

1993

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Health)

**Optometrists (Amendment) Bill 1993**

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(Minister for Health)

**Optometrists (Amendment) Bill 1993**

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A BILL

FOR

**An Act to amend the *Optometrists Act 1956* and for  
related purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**PART I—PRELIMINARY**

**Short title**

- 5       1. This Act may be cited as the *Optometrists (Amendment) Act 1993*.

**Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10       (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

### Principal Act

3. In this Act, "Principal Act" means the *Optometrists Act 1956*.<sup>1</sup>

## 5 PART II—AMENDMENTS OF PRINCIPAL ACT

### Interpretation

4. Section 4 of the Principal Act is amended—

10 (a) by omitting the definitions of "medical practitioner" and "registered optometrist" in subsection (1) and substituting the following definitions:

“ ‘medical practitioner’ means a person—

- 15 (a) who is registered under the *Medical Practitioners Act 1930*; or
- (b) who is to be deemed to be registered under that Act by virtue of section 25 of the Mutual Recognition Act;

‘registered optometrist’ means a person—

- 20 (a) who is registered under this Act; or
- (b) who is to be deemed to be registered under this Act by virtue of section 25 of the Mutual Recognition Act;”;

(b) by omitting from subsection (1) the definition of “drug”;

(c) by inserting in subsection (1) the following definitions:

25 “ ‘determined fee’ means the fee determined by the Minister under section 47AE for the purposes of the provision in which the expression occurs;

‘Mutual Recognition Act’ means the *Mutual Recognition Act 1992* of the Commonwealth;” and

(d) by omitting subsection (3).

### 30 Insertion

5. After section 4 of the Principal Act the following sections are inserted in Part I:

**Competence to practise optometry**

“4A. For the purposes of this Act, a person shall be taken to be competent to practise optometry only if the person—

- 5
- (a) has sufficient physical capacity, mental capacity and skill to practise optometry; and
  - (b) has sufficient communication skills for the practise of optometry, including an adequate command of the English language.

**Impairment**

10 “4B. (1) For the purposes of this Act, a person shall be taken to suffer from an impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person’s physical or mental capacity to practise optometry.

15 “(2) For the purposes of subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.”.

**Heading to Part III**

6. The heading to Part III of the Principal Act is amended by omitting “AND QUALIFICATIONS”.

20 **Insertion**

7. Before section 14 of the Principal Act the following Divisions and Division heading are inserted in Part III:

*“Division 1—Qualifications for registration*

**Entitlement to registration based on qualifications and training**

- 25 “7. (1) A person is entitled to be registered as an optometrist if—
- (a) the person is a graduate of a course of education or training in optometry offered by an Australian institution, being a course that is accredited by the Board or approved by a registration authority of a State or another Territory; or
  - 30 (b) the person—
    - (i) has completed a course of education or training in a place outside Australia that is substantially equivalent to a course referred to in paragraph (a) and qualifies the person to practise as an optometrist in that place; and

- (ii) has undertaken such further education or training, gained such experience in the practise of optometry and passed such examinations as the Board requires.

5 “(2) The Board shall not, for the purposes of subparagraph (1) (b) (ii), require a person to gain experience in the practise of optometry for a period that exceeds 1 year.

“(3) The entitlement under this section is an entitlement to registration that is not subject to any condition.

#### Registration under mutual recognition principle

10 “8. (1) A person who is registered as an optometrist under the law in force in a State or another Territory that is a participating jurisdiction within the meaning of the Mutual Recognition Act is entitled to be registered as an optometrist under this Act.

15 “(2) If the person’s registration in the State or other Territory is not subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration that is not subject to any condition.

20 “(3) If the person’s registration in the State or other Territory is subject to any condition or restriction, the person’s entitlement to registration under this Act is an entitlement to registration subject to the conditions to which that registration is subject or conditions appropriate to give effect to any restriction to which that registration is subject.

#### Registration at discretion of Board

25 “9. (1) Where a person is a graduate of a course of education or training referred to in subparagraph 7 (1) (b) (i), the Board may register the person as an optometrist on a temporary basis to enable him or her to—

- (a) undertake a course of education or training approved by the Board; or
- (b) gain experience in the practise of optometry.

