

# AUSTRALIAN CAPITAL TERRITORY.

No. 4 of 1956.

## AN ORDINANCE.

### To provide for the Registration of Persons engaged in the Practice of Optometry and to control Optometrical Practice.

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government (Administration) Act* 1910-1955, as follows:—

#### PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Optometrists Ordinance* Short title.  
1956.
2. This Ordinance shall come into operation on a date to be Commencement.  
fixed by the Minister by notice in the *Gazette*.
3. This Ordinance is divided into Parts, as follows:— Parts.
  - Part I.—Preliminary (Sections 1-4).
  - Part II.—The Optometrists Board (Sections 5-13).
  - Part III.—Registration and Qualifications (Sections 14-28).
  - Part IV.—The Conduct of Optometrical Practice (Sections 29-35).
  - Part V.—Miscellaneous (Sections 36-48).
- 4.—(1.) In this Ordinance, unless the contrary intention Interpretation.  
appears—

“medical practitioner” means a person registered or licensed as a medical practitioner under a law of a State or Territory;

“member” means a member of the Board;

“optometry” means—

(a) the employment of methods, other than methods which involve the use of drugs, for the measurement of the powers of vision; or

(b) the adaptation of lenses or prisms for the aid of the powers of vision,

and includes the dispensing of prescriptions for spectacles made or given by a medical practitioner, but does not include the craft of lens-grinding and spectacles-making;

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\* Notified in the *Commonwealth Gazette* on 22nd March, 1956.

“registered optometrist” means a person who is registered under this Ordinance as an optometrist;

“Territory” means a Territory of the Commonwealth that forms part of the Commonwealth;

“the Board” means the Optometrists Board constituted under this Ordinance;

“the Chairman” means the Chairman of the Board;

“the Director-General” means the Director-General of Health of the Commonwealth or, in the event of his absence from duty, the officer for the time being performing the duties of the Director-General;

“the Minister” means the Minister of State for Health;

“the Register” means The Register of Optometrists kept in accordance with section fifteen of this Ordinance.

(2.) For the purposes of this Ordinance—

(a) a person (not being a company or firm) shall be deemed to practise optometry if—

(i) he practises optometry personally on his own account;

(ii) in the course of a business carried on by him, a person or persons employed by him is or are engaged in optometry; or

(iii) he is engaged in optometry as a person employed in a business carried on by another person (including a company or firm);

(b) a company or firm shall be deemed to practise optometry if, in the course of a business carried on by the company or firm, a person or persons employed by the company or firm or, in the case of a firm, a member or members of the firm, is or are engaged in optometry.

## PART II.—THE OPTOMETRISTS BOARD.

The  
Optometrists  
Board.

5.—(1.) For the purposes of this Ordinance there shall be a board, which shall be known as the Optometrists Board.

(2.) The Board may sue and be sued in its own name.

(3.) The Treasurer shall satisfy, out of moneys legally available for the purpose, all orders made by a court against the Board.

Members of  
the Board.

6.—(1.) The Board shall consist of the Director-General and two other members or, if the Minister thinks fit, three other members.

(2.) The Director-General shall be Chairman of the Board.

(3.) The members of the Board other than the Chairman shall be appointed by the Minister.

(4.) The Minister shall, so far as is practicable, exercise his power to appoint members of the Board so that, of the members appointed by him holding office at any time, one is a medical practitioner and the other is a person who is, or the others are persons who are, registered as an optometrist or as optometrists under the law of a State or Territory of the Commonwealth and has or have been so registered for not less than five years.

(5.) The members of the Board shall elect one of their number to be the Deputy Chairman of the Board during the pleasure of the Board.

(6.) The Chairman shall be the executive officer of the Board.

**7.—(1.)** A member appointed by the Minister holds office for a term of three years and is eligible for re-appointment. Tenure of office.

(2.) Where the office of a member becomes vacant before the expiration of his term of office, the person appointed to fill the vacancy holds office for the unexpired portion of the term of office of the member whose office has become vacant.

**8.—(1.)** Subject to this section, a member is not entitled to be paid in respect of duties or functions performed by him in pursuance of this Ordinance. Remuneration.

(2.) A member of the Board is entitled to re-imbursement for any out-of-pocket expenses reasonably incurred by him in the performance of his duties or functions under this Ordinance.

**9.** The Minister may at any time terminate the appointment of a member for misbehaviour or incapacity. Removal of member from office.

