

Optometrists Act 1930 No 20

[1930-20]



New South Wales

Status Information

Currency of version

Repealed version for 14 January 2000 to 15 June 2004 (accessed 18 July 2024 at 5:27)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
Opticians Act 1930
- **Does not include amendments by**
[Licensing and Registration \(Uniform Procedures\) Act 2002 No 28](#) (not commenced)
- **Repeal**
The Act was repealed by the [Optometrists Act 2002 No 30](#), sec 138 with effect from 16.6.2004.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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Optometrists Act 1930 No 20



New South Wales

An Act to provide for the registration and to regulate the practice of optometrists; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act and commencement

This Act may be cited as the *Optometrists Act 1930* and shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2 Application of Act

The provisions of this Act shall not apply to any person registered as a legally qualified medical practitioner under the *Medical Practitioners Act 1938* or any Act amending or replacing the same.

3 (Repealed)

4 Definitions

In this Act, except where the context or subject-matter otherwise indicates or requires:

Board means Board of Optometrical Registration constituted by this Act.

Corporation means the Health Administration Corporation constituted by the *Health Administration Act 1982*.

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 licence issued under the *Optical Dispensers Act 1963* entitling him or her to carry out optical dispensing.

Optical dispensing has the meaning ascribed thereto in section 2 of the *Optical Dispensers Act 1963*.

Optometry or the **practice of optometry** means the doing or performing of any one or more of the following acts, 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.

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 a university, college, association, department, board or other institution in any place outside New South Wales, recognised by the board as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of optometry in New South Wales.

Registered optometrist means a person registered under this Act.

Registrar means the registrar appointed under this Act.

Regulations means the regulations made under this Act.

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

Part 2 The Board of Optometrical Registration

5 Constitution of board

- (1) There shall be constituted a board, to be called the Board of Optometrical Registration, which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon the board by or under this Act.
- (2) The board shall consist of seven members who shall be appointed by the Governor. Of the members so appointed:
 - (a) two shall be registered optometrists nominated by the Australian Optometrical Association (New South Wales Division),
 - (b) one shall be a registered optometrist nominated by the Opticians and Optometrists Association of New South Wales,
 - (c) one shall be a barrister or solicitor nominated by the Minister,
 - (d) one shall be a legally qualified medical practitioner nominated by the New South Wales Branch of the Australian Medical Association,

- (e) one shall be a person, being a registered optometrist or entitled to be so registered, nominated by the University of New South Wales,
 - (f) one shall be an officer of the Department of Health nominated by the Minister.
- (3) One of the members referred to in paragraph (a) or (b) of subsection (2) shall in and by his or her appointment be the chairperson of the board.
 - (4) The members of the board shall, subject to this Act, hold office for such term, not exceeding 3 years, as is specified in the instrument of their respective appointments and shall be eligible for re-appointment.
 - (5) The provisions of the *Public Service Act 1902*, or of any Act amending that Act, shall not apply to any appointment of members of the board, and such members shall not in their capacity as members of the board be subject to the provisions of any such Act.
 - (6) A member of the board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him or her.
 - (7) The chairperson shall preside at all meetings of the board at which he or she is present.

In the absence of the chairperson from any meeting of the board the members present shall elect one of their number to preside at the meeting.
 - (8) Four members of the board shall form a quorum, and any meeting of the board at which a quorum is present shall be competent to transact any business of the board.
 - (9) If for any reason any nomination referred to in paragraph (a), (b), (d) or (e) of subsection (2) is not made the Governor may make the appointment and the person appointed shall be deemed to have been validly nominated.
 - (10) The person appointed under paragraph (f) of subsection (2) may appoint a deputy to act on his or her behalf at any meeting of the board at which he or she is unable to attend, and a deputy so appointed shall be entitled so to act and, while so acting, shall be deemed to be a member of the board.

6 Vacation of office

A member shall be deemed to have vacated his or her office if he or she:

- (a) dies,
- (b) resigns his or her office by writing under his or her hand addressed to the Governor,
- (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,

- (d) is convicted in New South Wales of an indictable offence or if he or she is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an indictable offence,
- (e) is absent without leave of the board from four consecutive meetings of the board,
- (f) is removed from office by the Governor, or
- (g) ceases to hold the qualification by virtue of which he or she was appointed as a member.

