorities of the Board of Optometrical Regis-
tration; for these and other purposes to amend
the Opticians Act, 1930-1957; and for purposes
connected therewith. [Assented to, 2nd October,
1963.]

BE it enacted by the Queen'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 : —

Short title
and
citation.

1. (1) This Act may be cited as the "Optometrists
(Amendment) Act, 1963".

(2)

(2) The Opticians Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Optometrists Act, 1930-1963. No. 34, 1963

2. (1) The Opticians Act, 1930-1957, is amended— Amendment
of Act No.
20, 1930.
- (a) by omitting from section one the word “Opticians” Sec. 1.
and by inserting in lieu thereof the word “Optometrists”; (Short title
and com-
mencement.)
- (b) by omitting from section two the figures “1912” Sec. 2.
and by inserting in lieu thereof the figures “1938”; (Applica-
tion of
Act.)
- (c) (i) by omitting from section four the definition of Sec. 4.
“‘Optometry’ or the ‘practice of optometry’ ” (Defini-
tions.)
and by inserting in lieu thereof the following
definitions : —

“Optical appliance” means an appliance designed to correct, remedy or relieve any refractive abnormality or optical defect of sight.

“Optical dispenser” means a person who is the holder of a license issued under the Optical Dispensers Act, 1963, entitling him to carry out optical dispensing.

“Optical dispensing” means the doing or performing of any one or more of the following acts, matters or things, that is to say, the interpretation and dispensing of prescriptions for optical appliances, and the taking of facial measurements for and the fitting and sale of optical appliances, but does not include the fitting of contact lenses, nor any sale of optical appliances to any optical dispenser nor any sale of optical appliances preceding their sale to an optical dispenser.

“Optometry” or the “practice of optometry” means the doing or performing of any one or more of the following acts, matters

No. 34, 1963

matters or things, that is to say, the examination of the eyes and the measurement of their functions and powers, with the object of determining whether there is any, and if so, the nature or degree of any abnormality or defect of sight, the correction, remedying and relieving of any abnormality or defect of sight by means of an optical appliance or orthoptic treatment, and optical dispensing, but does not include visual screening.

“Orthoptic treatment” means the employment of ocular exercises for the correction, remedying or relief of any abnormality or defect of sight.

- (ii) by inserting in the same section next after the definition of “Regulations” the following new definition : —

“Visual screening” means the employment of tests of vision for the purpose of detecting the presence of any abnormality or defect of sight.

Sec. 5.
(Constitution of board.)

- (d) (i) by omitting from paragraph (d) of subsection two of section five the word “British” and by inserting in lieu thereof the word “Australian”;
- (ii) by omitting from paragraph (e) of the same subsection the words “New South Wales University of Technology” and by inserting in lieu thereof the words “University of New South Wales”;

Sec. 6.
(Vacation of office.)

- (e) by omitting paragraph (c) of section six and by inserting in lieu thereof the following paragraph : —
- (c) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts.

(2) The person appointed as a member of The Board of Optometrical Registration pursuant to paragraph (d) of subsection two of section five of the Opticians Act, 1930-1957, and holding office as such immediately before the commencement of this Act shall be deemed to have been appointed pursuant to the said paragraph (d), as amended by this Act, and subject to the provisions of the Optometrists Act, 1930-1963, shall hold office until the first day of July, one thousand nine hundred and sixty-four, and shall, if otherwise qualified, be eligible for re-appointment.

No. 34, 1963

3. The Opticians Act, 1930-1957, is further amended—

Further amendment of Act No. 20, 1930.

(a) by omitting from subsection three of section thirteen the word “registered” where secondly occurring;

Sec. 13. (Register.)

(b) by omitting subsection two of section fourteen;

Sec. 14. (Powers and duties of board.)

(c) by inserting next after section fourteen the following new section :—

New sec. 14A.

14A. The board shall cause to be removed from the register the names of—

Removal of names of deceased and other optometrists.

- (a) every deceased registered optometrist;
- (b) every registered optometrist who has ceased to possess or does not possess the qualifications in respect of which he was registered; and
- (c) every registered optometrist who has become a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts.