**10.** A member shall be deemed to have vacated his office— Vacation of office by member.

- (a) if his appointment is terminated by the Minister in pursuance of this Ordinance;
- (b) if he becomes bankrupt;
- (c) if he becomes of unsound mind;
- (d) if he is convicted of an indictable offence;
- (e) if he resigns his office in writing addressed to the Minister and the resignation is accepted by the Minister;
- (f) if he is absent without leave of the Board from two consecutive meetings of the Board; or
- (g) if, having been, at the time of his appointment, a medical practitioner or a person registered as an optometrist under the law of a State or Territory of the Commonwealth, he ceases to be a medical practitioner or a person so registered, as the case may be.

**11.** In the event of the illness or absence from the Territory of a member, or of the temporary inability of a member to perform the duties of his office, or in the event of the office of a member becoming vacant before the expiration of his term of office, the Minister Temporary appointments.

may appoint a person to act as a member during that illness, absence or temporary inability, or until the appointment of a new member, as the case may be, and a person so acting has all the powers and shall perform all the duties of a member.

Convening of  
meetings of  
the Board.

**12.**—(1.) Subject to the next succeeding sub-section, a meeting of the Board shall be convened by the Chairman by notice in writing to the other members, and shall be held at the time and place specified in the notice.

(2.) The Minister may, by notice in writing to each member direct that a meeting be held at the time and place specified in the notice.

Procedure at  
meetings.

**13.**—(1.) The Chairman of the Board shall preside at all meetings of the Board at which he is present.

(2.) In the absence of the Chairman from a meeting the Deputy Chairman shall preside and, when so presiding, have a deliberative vote.

(3.) At a meeting of the Board, the Chairman or Deputy Chairman and one member constitute a quorum.

(4.) Subject to the next succeeding sub-section, all questions before a meeting of the Board shall be decided by a majority of votes of the members present.

(5.) At a meeting of the Board at which he is present, the Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(6.) If, at a meeting of the Board at which the Chairman is not present, the members present differ upon a question, the determination of that question shall be postponed until the next meeting of the Board.

(7.) Subject to this Ordinance, the procedure of the Board shall be as the Board determines.

### PART III.—REGISTRATION AND QUALIFICATIONS.

Register.

**14.** The Board shall keep a register called “The Register of Optometrists”.

Mode of  
registration.

**15.**—(1.) Where the Board has authorized the registration of a person, the registration shall be effected by entering in the Register—

- (a) his name;
- (b) his professional address or addresses (if any) in the Territory or, if he has no such professional address, his place of residence (whether in the Territory or elsewhere);
- (c) particulars of his qualifications;
- (d) a registration number allotted to him;
- (e) the date of his registration; and
- (f) such other particulars (if any) as are prescribed.

(2.) An entry in the Register shall be signed by the Chairman or Deputy Chairman of the Board.

(3.) Where a person is registered as an optometrist, the Board shall, upon payment of a fee of One pound, cause to be issued to him a certificate of registration, in a form approved by the Board, under the hand of the Chairman or Deputy Chairman of the Board.

**16.—**(1.) The Board shall authorize the registration of a person as an optometrist if he satisfies the Board that he is not less than twenty-one years of age and is a fit and proper person to be registered as an optometrist, and that—

Persons  
entitled to  
registration.

(a) he has passed the examinations prescribed by the Board or the examinations prescribed by or under the law of a State for registration as an optometrist in that State;

(b) he holds a certificate or other evidence satisfactory to the Board that he is registered or certified as an optometrist in a part of Her Majesty's dominions outside Australia where there is in force a law—

(i) which provides for the registration or certification of optometrists under a public authority;

(ii) which prescribes a standard of training for, and examination of, optometrists which is, in the opinion of the Board, substantially equivalent to the standards applicable under the law of any State; and

(iii) under which optometrists registered under this Ordinance are or will be admitted to the register or roll for registered or certificated optometrists in that part of Her Majesty's dominions; or

(c) he was registered as an optometrist at the date of commencement of this Ordinance under the law in force in a State or Territory of the Commonwealth.

(2.) The Board may require an applicant for registration to attend personally before the Board and, if he fails to attend as required, refuse the application.

**17.—**(1.) If the Board refuses to authorize the registration of a person, the Board shall, if required by that person, state in writing the reason for the refusal.

Appeal in case  
of refusal by  
the Board to  
register a  
person.