7 Vacancies—appointment of members

Where a vacancy occurs in the office of a member of the board the Governor may appoint a person to the vacant office. The person so appointed shall have the like prescribed qualification and nomination (if any) as that of the member whose office has become vacant and shall, subject to this Part, hold office for the residue of his or her predecessor's term of office, but shall be eligible for re-appointment.

8 Proceedings of board

All acts and proceedings of the board shall be valid, notwithstanding any vacancy in the board or any irregularity in the appointment, nomination, 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.

9 Removal from office

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

10 Incorporation and style of board

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

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

Part 3 Register

11 Keeping of register

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.

12 Staff

A registrar and such other staff as may be necessary to enable the board to exercise and perform its powers, authorities, duties and functions are to be employed under the [Health](#)

Administration Act 1982 by the Corporation.

13 Register

- (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 this Act, shall transmit in the month of January each year a list of the names and addresses entered in the register to the Minister, and shall cause a copy of such list to be printed and published by the Government Printer.
- (2) Every registered optometrist shall, in or before the month of October in each year, pay to the registrar a roll fee of such amount as may be prescribed for the following year.
- (3) If any registered optometrist does not pay the prescribed roll fee before the thirty-first day of October in any year the board shall notify him or her by letter addressed to him or her at the address appearing in the register, that if the fee be not paid within one month after the posting of the letter, his or her name will be removed from the register.

If any registered optometrist who has been so notified fails to pay such fee within the time specified in the letter, the board shall remove his or her name from the register.

- (4) If the name of any registered optometrist is removed from the register under this section, the board shall, upon application in the prescribed form, restore his or her name to the register upon payment of such fees as are prescribed by the regulations made under this Act.

The regulations may provide for the waiver of such part of the fees as the board may, in a particular case, deem proper.

- (5) Together with the roll fee the registered optometrist shall furnish particulars of his or her address for entry in the register.
- (6) Where the name of any person has been removed from the register, and until the name has been restored thereto, such person shall be deemed not to be a registered optometrist.

14 Powers and duties of board

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

14A Removal of names of deceased and other optometrists

The board shall cause to be removed from the register the names of:

- (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 or she 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.

15 Removal of name on account of misconduct

(1) Where a registered optometrist:

- (a) has been convicted, either in New South Wales of an indictable offence, or elsewhere of an offence which, if committed in New South Wales, would be an indictable offence, 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 or her name from the register or suspend his or her 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 or her own except whilst he or she is acting as the duly appointed locum tenens of another registered optometrist,
- (b) allows the use of his or her name in connection with the practice of optometry at premises at which he or she or his or her 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, or otherwise solicits for optometrical business, in contravention of the regulations,
- (d) (Repealed)
- (e) is an habitual drunkard or is habitually addicted to any deleterious drug.

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

locum tenens unless:

- (a) he or she is appointed in writing by a registered optometrist,
- (b) he or she is a registered optometrist at the time of taking up his or her duties, and
- (c) he or she is employed only during the temporary absence of his or her 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 or her partner or one of his or her partners as his or her locum tenens.

- (4) In the case of a conviction as aforesaid, no person shall have his or her name removed from the register or have his or her 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.

15A Written statements of decisions

- (1) If the board decides under section 15 to reprimand or caution a person, to remove a person's name from the register or to suspend the person's registration, the board shall, within one month of its decision, provide the person, and such other persons as it considers appropriate, with a written statement of its decision.
- (2) If the board makes a decision in relation to a person under any provision of this Act, other than section 15, the person may request in writing that the board provide the person with a written statement of the decision.
- (3) Any such request shall be made within 60 days after the decision to which it relates.
- (4) The board shall provide a written statement of the decision within one month of receipt of such a request.
- (5) A written statement of a decision shall:
 - (a) set out any findings on material questions of fact,
 - (b) refer to any evidence or other material on which the findings were based, and

(c) give the reasons for the decision.