30 “(2) The Board may register a person as an optometrist for the purpose of enabling the person to fill a teaching or research position if—

- (a) the person has qualifications that the Board considers appropriate for that purpose; and
- 35 (b) the application is supported, in writing, by the hospital, professional association, university or other institution by which it is proposed that the person be engaged for that purpose.

“(3) The Board may register a person as an optometrist on a temporary basis if it is satisfied that it is in the public interest to do so.

“(4) The Board may impose such conditions on the registration of a person under this section as it considers appropriate.

**Interim registration**

5 “10. (1) An applicant for registration may be granted interim registration where—

- (a) the applicant is entitled to registration under section 7 but it is not practicable to wait until the Board can consider the application; or
  - (b) the applicant would be entitled to registration under section 7 except for the fact that a degree or award to which the applicant is entitled has not yet been conferred or granted by the institution concerned.
- 10

“(2) A person authorised by the Board for the purposes of this section may, on payment of the determined fee, grant an applicant for registration interim registration in accordance with this section.

15 “(3) Interim registration granted to a person under this section remains in force from the time at which it is granted until the person is given notice in writing that the Board has—

- (a) granted him or her registration;
  - (b) refused his or her application for registration; or
  - (c) cancelled the interim registration.
- 20

“(4) The Board may cancel a person’s interim registration for any reason that it considers proper and shall immediately give the person notice in writing of the cancellation.

25 “(5) A person who holds interim registration is for all purposes to be taken to be a registered optometrist.

**Conditions of registration in cases of impairment**

“11. (1) The Board may impose conditions on a person’s registration if the Board is satisfied that the person suffers from an impairment and the conditions are reasonably required having regard to the impairment.

30 “(2) Where conditions have been imposed on a person’s registration under this section (including conditions imposed on a review under this section), the Board may, if so requested by the person, review the conditions and, if it is satisfied—

- (a) that the person no longer suffers from the impairment; or
  - (b) that the impairment has lessened;
- 35

the Board may alter or remove the conditions or impose new conditions.

**Refusal of registration where applicant convicted of offence**

“12. (1) Subject to subsection (3), the Board may refuse an application for registration if—

- 5 (a) the applicant has been convicted in the Territory of an offence or has been convicted outside the Territory by a court for or in respect of an act or omission that would, had it taken place in the Territory, have constituted an offence; and
- (b) the Board is of the opinion that the conviction renders the person unfit in the public interest to practise optometry.

10 “(2) The Board shall have regard to the nature of an offence and the circumstances in which it was committed in making a decision under subsection (1).

15 “(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

**Refusal of registration where applicant deregistered outside Territory**

20 “13. (1) Subject to subsection (3), the Board may refuse an application for registration if the applicant’s name has been removed from a foreign register of optometrists for any reason relating to—

- (a) conduct of the person as an optometrist; or
- (b) the physical or mental capacity of the person to practise optometry.

25 “(2) A person’s name shall be taken to have been removed from a foreign register of optometrists if it is removed from any register or roll established or kept under any law of that State or Territory providing for the registration or enrolment of optometrists.

“(3) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

**30 Applicants to be competent and of good character**

“13A. (1) Subject to subsection (2), the Board shall not register a person as an optometrist unless it is satisfied that the person is competent to practise optometry and is of good character.

35 “(2) Subsection (1) does not apply in relation to a person who is entitled to registration pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

**Restriction on registration of deregistered or suspended persons**

5 "13B. (1) Subject to subsection (2), where the registration of a person under this Act has been cancelled (otherwise than under section 17 or subsection 18C (2)) or suspended (otherwise than under subsection 28A (2)) the person may not apply for re-registration or termination of the suspension, as the case may be, otherwise than under section 28.

10 "(2) Subsection (1) does not apply in relation to a person who is entitled to be re-registered pursuant to the Mutual Recognition Act and who has lodged with the Board a notice under section 19 of that Act.

**"Division 2—Registration procedure**

**Applications for registration**

15 "13C. (1) This section applies to applications for registration other than applications by persons who are entitled to registration pursuant to the Mutual Recognition Act and who lodge with the Board a notice under section 19 of that Act.

"(2) An application for registration to which this section applies shall—

- (a) be in a form approved by the Board; and
- (b) be accompanied by the determined fee.