(2.) A person whose application for registration is refused by the Board may appeal to the Supreme Court against the decision of the Board.

(3.) The Board shall be the respondent upon the appeal.

(4.) The appeal shall be in the nature of a re-hearing, but the Supreme Court may have regard to material that was before the Board.

(5.) If the Court allows the appeal, it may order that the appellant shall be registered under this Ordinance.

(6.) Jurisdiction to hear and determine appeals under this section is vested in the Supreme Court.

(7.) The provisions of this section (but not including subsection (1.)) apply in relation to the refusal by the Board of an application under section twenty-seven of this Ordinance.

Proof of  
registration.

**18.—**(1.) A certificate of registration issued under this Ordinance is evidence that the person specified in the certificate was registered under this Ordinance on the date specified in the certificate and has continued to be so registered.

(2.) Judicial notice shall be taken of the signature of the Chairman or Deputy Chairman of the Board appearing on a certificate of registration referred to in the last preceding subsection and of the fact that the person by whom the certificate purports to have been signed was, at the time the certificate was signed, the Chairman or Deputy Chairman, as the case may be.

Fraudulent  
registration.

**19.** A person shall not, in connexion with an application for registration under this Ordinance, make a false or misleading statement or produce a false certificate, testimonial or other document.

Penalty: One hundred pounds.

Change of  
address to be  
notified.

**20.** A registered optometrist who changes his professional address in the Territory, or establishes a professional address, or an additional professional address, in the Territory, shall, within seven days after the change or establishment, notify the Chairman of the Board in writing accordingly.

Penalty: Fifty pounds.

Alteration of  
Register.

**21.—**(1.) The Board shall cause to be removed from the Register the names of all registered optometrists who have died and may cause to be made such alterations to the particulars recorded in the Register as are necessary.

(2.) The Board may, by notice to a registered optometrist, posted or otherwise delivered to him at his professional address or at one of his professional addresses recorded in the Register, or at his last-known place of residence, inquire whether his professional address or addresses in the Territory, or his place of residence, is or are still the address or addresses shown in the Register.

(3.) If an answer to a notice under the last preceding subsection is not returned within six months after the date of the posting or other delivery of the notice, the Board may cause the name of the optometrist to be removed from the Register.

(4.) A name removed from the Register under this section may be restored by authority of the Board.

**22.—**(1.) The Board may, on the application of a registered optometrist, issue a permit to an optometrist registered in a State or Territory of the Commonwealth to act as *locum tenens* for the first-mentioned registered optometrist for a period not exceeding six months from the date of issue of the permit. Permit for *locum tenens*.

(2.) The holder of a permit in force under this section shall, for the purposes of this Ordinance, be deemed to be a registered optometrist.

(3.) The Board may at any time revoke a permit issued under this section.

**23.—**(1.) The Board may order the cancellation, or the suspension for such period as it thinks fit, of the registration under this Ordinance of a person— Cancellation or suspension of registration for fraud and on other grounds.

- (a) whose registration has been obtained by fraud or misrepresentation;
- (b) whose diploma, certificate or other evidence of qualification is withdrawn or cancelled by the University, college or other body by which it was conferred;
- (c) who is convicted, whether in the Territory or elsewhere, of an indictable offence or of any other offence which, in the opinion of the Board, renders him unfit to practise;
- (d) who is certified as insane;
- (e) who is found by the Board to have been guilty of—
  - (i) habitual drunkenness or addiction to a narcotic drug;
  - (ii) unprofessional conduct; or
  - (iii) any other prescribed misconduct.

(2.) If, in pursuance of this section, the Board orders the cancellation or suspension of the registration of a person, the Board shall, if so required by that person, state in writing the reason for the order.

**24.—**(1.) Before ordering the cancellation or suspension of the registration of a person in pursuance of the last preceding section, the Board shall hold an inquiry. Inquiry to be held.

(2.) At the inquiry the person may be represented by counsel, a solicitor or an agent, who may examine witnesses and address the Board on his behalf.

(3.) In conducting the inquiry, the Board is not bound by the rules of evidence or legal procedure, but may inform itself in such manner as it thinks fit.

(4.) The Attorney-General may appoint counsel or a solicitor to assist the Board.

(5.) Pending the holding of the inquiry, the Board may suspend temporarily the registration of the person registered.

Surrender of  
certificate or  
cancellation or  
suspension of  
registration.