(6) Despite any other provision of this section, the board is not required to include confidential information in any such statement, and if a statement would be false or misleading if it did not include the confidential information, the board is not required to provide the statement.

(7) If, because of subsection (6), confidential information is not included in a written statement of a decision or such a statement is not provided to a person, the board shall, within one month of a decision under section 15 or receipt of a request under subsection (2), give notice in writing to the person to whom the board is required (or would, but for subsection (6), be required) to provide the statement, indicating that:

(a) the confidential information is not included, or

(b) the statement will not be provided,

as appropriate, and giving the reasons why the confidential information is not included or the statement will not be provided.

(8) In this section:

confidential information means information that:

(a) has not previously been published or made available to the public when a written statement of a decision to which it is or may be relevant is being prepared,

(b) relates to the personal or business affairs of a person, other than a person to whom the board is required (or would, but for subsection (6), be required) to provide a written statement of a decision, and

(c) is information:

(i) that was supplied in confidence,

(ii) the publication of which would reveal a trade secret,

(iii) that was provided in compliance with a duty imposed by an enactment, or

(iv) the provision of which by the board would be in breach of any enactment.

(9) Nothing in this section affects the power of a court to make an order for the discovery of documents or to require the giving of evidence or the production of documents to a court.

15B Notification of complaints to, and their investigation by, the Health Care Complaints Commission

(1) The board must notify the Health Care Complaints Commission of any complaint made to it concerning the practice of optometry by a registered optometrist. The complaint

is to be notified as soon as practicable after the complaint is made.

- (2) The board may, instead of making inquiry under section 15, refer the matter that would otherwise be the subject of inquiry for investigation by the Health Care Complaints Commission under the *Health Care Complaints Act 1993*.
- (3) Such an investigation by the Health Care Complaints Commission is taken, for the purposes of this Act, to be an inquiry made by the board but does not prevent the board from making any further or additional inquiry.

16 Registration of name removed

- (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) 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 Power of board to examine witnesses

- (1) The board may examine any person upon oath or take a solemn declaration from any person for the purposes of this Act.
- (2) If any person wilfully makes any false statement upon such examination or in such declaration he or she 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 or she shall be guilty of an offence, and shall on summary conviction be liable to a fine not exceeding 1 penalty unit or to imprisonment for a period not exceeding twelve months.

18 Offences and penalties

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 a Local Court constituted by a Magistrate sitting alone.

19 Qualifications for registration

- (1) Subject to the provisions of this Act, any person who proves to the satisfaction of the board that he or she 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 or she:
 - (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,
- (c) is the holder of a recognised certificate, or
- (d) is the holder of a certificate under subsection (2) declaring him or her to be an approved person for the purposes of this paragraph.

(2) Where:

- (a) a person possesses qualifications with respect to optometry but would not be entitled to be registered under this Act by virtue of those qualifications alone,
- (b) he or she obtains further qualifications by:
 - (i) undertaking, in a manner satisfactory to the board, such courses of training with respect to optometry, and
 - (ii) passing such examinations with respect to optometry,as the board may prescribe in respect of him or her, and
- (c) the board is satisfied that, by virtue of the qualifications referred to in paragraph (a), together with the further qualifications referred to in paragraph (b) (other than subparagraph (i) or (ii), as the case may be, of that paragraph if he or she has been exempted therefrom under subsection (3)), he or she possesses the requisite knowledge and skill for the efficient practice of optometry in New South Wales,

the board may issue to him or her a certificate declaring him or her to be an approved person for the purposes of paragraph (d) of subsection (1).

- (3) The board may, if in the special circumstances of the case it thinks fit to do so, exempt a person referred to in paragraph (a) of subsection (2) from the provisions of either subparagraph (i) or subparagraph (ii) of paragraph (b) of that subsection, but not both.
- (4) The board may direct the removal from the register of the name of a person registered under this Act by virtue of his or her being the holder of a certificate under subsection (2) if the board is of the opinion that he or she was not entitled to be issued with such a certificate.

