THE

OPTOMETRISTS ACTS, 1917 to 1965

Optometrists Act of 1917, 8 Geo. 5 No. 7

Amended by

Medical and Other Acts Amendment Act of 1933, 24 Geo. 5 No. 31
Opticians Acts Amendment Act of 1939, 3 Geo. 6 No. 15
Opticians Acts Amendment Act of 1954, 3 Eliz. 2 No. 15
Opticians Acts Amendment Act of 1959, 8 Eliz. 2 No. 53
Optometrists Acts Amendment Act of 1965, No. 10

An Act to Secure the Better Training of Optometrists, to Regulate their Practice, and for other purposes

[Assented to 3 December 1917]

1. Short title and commencement of Act. This Act may be cited as “The Optometrists Act of 1917,” and shall come into operation on the first day of January, one thousand nine hundred and eighteen.

2. Interpretation. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say—

“Board”—The Board of Optometrical Registration constituted under this Act;

“By-laws”—By-laws made under the authority of this Act;

“Certified optometrist”—A person who holds a certificate of his entitlement to practise optometry as prescribed and which certificate is for the time being in force;

“Co-operating State”—The United Kingdom and any State or Colony within His Majesty’s dominions with which reciprocal arrangements have been made by the Board for the recognition of the status of persons engaged in the practice of optometry;

“Medical practitioner”—A medical practitioner under and within the meaning of “The Medical Acts, 1939 to 1958”;

“Minister”—The Minister for Health or other Minister of the Crown for the time being charged with the administration of this Act: the term includes a Minister of the Crown temporarily performing the duties of the Minister charged with the administration of this Act;

“Optical appliance”—An appliance designed to correct, remedy or relieve a defect of sight but does not include any eye cover or bandage;
“Optometry”—The testing of sight or the supply and fitting of optical appliances, or both such testing and such supply and fitting;

“Registrar”—The Registrar of the Board appointed pursuant to “The Medical and Other Acts Amendment Act of 1933”;

“This Act”—This Act and all by-laws made thereunder.

As amended by Act of 1959, 8 Eliz. 2 No. 53, s. 4; Act of 1965, No. 10, s. 2. Acts referred to:


As to co-operating States, see s. 14.

3. Act not to apply to medical practitioner. This Act does not apply to any medical practitioner.

4. Constitution of Board. (1) There shall be constituted a Board consisting of seven members (which shall be called “The Board of Optometrical Registration”) for the purpose of carrying this Act into effect.

Such Board shall be constituted as follows:—

(a) Four of such members shall be persons appointed by the Governor in Council, and one of them so appointed shall be chairman of the Board.

(b) Three of such members shall be persons appointed by the Governor in Council on the nomination of the association or associations recognised by the Minister as representative of certified optometrists:

Provided that if there is more than one such association the Governor in Council shall have power and authority to apportion the representation under this paragraph (b) in such manner as he thinks fit and proper.

(2) The members of the Board appointed pursuant to subsection one shall, subject to this Act, hold office for three years but shall be eligible for reappointment:

Provided that the Governor in Council may from time to time remove all or any of the members (including the chairman) appointed pursuant to paragraph (a) of subsection one, and may appoint such other person or persons in his or their stead as the Governor in Council may think fit.

(3) The members of the Board appointed pursuant to the said subsection one shall be appointed to hold office as from the first day of March, one thousand nine hundred and thirty-four:

Provided that the chairman and members of the Opticians Board in office at the passing of “The Medical and Other Acts Amendment Act of 1933” shall hold office until the twenty-eighth day of February, one thousand nine hundred and thirty-four, but shall go out of office on the first day of March, one thousand nine hundred and thirty-four.

(4) If within seven days from a date to be appointed by the Minister (who is hereby authorised to appoint such date) any association as aforesaid fails, neglects, or refuses to nominate any person or persons for appointment to the Board (as prescribed in paragraph (b) of subsection one of this section) or if any persons or person who shall be so nominated at any time refuse or refuses to act as a member of the
Board, or if for any reason a Board is unable to be constituted pursuant to this section, the Governor in Council may without nomination appoint any person or persons to be a member or members of the Board, and any person or persons so appointed shall for all purposes be and be deemed to have been duly appointed a member or members of the Board.

Substituted by Medical and Other Acts Amendment Act of 1933, s. 27; as amended by Act of 1959, 8 Eliz. 2 No. 53, s. 5.

See also, with respect to the Board, Medical Acts and Other Acts (Administration) Act of 1966, p. 609, ante.

For powers and duties of the Board, see ss. 19, 25.

Rules for the conduct of the business of the Board are contained in Schedule I, p. 643, post.

