

**AUSTRALIAN CAPITAL TERRITORY  
OPTOMETRISTS ACT 1956  
DETERMINATION NO. 102 OF 1994**

**EXPLANATORY STATEMENT**

The *Optometrists Act 1956* provides for the registration of suitably qualified optometrists and related purposes, and for the Minister to determine fees for the purpose of the Act and to publish that determination in the ACT Gazette.

It should be noted that with the enactment of amending legislation on 1 January 1994, some sections of the *Optometrists Act 1956* were repealed while new sections were included. This has resulted in an extensive renumbering of sections of the Act. The provision which did allow for the Minister to make determinations under the Act was section 47AE, but is now section 55 of the principal Act.

This instrument:

- (a) revokes all existing fees and determinations under the *Optometrists Act 1956* which relate to:
1. Subsection 17(b), fee for application for registration;
  2. Paragraph 18(1)(b), annual renewal fee;
  3. Paragraph 18(5)(b), entitlement to re-registration subject to payment of fee;
  4. Subsection 20(1), provisional registration;
  5. Subsections 21(2) and 21(3), temporary registration;
  6. Paragraphs 22(2)(b) and 22(3)(b), special registration;
  7. Subsection 22B(3), alterations to register;
  8. Section 27B, fee for a duplicate certificate;
  9. Subsection 47A(1), inspect an entry in the register;
  10. Subsection 47A(2), obtain a certified copy of an entry in the register; and
- (b) sets fees for equivalent provisions or new provisions under the amended *Optometrists Act 1956* as per the attached schedule.

The following explanatory statements refer to the above numbered items and to the new provisions as noted in the attached schedule.

1. Section 17 of the principal Act, which included subsection 17(b) and provided for the determined fee to be paid when an application for registration was submitted, was repealed by the amendments which came into effect on 1 January 1994. The determined fee of \$103.00 for registration was noted in Determination No. 113 of 1993 and published in the ACT Gazette No. S174, Monday 30 August 1993.

The repealed provision has now been replaced by new section 17 which provides for lodgement of applications for registration other than applications by persons entitled to registration under the mutual recognition provisions.

Paragraph 17(2)(b) of the amended *Optometrists Act 1956* provides for a determined fee to be lodged with that application. The fee has been set at \$106.00, and indexed in accordance with Consumer Price Index (CPI) increases.

2. Paragraph 18(1)(b) of the *Optometrists Act 1956* required a registered optometrist to pay the determined annual fee was repealed and has been replaced by subsection 28(1) in the amended Act.

The existing annual fee of \$52.00 was determined by Determination No. 113 of 1993 and published in the ACT Gazette No. S174, Monday 30 August 1993. The amended fee for this purpose has been set at \$54.00 and has been indexed in accordance with Consumer Price Index (CPI) increases.

3. Subsection 18(5) of the Act entitled an optometrist to re-registration where registration was cancelled for failure to pay the annual fee, subject to the payment of the determined fee under paragraph 18(5)(b).

With the repeal of section 18, to ensure this provision is still available to optometrists, a similar provision has been included in paragraph 30(2)(b) of the amended Act.

The fee for this is set at \$54.00 which is consistent with both the annual renewal registration fee and the fee for registration under the mutual recognition provisions.

4. Subsection 20 (1) of the Act provided for the granting of provisional registration to allow time for the Board to consider a person's application for full registration. Provisional registration could be granted for a period of not more than three months. The determined fee for provisional registration is \$5.00. It cannot be ascertained when this fee was last published in the Gazette as no records could be located. The fee appears to be consistent with the determined fee for this provision in the Pharmacy Act 1931 which was published in the Commonwealth of Australia Gazette No. S48, 22 February 1985. Therefore it is assumed that the fee has not been altered for some time.

This provision has now been replaced by section 11 of the amended Act which provides for the granting of interim registration to a person who is entitled to full registration where it is not practical to wait until the Board can consider the application. Subsection 11(2) of the amended Act provides for interim registration to be granted subject to the payment of a determined fee. The fee is set at \$20.00 to make it consistent with those of other Boards.

5. Section 21 which provided for 'temporary' registration was also repealed. Subsections 21(2) and 21(3) required a fee to be paid for temporary registration and the extension of temporary registration. The determined fee for 'temporary' registration under subsection 21(2) and the fee for renewal of 'temporary' registration under subsection 21(3) were set at \$20.00. As with the determined fee for provisional registration, it cannot be

ascertained when this fee was last published in the Gazette as no records are able to be located. This fee appears to be consistent with the determined fee for the similar provision in the Pharmacy Act 1931, published in the Commonwealth of Australia Gazette No. S48, 22 February 1985. It is assumed that the fee has not been altered for some time.

Temporary registration is now covered by the provisions of section 10 which provides for registration at the discretion of the Board, subject to the payment of the determined fee under subsection 17(2)(b). The new provision enables the Board to register a person on a temporary basis for the purposes of enabling the person to undertake training or gain experience in the practise of optometry, or if the Board is satisfied that it is in the public interest to do so.

The fee has been increased to \$106.00 which is equivalent to the fee payable for application for initial registration. The administrative costs associated with granting temporary registration in the past have been equal to if not more costly than the granting of full registration. Therefore it is appropriate that the fee be set at similar level to that of full registration.