20 **Applications to be considered and determined**

"13D. The Board shall consider each application under section 13C and shall determine the application by—

- 25 (a) registering the applicant unconditionally or subject to conditions;  
or
- (b) refusing the application.

**Registration of applicants**

"13E. Where a person who is applying for registration otherwise than under the Mutual Recognition Act—

- 30 (a) complies with section 13C;
- (b) appears personally before the Board or a nominee of the Board in support of his or her application if required by the Board to do so; and
- (c) is entitled to registration in accordance with this Act;

the Board shall, subject to this Act, cause the applicant to be registered.

**Fee for registration pursuant to Mutual Recognition Act**

"13F. A person who applies for registration under this Act pursuant to the Mutual Recognition Act shall pay the determined fee.

**Conditions of registration**

- 5 "13G. The conditions that the Board may impose on registration at the time of registration include conditions relating to the duration of registration, the aspects of practice in which the person who is registered may be engaged and conditions relating to any other matters the Board considers appropriate.

10 ***"Division 3—Register of Optometrists"***

**Register**

8. Section 14 of the Principal Act is amended by adding at the end the following subsection:

"(2) The Register may be maintained by electronic means."

15 **Substitution**

9. Sections 15 to 18 (inclusive) of the Principal Act are repealed and the following sections and Division substituted:

**Particulars to be entered in Register**

- 20 "15. The registration of a person shall be effected by entering in the Register—

- (a) the name of the person;
- (b) the person's professional address or addresses in the Territory or, if he or she has no professional address in the Territory, his or her place of residence, whether within or outside the Territory;
- 25 (c) particulars of the person's qualifications;
- (d) the registration number allotted to the person;
- (e) the date of registration;
- (f) any conditions to which the person's registration is subject; and
- (g) such other particulars, if any, as are prescribed.

30 **Certificates of registration**

"16. (1) Where a person is registered as an optometrist under this Act, the Board shall cause to be issued to the person a certificate of registration signed by the Chairperson or Deputy Chairperson.

“(2) A certificate of registration shall state the provision by virtue of which the person specified in the certificate is entitled to be registered under this Act and any conditions to which his or her registration is subject.

5 “(3) A certificate of registration is evidence that the person specified in the certificate was registered on the date specified in the certificate.

“(4) Where a certificate issued under subsection (1) has been destroyed or lost, the Board shall, on payment of the determined fee, cause to be issued to the registered optometrist a duplicate certificate.

10 “(5) Where the registration of a person has been cancelled or suspended, the Chairperson shall, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Chairperson within 14 days.

15 “(6) Where a person whose registration has been suspended delivers his or her certificate of registration to the Board, the Board shall retain the certificate during the period of the suspension and return it to the person at the expiration of that period unless the person’s registration has sooner been cancelled.

20 “(7) Where, after a certificate of registration has been issued to a person—

(a) conditions are imposed on the registration of the person; or

(b) conditions imposed on the registration of the person are varied;

25 the Chairperson may, by notice in writing given to the person, require the person to deliver his or her certificate of registration to the Chairperson within 14 days to enable a statement of the conditions imposed, or the conditions as varied, to be endorsed on the certificate.

“(8) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (5) or (7).

Penalty: \$500.

30 “(9) A notice for the purpose of subsection (5) or (7) may be given to a person by post addressed to the person at his or her address last known to the Chairperson.

**Deregistration on basis of disciplinary action under foreign law**

35 “17. (1) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register or roll kept under a law of a State or another Territory for any reason relating to—

(a) conduct of the person as an optometrist; or

(b) the physical or mental capacity of the person to practise optometry;

the Board shall cancel the registration of the person.

“(2) Where—

5 (a) the name of a person whose registration has been cancelled under subsection (1) is restored to the register or roll referred to in that subsection; and

(b) the person applies to the Board to be re-registered under this Act; the Board shall re-register the person.

10 “(3) Where the Board is satisfied that the name of a person who is registered under this Act has been removed from any register or roll kept under a law of a place outside Australia for any reason relating to—

(a) conduct of the person as an optometrist; or

(b) the physical or mental capacity of the person to practise optometry; the Board may cancel the registration of the person.