(d) by omitting section fifteen and by inserting in lieu thereof the following section :—

Subst. sec. 15.

15. (1) Where a registered optometrist—

- (a) has been convicted, either in New South Wales of a felony or misdemeanour, or elsewhere

Removal of name on account of misconduct.

elsewhere of an offence which, if committed in New South Wales, would be a felony or misdemeanour; or

- (b) has been adjudged by the board, after inquiry as hereinafter provided, to have been guilty of misconduct in any professional respect,

the board may reprimand or caution such person or may remove his name from the register or suspend his registration for such period as the board shall think fit.

(2) Without limiting the meaning of the expression "misconduct in any professional respect" in this section, a registered optometrist shall be deemed guilty of such misconduct who—

- (a) save in such cases or in such circumstances as are prescribed, practises optometry in a name other than his own except whilst he is acting as the duly appointed locum tenens of another registered optometrist;
- (b) allows the use of his name in connection with the practice of optometry at premises at which he or his duly appointed locum tenens is not in regular attendance for the purpose of practice and supervision during the hours in which such premises are open for the practice of optometry;
- (c) advertises otherwise than in accordance with the regulations or advertises in contravention of the regulations;
- (d) canvasses for optometrical business; or
- (e) is an habitual drunkard or is habitually addicted to any deleterious drug.

(3)

(3) For the purposes of this section, no person shall be deemed to be a duly appointed locum tenens unless—

- (a) he is appointed in writing by a registered optometrist;
- (b) he is a registered optometrist at the time of taking up his duties; and
- (c) he is employed only during the temporary absence of his employer and for a period not exceeding twelve months or for such further period as the board may in any particular case permit.

A registered optometrist who is engaged in the practice of optometry as a member of a partnership shall, subject to the foregoing provisions of this subsection, be entitled to appoint his partner or one of his partners as his locum tenens.

(4) In the case of a conviction as aforesaid, no person shall have his name removed from the register or have his registration suspended on account thereof if such offence does not, either from its trivial nature or from the circumstances under which it was committed, render such person unfit in the public interest to practise optometry.

(5) In making any such inquiry, the board shall sit as in open court, and the person charged shall be afforded an opportunity of defence either in person or by counsel.

(6) Whenever the registration of an optometrist is suspended under the provisions of this section, the registrar shall enter in the register a memorandum of that fact and of the date and cause thereof.

(e) by omitting from section eighteen the words “or police”;

(f) (Offences and penalties.)

Optometrists (Amendment) Act.**No. 34, 1963**Subst. secs.
19, 20.Qualifica-
tions for
registration.

(f) by omitting sections nineteen and twenty and by inserting in lieu thereof the following sections :—

19. Subject to the provisions of this Act, any person who proves to the satisfaction of the board that he is of good character and has attained the age of twenty-one years shall, upon payment of the prescribed fee, be entitled to be registered as an optometrist if he—

- (a) is the holder of a degree of Bachelor of Science (Optometrical Science) or Bachelor of Optometry granted by the University of New South Wales;
- (b) is an Associate of the Sydney Technical College in Optometry; or
- (c) is the holder of a recognised certificate.

Saving.

20. All persons whose names were immediately before the commencement of the Optometrists (Amendment) Act, 1963, entered in the register shall, subject to this Act, continue to be registered optometrists.

Sec. 21.
(Certifi-
cates.)

(g) by omitting subsection two of section twenty-one;

Sec. 23.
(Registra-
tion not to
imply
medical
qualifica-
tions.)

(h) by inserting in paragraph (b) of section twenty-three after the word "eye" the words "otherwise than in accordance with this Act".

Further
amendment
of Act No.
20, 1930.**4. The Opticians Act, 1930-1957, is further amended—**Sec. 24.
(Persons
who
may practise
optometry.)

(a) (i) by omitting subsection three of section twenty-four and by inserting in lieu thereof the following subsection :—

(3) Subsection two of this section shall not be construed to :—

- (a) prevent any person from engaging in the actual craft of lens grinding and spectacle making;
- (b)

Optometrists (Amendment) Act.