6. Section 22 of the *Optometrists Act 1956* provided for the Board to grant special registration to an optometrist for certain purposes. The determined fees for 'special' registration under subsection 22(2) and for renewal of 'special' registration under subsection 22(3) were set at \$50.00. Again lack of records preclude the citing of a reference to when this fee was last published however the fee is consistent with that determined for the majority of other Boards and specifically that for Pharmacists. The fee for Pharmacists was published in the Commonwealth of Australia Gazette No. S48, 22 February 1985.

Section 22, which provided for 'special' registration in the *Optometrists Act 1956*, was also repealed and now is covered by the provisions of section 10, 'Registration at the discretion of the Board'. As the same section relates to 'temporary' registration it is appropriate that the fee also be set at \$106.00.

7. Subsection 22B(3) of the *Optometrists Act 1956* provided for the payment of a determined fee in respect to alterations made to particulars in the register which may be made from time to time at the request of the person concerned. This provision is now provided for under subsection 33(3) of the amended *Optometrists Act 1956*.

The fee for alteration to entries in the register is \$5.00 and again lack of records preclude the citing of a reference to when this fee was last published. However the fee is consistent with that determined for the Pharmacy Board and published in the Commonwealth of Australia Gazette No. S48, 22 February 1985. The fee is increased to \$10.00 to make it consistent with similar fees imposed by other Boards.

8. Subsection 27B of the *Optometrists Act 1956* provided for a duplicate certificate to be issued to an optometrist where the original has been lost or destroyed, subject to the

payment of the determined fee. The determined fee for this purpose was set at \$10.00 but lack of records preclude the citing of a reference of when this fee was last published.

This provision is now provided for under subsection 24(4) of the amended Act. However there is inconsistency in the fee charged for this provision between the various ACT Health Registration Boards. In the interest of aligning all fees for similar provisions between the ACT Health Registration Boards, it is appropriate that the fee be set at \$30.00. This will make it consistent with the fee determined for subsection 26(3) of the *Medical Practitioners Act 1930*. This fee was noted in Determination No 111 of 1993 and published in the ACT Gazette No. S174 of 30 August 1993.

9. Subsection 47A(1) of the *Optometrists Act 1956* provided for a person upon the payment of a determined fee to inspect an entry in the register. The determined fee was set at \$1.00 per entry but lack of records preclude the citing of a reference to when this fee was last published, but it is the same as that which was gazetted for the Pharmacy Board and which was published in the Commonwealth of Australia Gazette No. S48, 22 February 1985.

This provision is now provided for under subsection 56(1) of the amended Act. The fee has been increased to \$5.00 to make it consistent with the determined fee for similar provisions made by other Boards.

10. Subsection 47A(2) of the *Optometrists Act 1956* provided for a person, upon the payment of a determined fee, to obtain a certified copy of an entry in the register. The determined fee was set at \$2.00 per entry but lack of records preclude the citing of a reference to when this fee was last published, but it is the same as that which was gazetted for the Pharmacy Board and which was published in the Commonwealth of Australia Gazette No. S48, 22 February 1985.

This provision is now provided for under subsection 56(2) of the amended Act. The fee has been increased to \$10.00 to make it consistent with the determined fee for similar provisions made by other Boards.

11. A new category of registration has been introduced pursuant to the *Mutual Recognition Act 1992*. This category is included in section 9 of the *Optometrists Act 1956*, and a provision for the payment of a determined fee for applications associated with those provisions are provided for by section 20 of the Act.

The fee for the purpose of registration under the mutual recognition provisions is set at \$54.00 which is equivalent to the determined annual fee.

<b>Optometrists Act 1956 (Old Act)</b>	<b>Old Fee</b>	<b>Optometrists Act 1956 (New Act)</b>	<b>New Fee</b>
Subsection 17(b) fee for application for registration	\$103.00	Paragraph 17(2)(b) application for registration other than pursuant to mutual recognition.	\$106.00
Subsection 18(1)(b) annual registration fee	\$52.00	Subsection 28(1) annual registration fee	\$54.00
Subsection 18(5)(b) entitlement to re-registration subject to payment of fee	\$52.00	Paragraph 30(2)(b) entitlement to re-registration subject to payment of fee	\$54.00
Subsection 20 (1) provisional registration	\$5.00	Subsection 11(2) entitlement to interim registration subject to payment of fee	\$20.00
Subsection 21(2) temporary registration & subsection 21(3) renewal of temporary registration	\$20.00	Paragraph 17(2)(b) pursuant to section 10 registration at the discretion of the Board	\$106
Paragraph 22(2)(b) special registration & paragraph 22(3)(b) renewal of special registration	\$50.00	Paragraph 17(2)(b) pursuant to section 10 registration at the discretion of the Board	\$106
Subsection 22B(3) alteration of register	\$5.00	Subsection 33(3) alteration of register	\$10.00
Subsection 27B fee for a duplicate certificate	\$10.00	Subsection 24(4) fee for a duplicate certificate	\$30.00
Subsection 47A(1) inspect an entry in the register	\$1.00 per entry	Subsection 56(1) inspect an entry in the register	\$5.00
Subsection 47A(2) obtain a certified copy of an entry in the register	\$2.00 per entry	Subsection 56(2) obtain a certified copy of an entry in the register	\$10.00
Not Applicable	N/A	Section 20 fee for registration pursuant to Mutual Recognition Act.	\$54.00