5. (Repealed.)

Repealed by Medical and Other Acts Amendment Act of 1933, s. 28.

6. Filling vacancy in first Board, or in seat of any member appointed by Governor in Council. If any vacancy occurs in the Board during the period for which the first members of the Board have been appointed, or if afterwards the seat of any member appointed by the Governor in Council to the Board becomes vacant, the Governor in Council may appoint some competent person to fill such vacancy. The person so appointed shall hold office for the unexpired period of office of the person in whose place he was appointed, but he may be reappointed to be a member.

7. Removal of members from Board. The Governor in Council may remove any member of the Board for neglect of duty, incompetency, dishonourable conduct, or other cause deemed sufficient by the Governor in Council.

8. Rules for conduct of the Board. Schedule I. The rules set forth in the First Schedule shall apply to the business, conduct, and proceedings of the Board, and shall be observed, but may be revoked or altered wholly or in part by the by-laws.

9. Qualifications for registration. Subject to this Act, any person of or over the age of twenty-one years shall, upon application to the Board and upon payment of the prescribed fee, be entitled to be registered and receive a certificate as a certified optometrist under this Act—

(i) Who, during the full period of three years next before the commencement of this Act, has been bona fide engaged in the practice of optometry in the Commonwealth of Australia, including the period of twelve months in this State, and who passes, to the satisfaction of two examiners to be appointed by the Governor in Council—one of whom shall be a medical practitioner and the other a person deemed by the Governor in Council to be a competent optometrist—an elementary practical examination in optometry deemed sufficiently comprehensive to reasonably safeguard the public against possible injury arising from ignorance or incompetence: Provided that he applies for registration within six months after the commencement of this Act, and produces to the Board such evidence of his title to registration as the Board may reasonably require: Provided that, if no suitable medical practitioner is willing to act as an examiner, the Governor in Council may appoint as the two examiners abovementioned two persons deemed by him to be competent optometrists; or
(ii) Who, having complied with the provisions of this Act as to training, examination, and otherwise, has received from the Board's examiners a certificate of competency, and produces the same to the Board, together with evidence satisfactory to the Board that he is of good character; or

(iii) Who is qualified to practise optometry in any co-operating State, and has otherwise complied with any conditions authorised by this Act; or

(iv) Who proves to the satisfaction of the Board that he holds some certificate or other evidence of qualification prescribed by the Board to be sufficient to entitle him to be registered, and that he is of good character.

As amended by Act of 1954, 3 Eliz. 2 No. 15, s. 2; Act of 1959, 8 Eliz. 2 No. 53, s. 6.

Persons seeking registration must comply with the by-laws, s. 13. A certificate is issued to registered persons by the Board, s. 22 (1).

With respect to paragraph (ii), see also s. 19 (i).

As to "co-operating States", see also ss. 2, 14.

See also the cases cited under s. 19, post, Dental Acts, 1902 to 1961, s. 8, p. 539, ante, Pharmacy Acts, 1917 to 1959, s. 10, p. 650, post, and Medical Acts, 1939 to 1966, s. 19 p. 577, ante.

As to restrictions on medical or surgical practice by persons registered under this Act, see ss. 11, 12.

Further restrictions as to practice are laid down by ss. 16A, 16B.

9A. Appeal in case of refusal of registration. If the Board refuse to register any person under this Act the Board shall, if required by him, state in writing the reason for such refusal.

Such person may thereupon appeal to the Supreme Court and such appeal shall be in the nature of a rehearing.

Inserted by the Medical and Other Acts Amendment Act of 1933, 24 Geo. 5 No. 31, s. 29.

See also s. 27.

9B. Additional qualifications. Every certified optometrist who holds or obtains any additional or higher degree, diploma or status or any qualification other than the qualification in respect of which he is registered shall, subject to the additional or higher degree, diploma or status or other qualification being approved by by-law for registration under this Act, be entitled to have the same recorded in the register relative to his registration therein on making to the Board application in that behalf accompanied by the amount of the prescribed fee.

If the Board refuses an application under this section, section 9A of this Act shall, with and subject to all necessary adaptations, apply.

Inserted by Act of 1959, 8 Eliz. 2 No. 53, s. 7.

10. Persons selling spectacles to be licensed. Subject to this Act, any person of or over the age of twenty-one years shall, upon application to the Board and upon payment of the prescribed fee, be entitled without examination to be registered as a spectacle-seller, and to receive a license in that behalf from the Board in respect of the place to which his application relates:

Provided nevertheless that nothing in this Act shall be construed to authorise or permit spectacle-sellers who are not certified optometrists to practise optometry.
Any person who sells, or has in his possession for sale, spectacles at any time when and/or at any place in respect of which he does not hold a license under this section shall be liable to a penalty of forty dollars.