19A Provisional registration

(1) Where:

- (a) a person has applied to be registered under this Act,
- (b) he or she is entitled to be so registered, and

- (c) his or her application for registration has not been dealt with by the board, the chairperson of the board or, in his or her absence from the City of Sydney, any other member of the board authorised generally by the board to grant certificates of provisional registration, may, upon payment of the prescribed fee, grant to that person a certificate of provisional registration.
- (2) Where, on an application made by any person for a certificate of provisional registration under this subsection, the board, the chairperson of the board or, in his or her absence from the City of Sydney, any other member of the board authorised generally by the board to grant certificates of provisional registration is satisfied:
- (a) that that person is justly entitled:
- (i) to a degree referred to in paragraph (a) of subsection (1) of section 19 that is to be granted to him or her by the University of New South Wales, or
- (ii) to a recognised certificate that is to be granted to him or her by a university, college, association, department, board or other institution,
- (b) that he or she will in due course have that degree or recognised certificate granted to him or her according to the practice of the University of New South Wales or the university, college, association, department, board or other institution referred to in paragraph (a), as the case may be, and
- (c) that he or she is of good character and has attained the age of twenty-one years, the board or if the board has not dealt with his or her application under this subsection the chairperson of the board or other such member of the board may, upon payment of the prescribed fee, grant to that person a certificate of provisional registration.
- (3) Where a person has obtained a certificate of provisional registration he or she shall be deemed to be a registered optometrist until:
- (a) the date stated in the certificate, or
- (b) such later date as may be fixed by the board,
- which date shall, in either case, be not later than six months after the granting of the certificate.
- (4) The board may, at any time before the date so stated or fixed, for such cause as to it seems proper, cancel a certificate of provisional registration without prejudice to the application of the holder of the certificate to be registered under this Act.
- (5) Upon the cancellation of a certificate of provisional registration, the holder of the certificate shall thereupon cease to be deemed to be a registered optometrist.
- (6) If a person to whom a certificate of provisional registration has been granted becomes

a registered optometrist before the date stated or fixed pursuant to subsection (3) in respect of that certificate, his or her registration under this Act shall, unless otherwise decided by the board, date from the granting of the certificate.

20 Saving

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.

21 Certificates

- (1) The board shall issue to every person registered as an optometrist after the commencement of the *Opticians (Amendment) Act 1945* a certificate in the prescribed form within three months of registration.
- (2) (Repealed)

22 (Repealed)

23 Registration not to imply medical qualifications

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 or she is by law recognised as a medical practitioner, or that he or she is qualified to practise ophthalmic medicine or surgery, or
- (b) to administer or prescribe drugs to paralyse the eye otherwise than in accordance with this Act, 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.

Part 4 Practice of optometry

24 Persons who may practise optometry

- (1) Subject to this Act, any registered optometrist shall be entitled to practise optometry in any part of the State.
- (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) Subsection (2) shall not be construed to:
 - (a) prevent any person from engaging in the actual craft of lens grinding and spectacle making,

- (b) prevent any person from carrying out optical dispensing if he or she is authorised to do so under the *Optical Dispensers Act 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.
- (4) Any person offending against subsection (2) shall be liable to a penalty not exceeding 1 penalty unit for a first offence, and a penalty not exceeding 2 penalty units for any subsequent offence.

25 Persons not to assume title implying registration

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

- (a) takes or uses the name or title of “optometrist” or “optician” or any combinations of such words, or
- (b) takes or uses any name, title, designation, addition, or description, whether by means of initials or letters placed after his or her name or otherwise, implying that he or she is registered under this Act, or that he or she is a person qualified to practise optometry,

shall be liable on summary conviction to a penalty not exceeding 1 penalty unit.

26 (Repealed)

26A Personal representative may carry on practice under supervision

Notwithstanding anything contained in section 35, the board may allow the legal personal representatives of a registered optometrist actually practising at the time of his or her death to continue such practice so long as the practice is conducted under the personal supervision of a registered optometrist.

27 Use of certain titles prohibited

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” or “optician”, or any combinations of such words, shall be liable on summary conviction to a penalty not exceeding 1 penalty unit.