15 “(4) The Board may re-register a person whose registration has been cancelled under subsection (3) if the Board is satisfied that it is appropriate in the circumstances to do so.

#### Imposition of conditions imposed under foreign law

20 “18. (1) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as an optometrist under a law of a State or another Territory, the Board shall impose a similar condition on the registration of the person under this Act.

25 “(2) Where the Board is satisfied that after a person has been registered under this Act a condition has been imposed on the registration of the person as an optometrist under a law of a place outside Australia, the Board may impose a similar condition on the registration of the person under this Act.

#### Cessation of registration

“18A. A registered optometrist ceases to be registered—

30 (a) when the Board gives the person notice that his or her registration has been cancelled in accordance with this Act; or

(b) if registration is conditional and the period of registration is specified in a condition—when that period expires.

**"Division 4—Annual fees**

**Annual fee payable**

"18B. (1) A registered optometrist shall, on or before 1 July in each year, pay the Territory the determined fee.

5       "(2) The Board shall cause to be sent to each registered optometrist, not less than 1 month before 1 July in each year, a notice requiring him or her to comply with subsection (1).

10       "(3) The liability of a registered optometrist for a fee payable by him or her under subsection (1) is not affected by a failure of the Board to comply with subsection (2).

**Registration to be cancelled for non-payment**

15       "18C. (1) Where a registered optometrist does not comply with subsection 18B (1), the Board shall cause to be sent to the optometrist a notice requiring him or her to pay the fee due under that subsection by a day specified in the notice and advising him or her that if the fee is not paid on or before that day his or her registration will be cancelled.

      "(2) The Board shall cancel the registration of an optometrist to whom a notice has been sent under subsection (1) and who has not paid the fee due by the day specified in the notice.

20       **Entitlement to re-registration on payment of fees**

      "18D. (1) A person whose name has been removed from the Register for failure to pay an annual fee is entitled to be re-registered if he or she makes application in accordance with this section.

25       "(2) An application for re-registration under this section shall—

      (a) be in a form approved by the Board; and

      (b) be accompanied by the determined fee.

30       "(3) The entitlement of a person to re-registration under this section is an entitlement to registration on the same terms and subject to the same conditions (if any) as applied to the person's registration immediately before the removal of his or her name from the Register.

      "(4) The Board may refuse to re-register a person under this section if it is satisfied that the person is not competent to practise optometry or is not of good character.

35       "(5) An entitlement to re-registration under this section is subject to the provisions of this Act pursuant to which a person's name is authorised or required to be removed from the Register."

**Change of address to be notified**

10. Section 19 of the Principal Act is amended—

- 5 (a) by omitting from paragraph (a) “entered in the Register under subsection 15 (1) or furnished to the Board under section 18” and substituting “shown in the Register”; and
- (b) by omitting the penalty provision at the foot of the section and substituting the following penalty provision:

“Penalty: \$500.”.

**Repeal**

10 11. Sections 20 to 22A (inclusive) of the Principal Act are repealed.

**Alteration of Register**

12. Section 22B of the Principal Act is amended by adding at the end of subsection (1) “or whose registration has been cancelled”.

**Repeal**

15 13. Sections 23 to 27B (inclusive) of the Principal Act are repealed.

**Insertion**

14. Before section 29 of the Principal Act the following sections are inserted in Part IV:

**Cancellation or suspension of registration**

20 “23. (1) The Board may—

- (a) cancel the registration of a person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit;

if it is satisfied that—

- 25 (c) the registration of the person was obtained by fraud or misrepresentation;
- (d) the optometrical qualification of the person has been withdrawn or cancelled by the body which granted it;
- (e) the person has contravened this Act or the regulations;
- 30 (f) the person has contravened a condition to which his or her registration under this Act is subject;
- (g) the person has been convicted in the Territory or elsewhere of an offence punishable by imprisonment for more than 1 year or any

offence that, in the opinion of the Board, renders him or her unfit to practise as an optometrist;