As amended by Act of 1939, 3 Geo. 6 No. 15, s. 2; Act of 1959, 8 Eliz. 2 No. 53, s. 8; Act of 1965 No. 10, s. 3.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Registered spectacle-sellers receive a license from the Board, s. 22 (2).

As to sale of spectacles by hawkers, see s. 32.

11. Registration not to imply medical qualification, etc. Registration under this Act shall not confer upon any person any right or title—

(i) To be registered under “The Medical Act of 1867” or any Act amending or in substitution for the same; or

(ii) To assume the title of oculist or any other name, title, or designation implying that he is by law recognised as a medical practitioner, or that he is qualified to practise ophthalmic medicine or surgery; or

(iii) To administer any drug for the purpose of paralysing the accommodation of the eye; or

(iv) To sell, supply, or prescribe any drug for or to treat any disease of the eye.

Act referred to:
Medical Act of 1867; see now Medical Acts, 1939 to 1966, p. 563, ante.

12. 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 medical practitioner, practises or holds himself out by any means or device whatsoever as practising the profession or calling of an oculist or ophthalmic surgeon; or

(b) Not being a 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 practise ophthalmology or ophthalmic medicine or surgery; or

(c) Not being a medical practitioner, prescribes or administers any drug for the purposes of paralysing the accommodation of the eye or for, or for treating, any disease of the eye; or

(d) Not being a medical practitioner or registered pharmaceutical chemist, sells or supplies any drug for, or for treating, any disease of the eye—

shall be liable to a penalty not exceeding two hundred dollars.

As amended by Act of 1965 No. 10, s. 4.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

13. No person to be registered till by-laws complied with. No person shall be registered under this Act until he has complied with the by-laws.

14. Reciprocity. The Board may enter into a reciprocal arrangement with the Board of Optical Registration or other competent authority of the United Kingdom, or of any State or Colony within His Majesty's dominions, for the recognition of the status of any person authorised by such Board or other authority to practise optometry in such country, state, or colony, and the registration of such person under this Act.
Any such arrangement may contain a condition that any such person applying to be registered under this Act shall furnish additional satisfactory evidence of character and competency.

See s. 9 (iii).

15. Offences relating to practice of optometry. (1) A person who is not a certified optometrist shall not practise optometry.

(2) A certified optometrist shall not use surgery or any drug for any purpose of or connected with the practice of optometry.

(3) This section does not apply to practice in the actual craft of lens-grinding and spectacle-making.

Substituted by Act of 1959, 8 Eliz. 2 No. 53, s. 9.

16. Persons not to assume title implying registration. After the expiration of twelve months from the commencement of this Act, no person who is not a certified optometrist under this Act shall—

(i) Take or use the name or title of "optometrist" or "optician" or any other title prescribed by the Board to designate optometrists or the practice of optometry; or

(ii) Take or use 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.

Any person who is guilty of any contravention of this section shall be liable to a penalty not exceeding one hundred dollars.

As amended by Act of 1959, 8 Eliz. 2 No. 53, s. 10; Act of 1965 No. 10, s. 5.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

As to paragraph (i), see s. 19 (iii).

As to paragraph (ii), see the cases cited under s. 20 of the Dental Acts, 1902 to 1961, p. 550, ante. See also notes to Medical Acts, 1939 to 1966, s. 47, p. 597, ante.

16A. (1) Prohibitions. No certified optometrist shall cause or suffer or permit any person who is not a certified optometrist—

(a) To do or perform any optometry work or business which has been entrusted to such certified optometrist except under the direct personal supervision and in the presence of a certified optometrist; or

(b) To canvass or solicit work or business for or on behalf or on account of such certified optometrist whether by making house-to-house visits or otherwise howsoever.

(2) Penalty in case of breach. Any certified optometrist guilty of a contravention of this section shall be liable for any first offence to a penalty not exceeding forty dollars. For any subsequent offence he shall be liable to a penalty not exceeding one hundred dollars and, in addition, the Board may suspend him from the practice or pursuit of his calling for such period as the Board may think fit.

(3) Onus of proof in proceedings. In any prosecution for an offence against this section, proof that any person who is not a certified optometrist did in fact do or perform any optometry work or business or canvass or solicit work or business (as the case may require) for or on behalf or on account of such certified optometrist, shall be sufficient evidence of
permission by the defendant so to do, unless it be proved to the satisfaction of the court that the defendant did not authorise the act complained of, and that it was done, performed, or committed without his knowledge or approval.