259

- (b) prevent an optical dispenser from carrying out optical dispensing; No. 34, 1963
- (c) prevent a person from carrying out orthoptic treatment under or upon the prescription, direction or reference of a legally qualified medical practitioner or registered optometrist; or
- (d) debar any student in optometry while under the personal supervision of a registered optometrist from obtaining practice and experience in optometry.
- (ii) by omitting from subsection four of the same section the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";
- (iii) by omitting from the same subsection the words "fifty pounds" and by inserting in lieu thereof the words "one hundred pounds";
- (b) (i) by inserting in paragraph (a) of section twenty-five after the words "of 'optometrist'" the words "or 'optician' or any combinations of such words"; Sec. 25.
(Persons not to assume title implying registration.)
- (ii) by omitting from the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";
- (c) by omitting section twenty-six ; Sec. 26.
(Prohibited practices.)
- (d) by omitting from section 26A the words "The Board" and by inserting in lieu thereof the words "Notwithstanding anything contained in section thirty-five of this Act, the board"; Sec. 26A.
(Personal representative may carry on practice under supervision.)
- (e) (i) by inserting in section twenty-seven after the words "of 'optometrist,'" the words "Or 'optician,' or any combinations of such words,"; Sec. 27.
(Use of certain titles prohibited.)
- (ii)

260 **Optometrists (Amendment) Act.**

No. 34, 1963

(ii) by omitting from the same section the words "twenty pounds" and by inserting in lieu thereof the words "fifty pounds";

Sec. 28.
(Obtaining registration by false pretences.)

(f) by omitting from section twenty-eight the words "fifty pounds" and by inserting in lieu thereof the words "one hundred pounds".

Further amendment of Act No. 20, 1930.

5. (1) The Opticians Act, 1930-1957, is further amended—

Sec. 3.
(Division of Act into Parts.)

(a) by inserting in section three next after the matter relating to Part IV the following new matter :—

PART IVA.—USE OF DRUGS BY OPTOMETRISTS
—s. 29A.

Sec. 29.
{Restriction on medical or surgical practice.)

(b) by inserting at the end of section twenty-nine the following new proviso :—

Provided further that the administration of any cycloplegics or any other prescribed drugs for paralysing the accommodation of the eye under and in accordance with Part IVA of this Act by a registered optometrist who is the holder of a certificate for the time being in force under that Part shall not be an offence against paragraph (c) of this section.

New Part IVA.

(c) by inserting next after the same section the following new Part :—

PART IVA.

USE OF DRUGS BY OPTOMETRISTS.

Use of drugs by optometrists.

29A. (1) A registered optometrist shall not in the practice of optometry use drugs unless he is the holder of a certificate issued by the board and for the time being in force authorising him to use drugs under and in accordance with the provisions of this Part.

(2)

(2) A registered optometrist who is the holder of any such certificate shall not in the practice of optometry—

No. 34, 1963

- (a) use any drugs other than cycloplegics, local anaesthetics, mydriatics, myotics and such other drugs as may be prescribed for use by any such registered optometrists;
- (b) use any cycloplegics, local anaesthetics, mydriatics, myotics and other prescribed drugs for any purpose other than the purpose prescribed for such use;
- (c) use any drugs referred to in paragraph (b) of this subsection otherwise than in accordance with such restrictions and conditions as may be prescribed. Such restrictions and conditions may include restrictions and conditions as to the strength which such drugs shall not exceed when so used.

(3) The purpose for which—

- (a) cycloplegics may be so used is for paralysing the accommodation of the eye;
- (b) local anaesthetics may be so used is for fitting contact lenses;
- (c) mydriatics may be so used is for enlarging the pupil of the eye;
- (d) myotics may be so used is for instilling into the eye after a mydriatic has been used;
- (e) any other prescribed drug may be so used is for the purpose prescribed in respect of such drug.