**25.**—(1.) Where the registration of a person is cancelled or suspended, the Board may, by notice in writing posted or otherwise delivered to that person at his professional address or at one of his professional addresses as last recorded in the Register, or at his last-known place of residence, require him, within fourteen days after receipt of the notice, to deliver his certificate of registration to the Board.

(2.) A person shall not fail to comply with a notice served on him under the last preceding sub-section.

Penalty: Five pounds for every day after the period of fourteen days during which the certificate is not surrendered.

Appeal.

**26.**—(1.) Where, under section twenty-three of this Ordinance, the Board has ordered the cancellation or suspension of the registration of a person, that person may appeal to the Supreme Court against the decision of the Board.

(2.) The Board shall be the respondent upon the appeal.

(3.) The appeal shall be in the nature of a re-hearing, but the Supreme Court may have regard to material that was before the Board.

(4.) Upon an appeal under this section, the Court may—

(a) quash the order of the Board and (where that order has been given effect to) order the registration of the applicant to be restored or the suspension of his registration to be removed, as the case may be;

(b) in lieu of the order of the Board, make any order that the Board could have made under section twenty-three of this Ordinance; or

(c) dismiss the appeal.

(5.) Jurisdiction to hear and determine appeals under this section is vested in the Supreme Court.

Application for  
re-registration.

**27.**—(1.) Where the registration of a person has been cancelled in pursuance of an order under section twenty-three or section twenty-six of this Ordinance, that person may apply for re-registration on the ground that, by reason of a specified change in circumstances that has occurred since the date of the cancellation, it is just that his registration should be restored.

(2.) The Board may, in its discretion, upon an application under this section, order that the registration of the applicant be restored.

Collection  
of fees.

**28.** The Board may demand and collect in advance such fees as are prescribed.



#### PART IV.—THE CONDUCT OF OPTOMETRICAL PRACTICE.

**29.—(1.)** Subject to this section, a person other than a registered optometrist shall not practise optometry.

No person other than registered optometrist to practice optometry.

Penalty: One hundred pounds, and, in addition, Five pounds for every day during which the offence continues.

(2.) In the case of a person who was practising optometry immediately before the date of commencement of this Ordinance, the last preceding sub-section does not apply to or in relation to the practice of optometry during the period of one month after that date or, if, before the expiration of that period, he applies for registration, pending the decision of the Board upon that application.

(3.) Notwithstanding anything contained in the *Medical Practitioners Registration Ordinance 1930-1954*, a registered optometrist may practise optometry.

(4.) Sub-section (1.) of this section does not apply to a medical practitioner, a firm or a company.

**30.—(1.)** Subject to the next succeeding sub-section, a firm or company shall not practise optometry unless all the members and employees of the firm, or all the employees of the company, engaged in optometry are registered optometrists.

Provisions relating to practice of optometry by firms and companies.

Penalty: One hundred pounds, and, in addition, Five pounds for every day during which the offence continues.

(2.) In the case of a firm or company which was practising optometry immediately before the date of commencement of this Ordinance, the last preceding sub-section does not apply during the period of three months after that date.

**31.** Upon the death of a registered optometrist who was at the time of his death carrying on business as an optometrist, an executor, administrator or trustee of his estate may continue the business for a period of two months or for such longer period as is permitted by the Board if the practice of optometry in the business is carried on by a registered optometrist.

Administration of estate of deceased optometrist.

**32.—(1.)** A person who, by this Ordinance, is prohibited from practising optometry, shall not—

Use of title "optometrist", &c.

(a) take or use, either alone or in combination with any other words or letters, the title of "optometrist" or "optician" or a name, title, addition or description (including initials or letters placed after his name) indicating or implying that he is a registered optometrist or that he is a person qualified to practise optometry; or

(b) hold himself out, by advertisement or otherwise, as being qualified or authorized to practise optometry or as being a person who practises optometry.

Penalty: One hundred pounds and, in addition, Five pounds for every day during which the offence continues.

(2.) In this section, where the context so admits, "person" includes a company or firm.

Drugs not to be used as method of measuring powers of vision.

**33.** A person other than a medical practitioner shall not employ a method for the measurement of the powers of vision which involves the use of drugs.

Penalty: Fifty pounds.

No un-registered person may sue for remuneration.

**34.** A person, company or firm who or which is prohibited by this Ordinance from practising optometry is not entitled to sue or counterclaim for, or set-off or recover, a charge for remuneration for an optometrical service rendered by him or it.

Appointments not to be held by un-registered persons.