(4) It shall be a defence for a certified optometrist charged with an offence against paragraph (b) of subsection one of this section to prove that the alleged canvassing or soliciting did not relate, and was not capable of relating—

(i) To optometry work; or

(ii) To the sale or supplying by him or on his behalf of any optical goods whatsoever.

(5) Saving. This section shall not be so construed as to prevent any person from engaging in the actual craft of lens-grinding and spectacle making.

  Inserted by Act of 1939, 3 Geo. 6 No. 15, s. 3; as amended by Act of 1959, 8 Eliz. 2 No. 53, s. 11; Act of 1965 No. 10, s. 6.

  Decimal currency references substituted pursuant to section 7 of Decimal Currency Act of 1965.

16b. When practice of optometry by bodies of persons prohibited. (1) A body or association of persons, corporate or unincorporate, shall not—

(a) Engage in the practice of optometry; or

(b) Advertise or hold out howsoever that it is an optometrist or engaged in the practice of optometry; or

(c) Use, publish or exhibit any title, letters or words indicating, or reasonably capable of being construed to indicate, that it is an optometrist or engaged in the practice of optometry.

(2) Where this section is contravened—

(a) By an unincorporated body or association of persons, every person who is a member thereof shall be guilty of an offence against this Act and liable to a penalty of not more than forty dollars, and to a daily penalty of not more than ten dollars if such offence is continued after any such person has been convicted therefor; or

(b) By an incorporated body or association of persons, it and every member of its governing body, by whatever name called, shall be guilty of an offence against this Act, and it and every such member shall be liable to a penalty of not more than three hundred dollars and to a daily penalty of not more than fifty dollars if such offence is continued after any of them has been convicted therefor.

(3) This section does not apply to—

(a) The practice of optometry by an incorporated body or association of persons comprised exclusively of certified optometrists, or by an unincorporated body or association of persons comprised exclusively of certified optometrists and registered as a firm under "The Registration of Firms Acts, 1942 to 1958." if, but only if, each and every person engaged for the time being in carrying on the practice of optometry for such body or association of persons is a certified optometrist; or
(b) The fitting and supply by or on behalf of any body or association of persons, corporate or unincorporate, of any optical appliance if, but only if,—

(i) Such optical appliance is fitted and supplied on a prescription of a medical practitioner or certified optometrist who is not an employee, agent or, in the case of an unincorporated body or association of persons, member of the body or association of persons concerned; and

(ii) The work of fitting and supplying such optical appliance is done by a member, employee or agent of the body or association of persons concerned who is a certified optometrist; or

(c) The engagement of a body or association of persons, corporate or unincorporate, in the actual craft of lens-grinding and spectacle-making.

Inserted by Act of 1959, 8 Eliz. 2 No. 53, s. 12; as amended by Act of 1965 No. 10, s. 7.

Decimal currency references substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:
Registration of Firms Acts, 1942 to 1958; see now Business Names Acts, 1962 to 1965, title MERCANTILE LAW.

17. By-laws. Schedule II. (1) The Board, with the approval of the Governor in Council, may from time to time make by-laws for all or any of the matters mentioned in the Second Schedule to this Act.

(2) A by-law 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 fifty dollars.

(3) All such by-laws, upon being approved by the Governor in Council, shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution disallowing any such by-law of which resolution notice has been given within thirty sitting days of such House after such by-law has been laid before it, such by-law shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

For the purpose of this section the words “sitting days” mean days on which the House actually sits for the despatch of business:

Provided always that if such by-laws are not duly laid before Parliament as hereinbefore prescribed they shall thereupon cease to have any force, effect, or operation whatsoever.

(4) Any such by-law may be rescinded at any time by the Governor in Council by notification in the Gazette.

As amended by Act of 1965 No. 10, s. 8.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

For by-laws, see Table of Contents, p. 528, ante.

The references to the Houses of Parliament must now be read as referring to the Legislative Assembly only, Constitution Act Amendment Act of 1922, s. 2, title CONSTITUTION, Vol. 2, p. 752.
18. (1) **Board may appoint examiners.** The Board may, from time to time—

(i) Appoint such examiners as it thinks necessary for giving effect to this Act; and

(ii) Out of the funds at its disposal pay to such examiners such fees as may be prescribed.

All such persons shall hold office during the pleasure of the Board.

A member of the Board shall receive such fees for his services in the capacity of a member as shall be from time to time prescribed.

(2) **Registrar.** The Governor in Council shall from time to time appoint a person, who shall be an officer of the Public Service of Queensland, to be registrar of the Board.