- 5 (h) the person has failed to exercise adequate judgment or care in the practise of optometry;
- (j) the person has engaged in conduct, whether in the practise of optometry or not, that adversely affects the practise of optometry by the person;
- 10 (k) the person has permitted an assistant who is employed by the person in connection with his or her optometrical practice, but who is not a registered optometrist, to attend or treat patients in respect of matters requiring professional discretion or skill;
- 15 (m) the person has advertised, otherwise than as permitted by subsection (3), for the purpose of procuring patients or practice, or has sanctioned, or has been associated with or employed by a person who has sanctioned, such an advertisement;
- 20 (n) the person has canvassed, or employed an agent or canvasser, for the purpose of procuring patients or practice, or has sanctioned, or been associated with or employed by a person who has sanctioned, the employment of an agent or canvasser for that purpose;
- (p) the person is guilty of habitual drunkenness, or addiction to a deleterious drug, that renders him or her unfit to practise as an optometrist;
- 25 (q) the person has engaged in any other improper or unethical conduct relating to the practice of optometry; or
- (r) the person is not competent to practise optometry.

“(2) Subsection (1) does not apply to conduct of the kind referred to in paragraph (1) (k) where that conduct takes place in connection with—

- 30 (a) the proper training and instruction of optometry students or other students; or
- (b) collaborating in experimental or research work in optometry with a person who is the holder of a university degree in science or another degree recognised by the Board generally or in a particular case for the purposes of this paragraph.

35 “(3) A registered optometrist may, in a manner approved by the Board—

- (a) publish, from time to time, a notice of the fact that he or she practises as an optometrist and of the place or places at which he or she practises;

- (b) publish a notice or notices of the fact that he or she has commenced or resumed practice as an optometrist or a notice or notices of a change of the address at which he or she practises as an optometrist; or
- 5 (c) exhibit at the place or places at which he or she practises as an optometrist a notice or notices containing his or her name and qualifications.

10 “(4) In approving a manner of giving notice for the purposes of subsection (3), the Board shall have regard to the accepted customs and usages of the optometry profession.

#### **Cancellation, suspension or restriction of right of practise on health grounds**

15 “24. (1) Subject to subsection (2), the Board shall, when it is satisfied that the mental or physical condition of a person who is registered as an optometrist renders him or her unfit to practise optometry—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

20 “(2) The Board may, instead of cancelling or suspending the registration of a person, where it is satisfied that the person is fit to give or perform some optometrical services and that it would not be contrary to the public interest to make an order under this subsection, by order served on the person direct the person not to give or perform the optometrical services specified, whether individually or otherwise, in the order.

25 “(3) Where the Board has made an order under subsection (2) in relation to a person, it may, if so requested by the person, review the order and, if it is satisfied that the mental or physical condition of the person has changed since the order was made, amend or revoke the order.

30 “(4) A person on whom an order under paragraph (1) (b) or subsection (2) has been served who gives or performs an optometrical service in contravention of that order shall, in giving or performing the service, be deemed to be a person other than a registered optometrist.

#### **Practising when registration suspended**

35 “25. Where a person whose registration as an optometrist has been suspended is convicted of an offence against section 29 or 32, the Board may—

- (a) cancel the registration of the person; or

- (b) by order served on the person, suspend the registration of the person for such further period as the Board thinks fit.

**Power of Board to caution, reprimand etc.**

5 "26. The Board may do any 1 or more of the following in relation to the conduct of a registered optometrist:

- (a) caution or reprimand the optometrist;
- (b) order that the optometrist seek and undergo medical or psychiatric treatment or counselling;
- 10 (c) impose on the optometrist's registration such conditions relating to the practise of optometry as the Board considers appropriate.

**Power of Board to impose fines**

15 "27. (1) Subject to subsection (2), where the Board finds that an optometrist has failed to comply with an order of the Board under paragraph 26 (b) it may, by order served on the person, impose on him or her a fine not exceeding \$1,000.

"(2) A fine imposed under this section shall be paid to the Territory within the time specified in the order imposing the fine.

20 "(3) Where a person on whom the Board has imposed a fine under subsection (1) fails to pay the fine by the time specified in the order, the Board may—

- (a) cancel the registration of the person; or
- (b) by order served on the person, suspend the registration of the person for such period as the Board thinks fit.

**Application for re-registration**

25 "28. (1) Where the registration of a person has been cancelled, otherwise than under section 17 or subsection 18C (2), or suspended, otherwise than under subsection 28A (2), the person may apply for re-registration or termination of the suspension, as the case may be, on the ground that, by reason of a specified change in the circumstances that has  
30 occurred since the date of the cancellation or suspension, it is just that he or she should be re-registered or his or her suspension should be terminated.