28 Obtaining registration by false pretences

Any person:

- (a) who procures or attempts to procure registration or a certificate 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 or herself as having obtained registration or a certificate under this Act, or
- (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,

shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding 2 penalty units.

29 Restriction on medical or surgical practice

After the commencement of this Act any person, whether registered under this Act or not, who:

- (a) not being a legally qualified medical practitioner, practises or holds himself or herself out by any means or device whatsoever as practising the profession or calling of an oculist or ophthalmic surgeon, or
- (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 or she is a medical practitioner or is qualified to practise 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 1 penalty unit: 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):

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 4A 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).

Part 4A Use of drugs by optometrists

29A Use of drugs by optometrists

- (1) A registered optometrist shall not in the practice of optometry use drugs unless he or she is the holder of a certificate issued by the board and for the time being in force authorising him or her to use drugs under and in accordance with the provisions of this Part.
- (2) A registered optometrist who is the holder of any such certificate shall not in the practice of optometry:
 - (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) 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 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 (2) and (3) shall not be made except upon the recommendation of a committee consisting of a legally qualified registered medical practitioner nominated by the Minister, 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 2 penalty units.

Part 5 Regulations and miscellaneous

30 Regulations

- (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), (d) (Repealed)
 - (d1) regulating the employment of students in optometry or prohibiting the employment of such students otherwise than under the personal supervision of a registered optometrist,
 - (e) prescribing a scale of fees to be charged and paid in respect of any application, 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,
 - (f1) regulating the manner in which a registered optometrist or a firm or company or other person not being a registered optometrist carrying on the business of the practice of optometry is authorised to advertise or otherwise solicit for optometrical business, and prohibiting any form of advertising or other soliciting for optometrical business specified in the regulations or any forms thereof other than those specified in the regulations,
 - (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 1 penalty unit.
- (3) The regulations made in pursuance of paragraph (f1) of subsection (1) may regulate or prohibit the employment, engagement or use, by a person, firm or company to

which the regulations apply, of any person, firm or company for the purpose of advertising or otherwise soliciting for optometrical business.

31 (Repealed)

32 Right of appeal

- (1) Any person who thinks himself or herself aggrieved by any decision, ruling, order, or direction of the board or registrar or by any failure to register his or her name in the register may in manner prescribed by rules of court, and until so prescribed by summons in chambers, appeal to a judge of a district court.
- (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, or within six months after the date on which he or she applied to be registered as the case may be, 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 or she 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 Fees etc

The registrar is required to transmit to the Corporation for payment into an account established under section 13A of the [Health Administration Act 1982](#) all money received by the board (whether for fees or otherwise), not being fines or penalties or money which is required to be dealt with in some other manner.

33A Board may waive fees

The board may, for any reason the board considers sufficient, exempt a person from the requirement to pay a fee, or waive or wholly or partly refund a fee, that would otherwise be payable or has been paid in accordance with this Act or the regulations.

34 Protection of board and staff

No matter or thing done or suffered by the board, or by any member, or the registrar, or any member of staff 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 or her powers or duties, shall subject the board or any member, or the registrar, or the member of staff, or any other person, or the Crown, to any liability in respect thereof.

35 Firm or company or unregistered person not to carry on business except as provided

by this section

- (1) Except as provided in subsection (2), or with the approval of the Minister in writing, no firm or company or other person not being a registered optometrist shall carry on the business of the practice of optometry.
- (2) Subsection (1) shall not operate to prohibit a firm or company which or other person not being a registered optometrist who was, immediately before the prescribed date, carrying on the business of the practice of optometry from continuing to carry on such business where the carrying on of the business is so continued:
 - (a) at premises in which it was being carried on immediately before the prescribed date, or in lieu of those premises, at other premises which are distant not more than 8 kilometres from the premises at which such business is carried on immediately before the prescribed date,
 - (a1) at such other premises, in addition to those referred to in paragraph (a), as the Minister, after the prescribed date, may permit,
 - (b) without any alteration in the name under which the business was being carried on immediately before the prescribed date,
 - (c) by or under the personal supervision and control of a registered optometrist whose name is prominently and legibly displayed upon the premises at which such business is carried on.