The registrar shall also act as secretary of the Board.

(3) **Appointment of inspectors, etc.** The Governor in Council on the recommendation of the Public Service Commissioner may appoint such inspectors and other officers other than the registrar as may be deemed necessary for carrying out the provisions and objects of this Act.

The salary of the registrar and of any inspectors and other officers so appointed shall from time to time be determined by the Governor in Council.

(4) Any inspector or other officer appointed by the Governor in Council on the recommendation of the Public Service Commissioner before the passing of “The Opticians Acts Amendment Act of 1939” shall be deemed to have been so appointed pursuant to this section and any such appointment is hereby ratified accordingly.

As amended by Medical and Other Acts Amendment Act of 1933, s. 30; Act of 1939, 3 Geo. 6 No. 15, s. 4.

19. **Powers and duties of Board.** The Board, from time to time—

(i) Shall, as necessity arises, hold examinations for the convenience of persons desiring to qualify for registration as certified optometrists under this Act, and fix the places where, and the times when, examinations shall be held: Provision shall be made by the by-laws for the holding of examinations under this Act at Brisbane, Rockhampton, and Townsville, or at any additional specified centres within the State: Provided that the examination papers and other tests of knowledge and competency at each centre shall be identical;

(ii) May issue and cancel certificates and licenses;

(iii) May prescribe, direct, or fix the proper title or titles to designate fitly optometrists or the practice of optometry; and generally may do any other act or duty which may be necessary or expedient for effectually carrying out this Act.

As amended by Act of 1959, 8 Eliz. 2 No. 53, s. 13; Act of 1965 No. 10, s. 9.

For right of appeal, see s. 27.

Where members of the Board had individually interested themselves in an investigation into the manner in which an optician conducted himself in the course of his business, the Board was held to be disqualified on the ground of bias from dealing with the charges against such optician, *R. v. Optical Board of Registration; Ex parte Qurban* [1933] S.A.S.R. 1. See also notes to Dental Acts, 1902 to 1961, s. 8, p. 539, ante, and Pharmacy Acts, 1917 to 1959, s. 10, p. 650, post.
19A. Disciplinary action. (1) Where any certified optometrist—
(a) has been convicted in Queensland of an indictable offence, or elsewhere than in Queensland of an offence which if committed in Queensland would be an indictable offence; or
(b) has in the opinion of the Board been guilty of misconduct in a professional respect,
the Board may, according as it shall deem just under the circumstances—
(c) order his name to be erased from the register;
(d) order that his registration be suspended for such time as it shall specify; or
(e) order that he shall pay to the Board by way of a pecuniary penalty such sum, not exceeding two hundred dollars, as it shall determine; or
(f) order him to be reprimanded.

(2) The suspension of registration of any person pursuant to this section shall whilst the suspension continues in force have the same effect as an erasure of the name of the suspended person from the register pursuant to this section.

(3) Before making an order under this section the Board shall—
(a) give to the certified optometrist concerned, either personally or by registered post, notice in writing of the charge against him and of the date of the hearing of the charge;
(b) hold full inquiry into the matter of the charge and afford such certified optometrist an opportunity of giving a defence either in person or by counsel or solicitor.

(4) (a) An inquiry or hearing of a charge under this section shall be only open to the public where the Board so determines.

The Board may make such determination of its own motion or at the request of the person who complained to the Board of the matter the subject of the charge or of the certified optometrist charged.

If the Board refuses the request such person or certified optometrist shall have a right of appeal as prescribed by section twenty-seven of this Act provided that he makes the appeal—
(a) if he resides or carries on business in the Area of the City of Brisbane or of any other city in Queensland, within fourteen days; or
(b) in any other case, within twenty-eight days,
after the date on which the Board has notified him in writing of its refusal.

A Judge of the Supreme Court may, upon application by the Board, dismiss such an appeal if he is satisfied that the appellant has not prosecuted the appeal with due diligence.

(b) Subject to paragraph (a) of this subsection, the Board in holding any inquiry or hearing any charge under this section shall have all the powers, authority, protection and jurisdiction of a Commission of Inquiry under “The Commissions of Inquiry Acts, 1950 to 1952,” save such jurisdiction, powers, rights and privileges as are confined to a chairman of a Commission when that chairman is a Judge of the Supreme Court.
(5) Whenever the registration of a person is suspended under the provisions of this section the Registrar shall enter in the register a memorandum of that fact and the cause thereof.

Inserted by Act of 1965 No. 10, s. 10.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Act referred to:

Compare notes to Medical Acts, 1939 to 1966, s. 35, p. 588, ante; Pharmacy Acts, 1917 to 1959, s. 20, p. 657, post.

