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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1926.

A BILL

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

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Opticians Act, 1926," and shall come into operation on a date to be appointed by the Governor and notified by proclamation published in the Gazette. Short title and commencement.

2. The provisions of this Act shall not apply to any person registered as a legally qualified medical practitioner under the Medical Practitioners Act, 1912, or any Act amending or replacing the same. Application of Act.

3. This Act is divided into Parts, as follows :— Division of Act into Parts.

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—THE BOARD OF OPTOMETRICAL REGISTRATION—*s.* 5.

PART III.—REGISTER—*ss.* 6-19.

PART IV.—PRACTICE OF OPTOMETRY—*ss.* 20-23.

PART V.—REGULATIONS AND MISCELLANEOUS—*ss.* 24-28.

SCHEDULE.

4. In this Act, except where the context or subject-matter otherwise indicates or requires,— Definitions.

“Board” means Board of Optometrical Registration constituted by this Act.

“Optometry” or the “practice of optometry” means the employment of methods other than the use of drugs, medicine, or surgery for the measurement of the powers of vision and the adaptation of lenses for the aid thereof.

“Prescribed” means prescribed by this Act or by the regulations.

“Recognised certificate” means a certificate, diploma, membership, degree, letters, testimonial or other title, status or document granted by some university, college, or other public institution in Great Britain or Ireland or in a British possession or foreign country, recognised by the board as entitling the holder thereof to practise optometry in the place where it was granted, and as furnishing sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of optometry.

“Registered

- “ Registered optometrist ” means a person who is the holder of a certificate issued under this Act entitling him to practise optometry.
- “ Registrar ” means the registrar appointed under this Act.
- “ Regulations ” means the regulations made under this Act.

PART II.

THE BOARD OF OPTOMETRICAL REGISTRATION.

5. (1) The Governor shall, as soon as may be convenient after the commencement of this Act, appoint a Board of Optometrical Registration, which shall consist of three members, one of whom shall be appointed as chairman.

Constitution of the board.

(2) The board shall be appointed for a term of three years and the members shall be eligible for reappointment.

(3) If the office of a member becomes vacant during the term for which he is appointed, any person appointed to fill the vacancy shall be appointed only for the remainder of such term.

(4) The Governor may remove a member of the board from his office for neglect of duty, incompetency, dishonorable conduct, or any cause deemed sufficient by the Governor.

(5) The chairman and members of the board shall be paid out of the funds of the board such remuneration as the Governor may determine.

PART III.

REGISTER.

6. There shall be a register of optometrists, to be compiled in the manner and form prescribed by the regulations and kept in the custody of the registrar.

Keeping of register.

7.

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- 7.** (1) The board may, to give effect to this Act—
- (a) appoint a registrar and examiners; and
 - (b) out of the funds at its disposal pay to the registrar such salary as may be approved by the Governor and to the examiners such fees as may be prescribed by the regulations.
- (2) All persons so appointed shall hold office during the pleasure of the board.
- (3) A member of the board shall not be eligible to hold any office under the board.
- 8.** Examinations conducted for the purposes of this Act shall be—
- (a) supervised and carried out by the board;
 - (b) such examinations shall consist of practical tests in lens neutralisation, spectacle fitting and refraction as laid down in Thornington's "Refraction of the Human Eye"; or in such other works as may be prescribed by the regulations.
- 9.** (1) The registrar shall, on payment of the prescribed fee, enter in the register the full names and addresses, date and description of qualifications in respect of which registration is granted, and all other prescribed particulars of all persons registered under the provisions of this Act, shall transmit in the month of January in each year a certified copy of the register to the Minister, and shall cause a copy of the same or such extracts therefrom as may be prescribed to be published in the Gazette.
- (2) A copy of the Gazette shall be prima facie evidence, in all legal proceedings, that the persons mentioned therein are registered under this Act, and the absence of any name therefrom shall be prima facie evidence that such person is not so registered.
- 10.** (1) The board shall do all acts or duties which may be necessary or expedient for the due and proper carrying out of the provisions of this Act.
- (2) The board shall, not less than twice each year, hold examinations for the convenience of persons desiring to qualify for registration under this Act, and shall fix the places where and the times when the examinations shall be held.
- (3)

Board may
appoint
registrar and
examiners.

Examina-
tions.

Register.

Powers and
duties of
board.

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

11. (1) The board may refuse to register or may remove from the register the name of any person who—

Removal of names of deceased optometrists. Refusal to place names on, and removal from register.

(a) has been convicted of any felony or misdemeanour or of any offence which, if committed within the State, would be a felony or misdemeanour; or

(b) has been guilty of infamous conduct in any professional respect.

