



Optical Dispensers Regulation 2002

under the

Optical Dispensers Act 1963

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Optical Dispensers Act 1963*.

CRAIG KNOWLES, M.P.,

Minister for Health

Explanatory note

The object of this Regulation is to repeal and remake, with minor changes, the provisions of the *Optical Dispensers Regulation 1997*. The new Regulation deals with the following matters:

- (a) administrative matters (such as fees and forms) relating to licences for optical dispensers (Part 2),
- (b) procedures for dealing with complaints against optical dispensers (Part 3),
- (c) other matters of a minor, consequential or ancillary nature (Parts 1 and 4).

This Regulation is made under the *Optical Dispensers Act 1963*, including section 35 (the general regulation making power) and sections 2, 21, 22 and 23.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Optical Dispensers Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Optical Dispensers Regulation 2002*.

2 Commencement

This Regulation commences on 1 September 2002.

Note. This Regulation replaces the *Optical Dispensers Regulation 1997* which is repealed on 1 September 2002 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

approved means approved by the Board.

the Act means the *Optical Dispensers Act 1963*.

(2) In this Regulation, a reference to a numbered form is a reference to a form set out in Schedule 1.

4 Notes

Notes included in this Regulation do not form part of this Regulation.

5 Sale of certain optical appliances excluded from the definition of optical dispensing: section 2

(1) The sale of hand-held magnifiers, or corrective lenses designed for use only in diving masks or swimming goggles, is taken not to be optical dispensing for the purposes of the Act.

(2) The sale of ready made spectacles:

(a) that are designed to alleviate the effects of presbyopia only, and

(b) that comprise 2 lenses of equal power, being a power of plus one dioptré or more but not exceeding plus 3.5 dioptrés,

is taken not to be optical dispensing for the purposes of the Act.

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Clause 5 Optical Dispensers Regulation 2002

Part 1 Preliminary

- (3) Subclause (2) does not apply to the sale by retail of ready made spectacles unless there is attached to them a notice on which the following warning is printed in black type on a contrasting background:

WARNING

The lenses in these glasses are not prescription lenses. They are not intended as a substitute for lenses or spectacles specifically prescribed for you. If you are aware of or suspect that you have any defect of sight, you should arrange an examination by an ophthalmologist or optometrist. You should have your eyes regularly checked by an ophthalmologist or optometrist.

Part 2 Licences

6 Licences: section 22

- (1) For the purposes of section 22 of the Act, the prescribed licence fee is \$90.
- (2) The fee is payable when the application for the licence is lodged but is refundable if the application is refused.

7 Duplicate licences

The holder of a licence which, in the opinion of the Board, has been lost, stolen, defaced or destroyed is entitled, on payment of a fee of \$20, to receive a duplicate licence.

8 Display of licences

The person in charge of an optical dispensing practice at any premises for a period in excess of 30 days must display the person's licence in a prominent position in the premises.

Note. A contravention of this subclause constitutes an offence under section 32 of the Act and is punishable by a penalty not exceeding the maximum amount specified in that section for a breach of the regulations.

9 Production of proof of current registration

- (1) A person who carries out optical dispensing for fee or reward must, when requested by an authorised person to do so, produce to the authorised person proof of current registration as an optical dispenser or of current approval to practise under section 22B of the Act.

Note. A contravention of this subclause constitutes an offence under section 32 of the Act and is punishable by a penalty not exceeding the maximum amount specified in that section for a breach of the regulations.

- (2) In this clause, *authorised person* means a person authorised for the time being by the Board for the purposes of this clause.

10 Change of name or address

- (1) An optical dispenser must notify the Board of any change in his or her name or address within one month after the change.

Note. A contravention of this subclause constitutes an offence under section 32 of the Act and is punishable by a penalty not exceeding the maximum amount specified in that section for a breach of the regulations.