20. (1) Provisions of register. An accurate register shall be kept by the registrar, in accordance with the by-laws, to be styled the “register of optometrists and spectacle-sellers,” which shall contain a list of the names of all persons registered under this Act, in alphabetical order in each class according to the surnames, and shall state the full names and addresses of certified and licensed persons, and, subject to this Act, shall contain such particulars and be in such form as the Board may from time to time direct.

(2) Custody of register. The register shall be deemed to be in proper custody when in the custody of the registrar, and shall be of such a public nature as to be admissible as evidence of all matters therein on its mere production from that custody.

(3) (Repealed.)

As amended by Act of 1959, 8 Eliz. 2 No. 53, s. 14; Act of 1965 No. 10, s. 11.

As to evidence, see also s. 33.

21. Deceased persons to be erased from register, etc. The Board shall from time to time cause to be erased from the register—

(i) The names of persons who have died;

(ii) Any entry in the register which is proved to the satisfaction of the Board to have been fraudulently or incorrectly made.

22. Board to issue certificates. (1) Schedule III. The Board shall upon registration, and thereafter annually upon payment therefor of the prescribed fee, issue to every person entitled to practise optometry, and applying for the same, a certificate in the form in the Third Schedule.

(2) Schedule IV. The Board shall, upon the registration of a spectacle-seller under section ten of this Act, and thereafter annually upon payment therefor of the prescribed fee, issue to every person thus registered a license in the form in the Fourth Schedule.

(3) Such certificates and licenses shall be in force until and inclusive of the thirty-first day of December next after the issue thereof.

23. Omission to take out annual certificate or license for more than two years. Every person who, having held a certificate under this Act, has ceased, for a period of at least two years to hold such certificate, and afterwards applies for such certificate, shall not be entitled thereto unless he furnishes to the Board a satisfactory reason for having omitted or ceased to obtain such certificate together with proof of good character in the meantime.

24. List of certificate holders, to be gazetted annually. The registrar shall in the month of January in each year cause to be published in the Gazette a list of persons who have taken out certificates and licenses under section twenty-two of this Act for the then current year.
25. (Repealed.)
Repealed by Act of 1965, No. 10, s. 12.

26. **Penalty for.** Any person who—

(i) **Obtaining registration by false pretences.** Procures or attempts to procure registration, or a certificate of registration, or any other certificate or license under this Act by making or producing, or causing to be made or produced, any false and fraudulent declaration, certificate, license, or representation, either in writing or otherwise; or

(ii) **Falsification of register.** Wilfully makes or causes to be made any falsification in any manner relating to the register; or

(iii) **Forging.** Forges, alters, or counterfeits any certificate or license, or utters or uses any forged, altered, or counterfeited certificate or license, knowing the same to have been forged, altered, or counterfeited; or

(iv) **False statements, etc., to Board.** Makes any false statement upon any examination or in any declaration before the Board, or utters or attempts to utter or put off as true before the Board any false, forged, altered, or counterfeit certificate, diploma, license, letter testimonial, or other title, document, or writing; or

(v) **Falsely advertising, etc.** Falsely advertises or publishes himself as having obtained registration or a certificate or license under this Act; or

(vi) **Falsely personating, etc.** Falsely personates a certified optometrist of a like or different name, or buys, sells, or fraudulently obtains a certificate or license under this Act issued to another;

shall be liable to a penalty not exceeding two hundred dollars or to be imprisoned for any period not exceeding twelve months.

As amended by Act of 1959, 8 Eliz. 2 No. 53, s. 15.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

See also Criminal Code, ss. 502, 516, title CRIMINAL LAW, Vol. 3, pp. 477, 483.

27. (1) **Right of appeal.** Any person who thinks himself aggrieved by any decision, ruling, order, or direction of the Board or registrar may appeal by summons to a judge of the Supreme Court.

No such appeal shall be entertained unless it is made within six months next after the notification to such person of the decision, ruling, order, or direction, nor unless twenty-one days' notice in writing of such appeal, stating the nature and grounds thereof, is given to the party whose decision, ruling, order or direction is appealed against.

On the hearing of any such appeal the evidence admitted and received by the Board in the first instance may be admitted and received by the Court without prejudice, however, to any powers of the Court in reviewing such evidence or in receiving any fresh evidence on appeal.

(2) **Order thereon.** 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.
(3) **Judges to make rules.** The judges of the Supreme Court may from time to time make, alter, suspend, and rescind rules or orders to regulate the practice and procedure; and until such rules or orders are made, and, so far as any such rules or orders when made do not apply, the provisions of “The Justices Acts, 1886 to 1909,” and the rules of court thereunder, as to appeals from justices, shall with the necessary alterations apply to appeals under this Act.