(4) Certificates in the prescribed form authorising registered optometrists to use drugs in the practice of optometry under and in accordance with the provisions of this Part may be issued by the board to registered optometrists who have successfully

No. 34, 1963

successfully completed a prescribed course of instruction in the use of drugs in refraction or examination of the eyes.

Any such certificate may be withdrawn by the board at any time if the board has reason to believe that such action is warranted.

(5) Regulations for the purposes of subsections two and three of this section shall not be made except upon the recommendation of a committee consisting of a legally qualified registered medical practitioner nominated by the Director-General of Public Health, a person nominated by the Council of the University of New South Wales and a person nominated by the board.

(6) Any registered optometrist who fails to comply with the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty not exceeding one hundred pounds.

(2) The amendments made by subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Further amendment of Act No. 20, 1930.

Sec. 30. (Regulations.)

6. The Opticians Act, 1930-1957, is further amended—

- (a) (i) by omitting paragraph (d) of subsection one of section thirty;
- (ii) by omitting from paragraph (d1) of the same subsection the word "pupils" wherever occurring and by inserting in lieu thereof the word "students";
- (iii) by omitting from paragraph (e) of the same subsection the word "examination,";
- (iv) by omitting from subsection two of the same section the words "ten pounds" and by inserting in lieu thereof the words "fifty pounds";
- (b)

Optometrists (Amendment) Act.

263

- (b) (i) by inserting in subsection one of section thirty-two after the word "registrar" the words "or by any failure to register his name in the register"; No. 34, 1963
Sec. 32.
(Right of appeal.)
- (ii) by inserting in subsection two of the same section after the words "or direction," the words "or within six months after the date on which he applied to be registered, as the case may be.";
- (c) (i) by inserting in subsection one of section thirty-five after the word "company" the words "or other person not being a registered optometrist"; Sec. 35.
(Firm or company or unregistered person not to carry on business except as provided by this section.)
- (ii) by inserting in subsection two of the same section after the word "which" where firstly occurring the words "or other person not being a registered optometrist who";
- (iii) by inserting in the same subsection after the words "one thousand nine hundred and forty-five" the words "in respect of a firm or company, and the first day of October, one thousand nine hundred and sixty-three, in respect of any other person not being a registered optometrist";
- (iv) by inserting in the same subsection immediately before the words "may carry on the business" the words "or other person not being a registered optometrist";
- (v) by inserting in subsection (2B) of the same section after the word "company" where firstly occurring the words "or other person not being a registered optometrist";
- (vi) by inserting in the same subsection after the word "company" where secondly occurring the words "or other person";

(vii)

Optometrists (Amendment) Act.**No. 34, 1963**

- (vii) by omitting from subsection (2C) of the same section the words "or paragraph (c) of subsection (2B) of this section a firm or company" and by inserting in lieu thereof the words "and notwithstanding paragraph (c) of subsection (2B) of this section a firm or company or other person not being a registered optometrist";
- (viii) by inserting at the end of subsection (2D) of the same section the words "Any such approval or permission may be given subject to such terms and conditions as the Minister may impose.";
- (ix) by omitting from subsection three of the same section the words "contravenes any provision of this section it" and by inserting in lieu thereof the words "or other person not being a registered optometrist contravenes any provision of this section or fails to comply with any terms and conditions to which any approval or permission of the Minister given under this section is subject it or he";
- (x) by inserting next after the same subsection the following new subsection : —

(4) In the application of this section to any other person not being a registered optometrist, references to the commencement of the Opticians (Amendment) Act, 1955, shall be read and construed as references to the commencement of the Optometrists (Amendment) Act, 1963.

Sec. 36.
(Advertising, etc.,
by firm or
company or
unregistered
person.)

- (d) (i) by inserting in section thirty-six after the word "company" the words "or other person not being a registered optometrist";
- (ii) by inserting in the same section after the word "which" the words "or who";

(iii)

Optical Dispensers Act. 265

- (iii) by inserting in paragraph (a) of the same No. 34, 1963 section after the word "optometrists" the words "or 'optician' or 'opticians', or any combinations of such words".
-
-