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Clause 10 Optical Dispensers Regulation 2002

Part 2 Licences

- (2) An optical dispenser who has changed his or her name is entitled, on surrendering his or her current licence, to have the new name entered in the register and a replacement licence issued in that name.
- (3) For the purposes of this clause, a reference to a change of name by a person is a reference to a change in the name under which the person carries out optical dispensing.

11 Roll fee: section 23

For the purposes of section 23 (1) of the Act, the prescribed roll fee is \$70.

12 Restoration of name to register: section 23

- (1) For the purposes of section 23 (3) of the Act:
 - (a) the prescribed fee is \$90, and
 - (b) the prescribed form is Form 1.
- (2) The Board may waive so much of the prescribed fee as it considers proper in the circumstances.

Part 3 Complaints

13 Complaints preferred to Board

A complaint concerning the misconduct of an optical dispenser, in his or her practice as an optical dispenser, may be preferred to the Board by means of a statement of the alleged misconduct lodged with the Secretary.

14 Optical dispenser to be invited to make representations on complaint

- (1) As soon as practicable after receipt of the complaint, the Secretary is to invite the optical dispenser, in a notice accompanied by a copy of the complaint, to make representations in response to the complaint within such time as is specified in the notice.
- (2) The Secretary is to forward the complaint, and any representations made, to the Board for consideration at its next ordinary meeting.

15 Action by Board on complaint

- (1) The Board, after considering the complaint and any representations by the optical dispenser, may dismiss the complaint or set down a special meeting of the Board to conduct an inquiry into the complaint.
 - (2) If the optical dispenser does not appear at the inquiry, either personally or by his or her legal representative, the Board may deal with the complaint in his or her absence.
 - (3) The Secretary is to give at least 14 days notice in writing of the place, date and time of the inquiry:
 - (a) to the optical dispenser, and
 - (b) to the complainant, and
 - (c) to the Board members.
 - (4) The notice to the optical dispenser must state that the complaint may be dealt with in the optical dispenser's absence if he or she does not appear at the inquiry.
 - (5) The notice to the complainant must be accompanied by a copy of any representations made by the optical dispenser.
 - (6) The notice to the Board members must be accompanied by copies of both the complaint and any representations made by the optical dispenser.
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Clause 15 Optical Dispensers Regulation 2002

Part 3 Complaints

(7) Each notice may be served personally or by post.

16 Persons may be required to attend and give evidence

- (1) The Secretary may, by notice in writing served personally or by post, require a person to appear before the Board at the inquiry for the purpose of giving evidence relevant to the inquiry.
- (2) The notice must specify the place, date and time for the person's attendance, the date to be no sooner than 7 days after the date on which the notice is served on the person.
- (3) Any member of the Board may require a person appearing before the Board at an inquiry to answer a question that is reasonably related to the purpose of the inquiry.
- (4) A person must not:
 - (a) without reasonable cause, fail to comply with a requirement under this clause to appear before the Board or answer a member's question, or
 - (b) make a statement to a member that is false or misleading in a material particular when appearing before the Board.

Note. A contravention of this subclause constitutes an offence under section 32 of the Act and is punishable by a penalty not exceeding the maximum amount specified in that section for a breach of the regulations.

17 Miscellaneous powers of Board

The Board may adjourn an inquiry at any time it thinks fit and may deal with more than one complaint against the one optical dispenser at the one inquiry.

Part 4 Miscellaneous

18 Inspection of register: section 21

For the purposes of section 21 (3) of the Act, the prescribed fee to inspect the register is \$10.

19 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Optical Dispensers Regulation 1997*, had effect under that Regulation continues to have effect under this Regulation.

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Schedule 1 Forms

Schedule 1 Forms

(Clause 3)

Form 1 Application for restoration to register

(Clause 12)

(Optical Dispensers Act 1963, section 23)

I,, apply for my name to be restored to the Register of Optical Dispensers of New South Wales on the following grounds:

.....
.....

I also apply for a waiver of the fee paid in relation to this application on the following grounds:

.....
.....

Signed:

Address:

.....

Date:

BY AUTHORITY