As amended by Medical and Other Acts Amendment Act of 1933, s. 31.

Act referred to:


For right of appeal from a refusal to register, see s. 9A.


28. (Repealed.)

Repealed by Act of 1954, 3 Eliz. 2 No. 15, s. 3.

29. **Application of money.** (1) Any sum or sums of money arising from conviction and recovery of penalties as aforesaid shall be paid to the Board.

(2) All moneys received by the Board arising from fees to be paid on registration and from annual payments by persons on the register, from the sale of copies of the register, from penalties, or otherwise, shall be applied, in accordance with the by-laws, in defraying the expenses of registration and other expenses of the execution of this Act.

30. **Accounts to be kept.** The Board shall enter or cause to be entered in books to be kept for that purpose a true account of all sums of money received and paid under this Act; and such accounts shall be certified as correct by an experienced accountant, and a statement of such accounts shall be annually laid before the Minister.

31. (1) **Recovery of fees and penalties.** All fees under this Act may be recovered as ordinary debts due to the Board.

(2) **Procedure.** All complaints for offences against this Act, and all penalties, fines, and forfeitures imposed by or under this Act, may be heard and determined in a summary way under “The Justices Acts, 1886 to 1909.”

(3) The Board may bring and defend all actions or institute any proceedings in the name of—

(i) The registrar; or

(ii) Any person thereunto authorised in writing under the hand of the chairman;

but a prosecution shall not be instituted by a private person without the consent in writing of the chairman of the Board.

(4) **General penalty.** Any person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and liable, if no specific penalty is provided, to a penalty of not more than one hundred dollars.

As amended by Act of 1939, 3 Geo. 6 No. 15, s. 6; Act of 1965 No. 10, s. 13.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

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32. **Hawkers may not vend spectacles.** Any hawkers or other travelling vendor who is not registered under this Act, who peddles, barter, sells or offers for sale, exhibits samples of, accepts orders or commissions for, or carries stocks of, spectacles or eyeglasses, shall be liable to a penalty not exceeding fifty dollars.

As amended by Act of 1965 No. 10, s. 14.

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

See also s. 10.

33. **(1) Evidence.** The production of a copy of the Gazette purporting to contain any notification relating to any appointment, register, registration, erasure, suspension, reinstatement, or any other matter under or for the purposes of this Act shall be received in all courts and in all proceedings whatsoever as prima facie evidence of the facts therein published.

(2) **Judicial notice.** Every Court shall take judicial notice of the by-laws and of the signatures of the chairman and of the registrar of the Board.

(3) In any proceedings by or on behalf of the Board, it shall not be necessary to prove the election or appointment of the members, chairman, or registrar.

(4) 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.

(5) A copy of the Gazette purporting to contain any list of certified opticians and licensed spectacle-sellers, or a document purporting to be signed by the registrar and to be a copy of any such list, shall be prima facie evidence that the persons named in such copy of the Gazette or in such document are registered under this Act for the year therein referred to, and the absence of the name of any person from such copy or document, as the case may be, shall be prima facie evidence that he is not registered under this Act.

As to evidence, see also s. 20 (2).

34. **No premium in respect of apprenticeship.** Notwithstanding any Act or law to the contrary, any person who, after the passing of "The Opticians Acts Amendment Act of 1939," demands, accepts, or agrees to accept any consideration, premium, gift, forbearance, or allowance in connection with the employment or indenturing by him of any apprentice or pupil in optometry shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars; and the court shall order, in addition, that any sum of money received by any person contrary to this section shall be refunded by him to the person who made such payment.

Inserted by Act of 1939, 3 Geo. 6 No. 15, s. 7 (1).

Decimal currency reference substituted pursuant to section 7 of Decimal Currency Act of 1965.

Section 7 of the Act of 1939 further provides:

"(2) **Saving.** Subsection one of this section shall not apply or extend to any contract of employment or indenture of apprenticeship duly made before the thirtieth day of September, one thousand nine hundred and thirty-nine."
SCHEDULE I
This Schedule is applied by s. 8, ante.

RULES FOR THE CONDUCT OF THE BUSINESS OF THE BOARD

1. Executive officer. The chairman shall be the executive officer of the Board.

2. Authentication of documents. Every appointment and every order, notice, certificate, or other document of the Board relating to the execution of this Act shall, except where otherwise provided by this Act, be sufficiently authenticated if signed by the chairman or registrar or any two members of the Board.