35 "(2) On an application under this section the Board may, if it is satisfied that, by reason of the change in circumstances, the person should be re-registered or his or her suspension should be terminated, order that the person be re-registered or that his or her suspension be terminated, as the case requires.

**Inquiry by Board**

“28A. (1) The Board shall hold an inquiry before—

- (a) cancelling the registration of a person otherwise than under section 17 or subsection 18C (2);
- 5 (b) suspending the registration of a person otherwise than under subsection (2);
- (c) directing a person not to give or perform specified services under subsection 24 (2); or
- (d) taking any action under section 26.

10 “(2) Pending the holding of an inquiry under subsection (1), the Board may, by order served on the person to whom the inquiry relates, suspend temporarily the registration of the person.”

**Sale of spectacles**

15 15. Section 33A of the Principal Act is amended by inserting in subsection (1) “or contact lenses” after “spectacles” (wherever occurring).

**Substitution**

16. After Part IV of the Principal Act the following Part is inserted:

**“PART IVA—APPEALS****Review of decisions**

20 “34. Application may be made to the Tribunal for review of a decision of the Board—

- (a) under subsection 9 (4), section 11 or subsection 18 (2) to impose conditions on the registration of a person;
- 25 (b) under subsection 10 (4) to cancel the interim registration of a person;
- (c) under subsection 11 (2) to refuse to review conditions on the registration of a person;
- (d) under subsection 11 (2) to refuse to alter or remove conditions on the registration of a person;
- 30 (e) under subsection 11 (2) to impose new conditions on the registration of a person;
- (f) under section 13D to refuse to register a person;
- (g) under subsection 17 (3) or 23 (1), paragraph 24 (1) (a), section 25 or paragraph 27 (3) (a) to cancel the registration of a person;

- 5
- (h) under subsection 17 (4), section 18D or subsection 28 (2) to refuse to re-register a person;
- (j) under subsection 23 (1), paragraph 24 (1) (b), section 25, paragraph 27 (3) (b) or subsection 28A (2) to suspend the registration of a person;
- (k) under subsection 24 (2) to make an order directing a person not to give or perform specified optometrical services;
- 10 (m) under subsection 24 (3) to refuse to review an order directing a person not to give or perform an optometrical service;
- (n) under subsection 24 (3) to refuse to amend or revoke an order directing a person not to give or perform an optometrical service;
- (p) under subsection 24 (3) to amend an order directing a person not to give or perform an optometrical service;
- 15 (q) under section 26 to take any action of the kind specified in that subsection in relation to a registered optometrist;
- (r) under subsection 27 (1) to impose a fine on a registered optometrist;
- (s) under subsection 28 (2) to refuse to terminate the suspension of the registration of a person;
- 20 (t) under section 31 to refuse to extend beyond 2 months the period during which the executor or executrix of the will of a deceased optometrist, or the administrator, administratrix or trustee of the estate of a deceased optometrist, may continue the business of the optometrist;
- 25 (u) under section 31 to fix a period longer than 2 months during which the executor or executrix of the will of a deceased optometrist, or the administrator, administratrix or trustee of the estate of a deceased optometrist, may continue the business of the optometrist; or
- 30 (w) under subsection 47AC (2) to certify the amount which, in the opinion of the Board, is a reasonable amount of fees or remuneration for an optometry service.

**Notification of decisions**

- 35 "35. (1) Where a decision of the kind referred to in section 34 (other than paragraphs (b), (k), (r) and (s)) is made, the Board shall, within 28 days after the date of the decision, give notice in writing of the decision—
- (a) in the case of a decision referred to in paragraph 34 (a)—to the person on whose registration conditions have been imposed;