For the purpose of this subsection the **prescribed date** shall be the first day of September, one thousand nine hundred and forty-five 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.

Notwithstanding paragraph (b) a firm or company or other person not being a registered optometrist may carry on the business of the practice of optometry under a name other than that under which the business was being carried on immediately before the prescribed date if the approval of the Minister in that behalf has been obtained.

- (2A) Where before the commencement of the [Opticians \(Amendment\) Act 1955](#) the Minister has pursuant to subsection (1) approved of a firm or company carrying on the business of the practice of optometry such firm or company shall carry on such business:
 - (a) at premises in which it was being carried on immediately before such commencement, or in lieu of those premises, at other premises which are distant not more than 8 kilometres from the premises at which such business is carried on immediately before such commencement,

- (b) at such other premises, in addition to those referred to in paragraph (a), as the Minister, after such commencement, may permit,
 - (c) without any alteration in the name under which the business was being carried on immediately before such commencement,
 - (d) by or under the personal supervision and control of a registered optometrist whose name is prominently and legibly displayed upon the premises at which such business is carried on.
- (2B) Where after the commencement of the *Opticians (Amendment) Act 1955* the Minister pursuant to subsection (1) approves of a firm or company or other person not being a registered optometrist carrying on the business of the practice of optometry such firm or company or other person shall carry on such business:
- (a) at premises in respect of which such approval has been given, or in lieu of those premises, at other premises which are distant not more than 8 kilometres from such premises,
 - (b) at such other premises, in addition to those referred to in paragraph (a), as the Minister, after such approval, may permit,
 - (c) without any alteration in the name specified in such approval,
 - (d) by or under the personal supervision and control of a registered optometrist whose name is prominently and legibly displayed upon the premises at which such business is carried on.
- (2C) Notwithstanding paragraph (c) of subsection (2A) and notwithstanding paragraph (c) of subsection (2B) a firm or company or other person not being a registered optometrist may carry on the business of the practice of optometry under a name other than that under which the business was being carried on immediately before the commencement of the *Opticians (Amendment) Act 1955* or that specified in the approval referred to in subsection (2B), as the case may be, if the approval of the Minister in that behalf has been obtained.
- (2D) As from the commencement of the *Opticians (Amendment) Act 1955*, no approval or permission of the Minister shall be given under this section except upon the recommendation of the board. Any such approval or permission may be given subject to such terms and conditions as the Minister may impose.
- (2E) As from the commencement of the *Optometrists and Optical Dispensers (Amendment) Act 1969*, no approval of the Minister shall be given under subsection (1).
- (3) If any firm or company 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 or she shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding 4 penalty units.

- (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*.

36 Advertising etc by firm or company or unregistered person

Any firm or company or other person not being a registered optometrist carrying on the business of the practice of optometry pursuant to section 35 which or who:

- (a) without the consent of the board takes or uses in connection with such business any title, designation, addition or description other than that of "optometrist" or "optometrists" or "optician" or "opticians", or any combinations of such words,
- (b), (c) (Repealed)

shall be liable on summary conviction to a penalty not exceeding 1 penalty unit.

37 Mobile refracting unit

Any optometrist, firm or company carrying on the business of the practice of optometry shall not in carrying on such business use or operate a mobile refracting unit except with the consent of the Minister. The Minister in granting such consent may impose such terms, conditions and restrictions as he or she may, in his or her absolute discretion, determine. Any optometrist, firm or company contravening the provisions of this section or any such terms, conditions and restrictions, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding 2 penalty units:

Provided, however, that any optometrist, firm or company carrying on the business of the practice of optometry which at the date of commencement of the *Opticians (Amendment) Act 1945* was using or operating a mobile refracting unit in carrying on such business may continue to use or operate such unit for a period not exceeding three months from the date of such commencement without the consent of the Minister.

38 Certificate of registrar to be prima facie evidence

A document purporting to be a certificate under the hand of the registrar and stating that any person was or was not on any date or during any period mentioned in the certificate registered under this Act shall, in all courts and before all persons and bodies authorised by law to receive evidence, be prima facie evidence of the facts stated.