3. Meetings—Quorum. No business shall be transacted at any meeting of the Board unless at least three of the members are present when such business is transacted.

4. Chairman. The chairman shall preside at all meetings at which he is present. In the absence of the chairman, the members present shall elect from their number a chairman for the day.

   The chairman, or in his absence the chairman for the day, shall have a vote, and, when there is an equal division of votes upon any question, he shall have an additional or casting vote.

5. Voting. All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

   At all meetings, save as herein otherwise provided, all members present shall vote.

   If a member refuses to vote, his vote shall be counted for the negative.

6. Adjournment. The members present at a meeting may, from time to time, adjourn the meeting.

   If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or any one member if only one is present, or the registrar if no member is present, may adjourn such meeting to any time not later than seven days from the date of such adjournment:

   Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

7. Notices. All notices of any meeting shall be in writing, and shall be delivered personally or sent by post or otherwise to the address of each of the members at least seven days previous to the meeting.

8. Proceedings validated. If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board.

9. Vacancies. No proceedings of the Board shall be invalidated by reason of any defect in any appointment or election, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below three.
SCHEDULE II

As amended by Medical and Other Acts Amendment Act of 1933, s. 32; Act of 1939, 3 Geo. 6 No. 15, s. 8; Act of 1954, 3 Eliz. 2 No. 15, s. 4; Act of 1959, 8 Eliz. 2 No. 53, s. 16; Act of 1965 No. 10, s. 15.

This Schedule is applied by s. 17 (1), ante.

SUBJECT-MATTER FOR BY-LAWS

1. Regulating the meetings and proceedings of the Board and the conduct of the business thereof.

1A. Prescribing the fees payable to members of the Board.
   Inserted by Medical and Other Acts Amendment Act of 1933, s. 32.

2. Regulating the election of members of the Board.

3. Regulating the manner of keeping and controlling the register.

4. Regulating the granting and issue of certificates and licenses and the conditions of admission to the register.

5. Prescribing what certificates of examinations will be recognised by the Board as a substitute for the examinations of the Board.

6. Prescribing what certificates, diplomas, membership, degrees, licenses, letters testimonial, 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.

7. Regulating the admission to the register of persons engaged in practising optometry at the commencement of this Act.

8. Regulating, supervising, and restricting within due limits the practice of persons registered under this Act including advertising by them.
   As amended by Act of 1939, 3 Geo. 6 No. 15, s. 8 (a).

8A. Regulating and controlling the use by certified optometrists of titles, letters or words indicating or describing their qualifications, prescribing titles, letters or words which shall or may be used to indicate or describe that any person is a certified optometrist or to indicate or describe any particular optometrical qualification, prohibiting the use by certified optometrists, in relation to their qualifications as optometrists or the practice by them of optometry, of any titles, letters or words other than those prescribed for such use or prohibiting any prescribed titles, letters or words from being so used and, in relation to optometrical qualifications, either generally or except to indicate or describe a particular qualification.
   Inserted by Act of 1959, 8 Eliz. 2 No. 53, s. 16 (a).

9. Deciding the conditions under which names may be removed from the register by the Board.

10. Prescribing and regulating the course of training for persons desiring to practise optometry.

11. Prescribing and regulating the method, subjects, and scope of examinations and the remuneration of examiners.
   As amended by Act of 1939, 3 Geo. 6 No. 15, s. 8 (b); Act of 1959, 8 Eliz. 2 No. 53, s. 16 (b); Act of 1965 No. 10, s. 15.

12. Prescribing a scale of fees to be charged and paid in respect of any application, examination, registration, certificate, license, inspection, or any other proceeding, act, or thing provided or required under this Act.
Fees differing in amounts may, in respect of the annual license issuable under this Act to persons as spectacle-sellers, be prescribed in respect of different classes of those persons, which classes, or any of them, may be prescribed by the By-laws by reference to place of business or any other specified circumstance.

The date on or before which the amount of the fee payable in respect of an annual certificate of registration under this Act as an optometrist or an annual license under this Act as a spectacle-seller shall be paid to the Board may be prescribed by the By-laws but, unless some other date is so prescribed, that amount shall in every case be paid to the Board on or before the first day of the year in question.

As amended by Act of 1954, 3 Eliz. 2 No. 15, s. 4.

13. Prescribing forms to be used for any of the purposes of this Act.

13A. Prescribing the powers, duties, and authorities of inspectors.

Inserted by Act of 1939, 3 Geo. 6 No. 15, s. 8 (c).

14. Generally providing for anything which by this Act is expressed to be prescribed, or which the Governor in Council considers necessary in order to carry out the purposes of this Act.