- (b) in the case of a decision referred to in paragraph 34 (c) or (d)—to the person whose registration is subject to the conditions;
- (c) in the case of a decision referred to in paragraph 34 (e)—to the person on whose registration new conditions have been imposed;
- 5 (d) in the case of a decision referred to in paragraph 34 (f)—to the person whose application for registration has been refused;
- (e) in the case of a decision referred to in paragraph 34 (g)—to the person whose registration has been cancelled;
- 10 (f) in the case of a decision referred to in paragraph 34 (h)—to the person whose application for re-registration has been refused;
- (g) in the case of a decision referred to in paragraph 34 (j)—to the person whose registration has been suspended;
- (h) in the case of a decision referred to in paragraph 34 (m), (n) or (p)—to the person in relation to whom the order was made;
- 15 (j) in the case of a decision referred to in paragraph 34 (q)—to the registered optometrist in relation to whom the action has been taken;
- (k) in the case of a decision referred to in paragraph 34 (t) or (u)—to the executor or executrix of the will of the deceased optometrist or the administrator, administratrix or trustee of the estate of the deceased optometrist; or
- 20 (m) in the case of a decision referred to in paragraph 34 (w)—to the person who requested the review of the account.

25 “(2) A notice under subsection 10 (4) or subsection (1) of this section, or under section 31 of the *Health Professions Boards (Procedures) Act 1981*, shall—

- 30 (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

35 “(3) An order under paragraph 23 (1) (b) or 24 (1) (b), subsection 24 (2), paragraph 25 (b) or subsection 27 (1) or 28A (2) shall—

- (a) have endorsed on it or attached to it a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an

application may be made to the Administrative Appeals Tribunal for a review of the decision to make the order; and

- 5 (b) except where subsection 26 (11) of the *Administrative Appeals Tribunal Act 1989* applies—have endorsed on it or attached to it a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

“(4) The validity of a decision referred to in subsection (2) or (3) is not to be taken to be affected by a failure to comply with that subsection.”

#### Publication of notice of decision

- 10 17. Section 47AA of the Principal Act is amended by omitting paragraphs (1) (b) and (c) and substituting the following paragraphs:

- “(b) suspending, otherwise than under subsection 28A (2), the registration of a person;
- (c) imposing a condition on the registration of a person;
- 15 (d) directing that a person not give or perform specified optometrical services;
- (e) taking any action under paragraph 26 (a) or (b); or
- (f) imposing a fine on a person under subsection 27 (1);”

#### Further amendments

- 20 18. The Principal Act is further amended as set out in the Schedule.

### PART III—TRANSITIONAL PROVISIONS

#### Continuation of registration

- 25 19. A person who, immediately before the commencement of this Act, was registered as an optometrist under the Principal Act continues to be registered under the Principal Act as amended by this Act on the same terms and subject to the same conditions as applied to his or her registration immediately before the commencement of this Act.

#### Persons granted provisional registration

- 30 20. A person who, immediately before the repeal of section 20 of the Principal Act by this Act, held provisional registration under that section shall, on the commencement of this Act, be taken to be a person who has been granted interim registration in accordance with section 10 of the Principal Act as amended by this Act.

#### Persons granted temporary registration

- 35 21. A person who, immediately before the repeal of section 21 of the Principal Act by this Act, held temporary registration under that section

shall, on the commencement of this Act, be taken to be a person who has been granted temporary registration in accordance with subsection 9 (3) of the Principal Act as amended by this Act.

#### **Failure to pay annual fee under repealed provisions**

5       22. (1) A failure by a registered optometrist to pay a fee that became payable by him or her under section 18 of the Principal Act as in force before the commencement of this Act shall be taken to be a failure to pay a fee that became payable under section 18B of the Principal Act as amended by this Act.

10       (2) An optometrist who was not registered under the Principal Act immediately before the commencement of this Act because his or her registration was cancelled for a failure by the optometrist to pay a fee that had become payable by him or her under section 18 of the Principal Act as in force before the commencement of this Act shall be taken to have had his or her registration cancelled for a failure to pay a fee which had become payable by him or her under section 18B of the Principal Act as amended by this Act.

#### **Applications for registration**

20       23. An application for registration under the Principal Act as in force before the commencement of this Act that had not been determined before the commencement of this Act shall be taken to be an application for registration under the Principal Act as amended by this Act.

#### **Continuation of inquiries and reviews**

25       24. (1) The provisions of the Principal Act as in force immediately before the commencement of this Act continue to apply in relation to an inquiry or review commenced under the Principal Act and pending immediately before the commencement of this Act.