**35.** A person shall not accept or hold an appointment as an optometrist—

(a) in a hospital, infirmary, hospital for the insane, gaol or other institution; or

(b) to a friendly society or school,

unless he is a registered optometrist or a medical practitioner.

Penalty: One hundred pounds and, in addition, Five pounds for every day during which the offence continues.

#### PART V.—MISCELLANEOUS.

Power to summon witnesses.

**36.—(1.)** The Chairman or Deputy Chairman of the Board may, by writing under his hand, summon a person to attend the Board at a time and place specified in the summons and then and there to give evidence and produce any books, documents or writings in his custody or control which he is required by the summons to produce.

(2.) A summons under this section shall be served—

(a) by delivering it personally to the person to be served;

(b) by sending it by prepaid registered letter addressed to him at his place of abode or business last known to the Chairman or Deputy Chairman; or

(c) by leaving it at his place of abode or business last known to the Chairman or Deputy Chairman with some person apparently an inmate of that place and apparently not less than sixteen years of age.

Power to examine on oath.

**37.** A member of the Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and the witness may be examined upon oath.

**38.—**(1.) Where a witness to be examined before the Board conscientiously objects to taking an oath, he may make an affirmation that he conscientiously objects to taking an oath, and that he will state the truth, the whole truth and nothing but the truth, in answering all questions that may be asked him. Affirmation in lieu of oath.

(2.) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

**39.—**(1.) A person served with a summons to attend the Board shall not fail, without reasonable excuse, to attend the Board or to produce the books, documents or writings in his custody or control which he is required by the summons to produce. Failure to attend or produce documents.

Penalty: Fifty pounds.

(2.) It is a defence to a prosecution for failing without reasonable excuse to produce a book, document or writing if the defendant proves that the book, document or writing was not relevant to the matter the subject of the Board's proceedings.

**40.—**(1.) A person appearing as a witness before the Board shall not refuse to be sworn or to make an affirmation or to answer a question relevant to the proceedings put to him by a member of the Board. Refusal to be sworn or give evidence.

Penalty: Fifty pounds.

(2.) A statement or disclosure made by a witness to the Board is not, except in proceedings for an offence against section forty-three of this Ordinance, admissible in evidence against him in civil or criminal proceedings in a court.

**41.** A witness before the Board has the same protection as a witness in a matter before the Supreme Court. Protection of witnesses.

**42.—**(1.) A witness summoned to attend before the Board shall be paid fees in accordance with the scale of fees payable in respect of attendance before the Supreme Court or, in special circumstances, such fees as the Board directs. Allowance to witnesses.

(2.) The fees are payable by the person at whose request the summons was issued or, if the summons was issued otherwise than at the request of a person, by the Commonwealth, and may be recovered as a debt in a court of competent jurisdiction.

**43.** A witness before the Board shall not knowingly give false testimony. False testimony.

Penalty: Imprisonment for one year.

**44.** The Board may inspect books, documents or writings before it, and may retain them for such reasonable period as it thinks fit and make copies of such portions of them as are relevant to a matter before the Board. Board may inspect books, &c.

Power of  
search.

**45.** For the purposes of this Ordinance a person authorized in writing by the Chairman or Deputy Chairman of the Board may enter at all reasonable times the premises in which a registered optometrist is carrying on business or in which it is reasonably suspected that optometry is practised and may examine any books, papers, records, apparatus, or articles stored or used in connexion with any such business or practice.

Obstruction.

**46.** A person shall not—

- (a) molest, obstruct or endeavour to intimidate an authorized person in the performance of his duty under this Ordinance; or
- (b) refuse to permit an authorized person to examine books, papers, records, apparatus or articles, or refuse to produce them for examination.

Penalty: One hundred pounds.

Offences by  
firms. I

**47.** Where a firm contravenes a provision of this Ordinance, every member of the firm shall be deemed to have contravened that provision.

Regulations.

**48.** The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for prescribing matters providing for and in relation to—

- (a) the fees (if any) to be charged and paid in respect of any application, registration, certificate or other proceeding, act or thing provided for or required under this Ordinance or the regulations; and
- (b) the imposition of penalties, not exceeding a fine of Twenty pounds, for offences against the regulations.

Dated this thirteenth day of March, 1956.

W. J. SLIM

Governor-General.

By His Excellency's Command,

DONALD A. CAMERON

for and on behalf of the Minister of State  
for the Interior.

By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.