30       (2) Any order, decision or determination resulting from an inquiry or review to which this section applies shall be taken to have been made under the Principal Act as amended by this Act and to have effect accordingly.

#### **Complaints relating to previous conduct**

35       25. (1) Subject to subsection (2), an inquiry may be held under the Principal Act as amended by this Act with respect to conduct or any other matter or thing that occurred before, or partly before and partly after, the commencement of this Act.

(2) An inquiry referred to in subsection (1) may only be held if it is an inquiry that could have been held before the commencement of this Act.

**Existing orders**

26. An order having effect under a provision of the Principal Act repealed by this Act is, by this section, converted to an equivalent order under the Principal Act as amended by this Act.

5

**PART IV—MISCELLANEOUS**

**Renumbering of provisions**

27. (1) The amended Act is further amended as provided by this section.

10

(2) The Parts of the amended Act are renumbered in a single series so that they bear consecutive Roman numerals.

(3) The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.

15

(4) Any provision of the amended Act that refers to a provision of that Act that has been renumbered by subsection (2) or (3) is amended by omitting that reference and substituting a reference to the provision as so renumbered.

20

(5) A reference in a provision of a law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a provision of the amended Act that has been renumbered by subsection (2) or (3) shall (except as regards the operation of the provision before it was so renumbered) be construed as a reference to that provision as so renumbered.

(6) In this section, “amended Act” means the Principal Act as amended by sections 4 to 18 (inclusive) of this Act.

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**SCHEDULE**

Section 18

**FURTHER AMENDMENTS**

**Subsection 4 (1) (definitions of “the Board”, “the Chairman”, “the Deputy Chairman” and “the Register”)—**

Omit the definitions.

**Subsection 4 (1)—**

Insert the following definitions:

“ ‘Board’ means the Optometrists Board established by section 5;

‘Chairperson’ means the Chairperson of the Board;

## SCHEDULE—continued

'Deputy Chairperson' means the Deputy Chairperson of the Board;

'Register' means The Register of Optometrists kept in accordance with section 14;".

**Subparagraph 4 (2) (a) (i)—**

(a) Insert "or she" after "he".

(b) Insert "or her" after "his".

**Subparagraph 4 (2) (a) (ii)—**

Insert "or her" after "him" (wherever occurring).

**Subparagraph 4 (2) (a) (iii)—**

Insert "or she" after "he".

**Paragraph 6 (1) (a)—**

Omit "Chairman", substitute "Chairperson".

**Paragraph 6 (2) (a)—**

Insert "or she" after "he".

**Paragraph 6 (2) (b)—**

(a) Insert "or she" after "he".

(b) Insert "or her" after "his".

**Subsection 6 (5)—**

Omit "Chairman", substitute "Chairperson".

**Paragraph 19 (a)—**

Omit "or furnished to the Board under section 18".

**Section 19—**

(a) Omit "one", substitute "1".

(b) Omit "Chairman", substitute "Chairperson".

**Subsection 22B (3)—**

Omit "prescribed", substitute "determined".

**Subsection 29 (2)—**

Omit "Registration".

**SCHEDULE—continued**

**Section 31—**

- (a) Omit “Upon”, substitute “On”.
- (b) Insert “or her” after “his” (first occurring).
- (c) Omit “, administrator or trustee of his estate”, substitute “or executrix of the will of the deceased optometrist, or an administrator, administratrix or trustee of the estate of the deceased optometrist.”.
- (d) Omit “two”, substitute “2”.

**Paragraph 32 (1) (a)—**

- (a) Insert “or her” after “his”.
- (b) Insert “or she” after “he” (wherever occurring).

**Paragraph 32 (1) (b)—**

Insert “or herself” after “himself”.

**Subsection 33A (1)—**

Insert “or her” after “him”.

**Section 45—**

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

**Paragraph 46 (a)—**

Insert “or her” after “his”.

**Subsection 47AA (1)—**

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

**Subsection 47AB (2)—**

Omit “one”, substitute “1”.

**Subsection 47AC (2)—**

Omit “Chairman” (wherever occurring), substitute “Chairperson”.

**Subsections 47A (1) and (2)—**

Omit “prescribed”, substitute “determined”.

**NOTE**

1. Reprinted as at 31 May 1991. See also Act No. 14, 1993.

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