(2) In the case of a charge of infamous conduct, the person charged shall be afforded an opportunity of being heard in defence, either in person or by counsel.

(3) No person shall be refused registration or have his name removed from the register until he has been afforded an opportunity to explain any objection raised against him of which he shall be given full particulars.

12. (1) Where the board directs the removal from the register of the name of any person, the name of that person shall not be again entered in the register except by direction of the board or by order of the Supreme Court.

Registration of name removed.

(2) The board may direct the registrar to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding the registration fee, as the board may direct, and the registrar shall restore the same accordingly.

13. (1) The board may examine any person upon oath or take a solemn declaration from any person for the purposes of this Act.

Power of board to examine witnesses.

(2) If any person wilfully makes any false statement upon such examination or in such declaration, or utters or attempts to utter or put off as true before the board any false, forged, or counterfeit certificate, diploma, letter, testimonial, or other document or writing he shall be guilty of an offence, and shall on summary conviction be liable to imprisonment for a period not exceeding *twelve* months.

14.

14. All informations for offences against this Act shall be laid by the registrar or some other person appointed by the board for that purpose. All such penalties may be recovered in a summary manner before any stipendiary or police magistrate or two justices sitting in petty sessions.

15. Subject to the provisions of this Act any person of or over the age of twenty-one years, excepting a person qualified under paragraph (b) of this section, who shall be of or over the age of twenty years, and who proves to the satisfaction of the board that he is of good character and who—

- (a) holds a recognised certificate;
- (b) has, for a period of twelve months prior to the commencement of this Act, been bona fide engaged in New South Wales in the practice of optometry either separately or in conjunction with the practice of any other profession or calling; and who has made application to the board for registration within one year from the commencement of this Act;
- (c) has received from the board's examiners a certificate of competency and produced same to the board; or
- (d) has been a pupil or apprentice for a period of not less than two years to a practising optometrist entitled to be registered under this Act; provided that such pupilage or apprenticeship has commenced at least six months before the commencement of this Act, and has expired before he applies to be registered as an optometrist,

shall be entitled to be registered.

16. (1) Any person who proves to the satisfaction of the board that he has practised optometry for not less than twelve months elsewhere than in New South Wales, that he holds a recognised certificate, and that he is of good character, shall be entitled upon the payment of the prescribed fees and without examination, to be registered as an optometrist under this Act.

(2)

(2) On any application for registration under this or the last preceding section the applicant shall produce and supply such evidence of identity and bona fides as may be prescribed or as the board may require.

17. (1) The board shall upon registration, and thereafter annually upon payment therefor of the prescribed fee, issue to each person entitled thereto applying for the same, a certificate in the form in the Schedule to this Act. Certificates.

(2) The certificate shall be in force until and inclusive of the thirty-first day of December next after the issue thereof.

(3) 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.

18. Any person who for a period exceeding two years ceases to hold a certificate and afterwards applies for a certificate, shall not be entitled thereto unless and until he satisfies the board as to the circumstances under which he omitted to take out his certificate and as to his conduct and employment in the meantime. Omission to take out annual certificate.

19. Registration under this Act shall not confer upon any person any right or title— Registration not to imply medical qualifications.

- (a) to assume the title of doctor, oculist, ophthalmic surgeon, or any other name, title, or designation implying or tending to convey the belief that he is by law recognised as a medical practitioner, or that he is qualified to practise ophthalmic medicine or surgery; or
- (b) to administer or prescribe drugs to paralyse the eye.

PART IV.

PRACTICE OF OPTOMETRY.

20. (1) Subject to this Act, any registered optometrist shall be entitled to practise optometry in any part of the State. Persons who may practise optometry.

(2) After the expiration of six months from the commencement of this Act, no person who is not a registered optometrist shall practise or pretend to practise optometry.

(3) The last preceding subsection shall not be construed to prevent any person from engaging in the actual craft of lens grinding and spectacle making, nor to debar any apprentice indentured to a registered optometrist while under the personal supervision of a registered optometrist from obtaining practice and experience in optometry.

(4) Any person offending against subsection two of this section shall be liable to a penalty not exceeding *ten* pounds for a first offence, and a penalty not exceeding *fifty* pounds for any subsequent offence.

21. After the expiration of six months from the commencement of this Act, any person not being a registered optometrist who— Persons not to assume title implying registration.

(a) takes or uses the name or title of "optometrist"; or

(b) takes or uses 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,

shall be liable on summary conviction to a penalty not exceeding *twenty* pounds.

22. Any person, other than a registered optometrist, who uses, advertises, or exhibits any notice, form of words, name, title, or addition upon his premises stating or implying or capable of being understood to indicate that he has an optometrist engaged or employed shall, unless he proves that a registered optometrist is a member Prohibited practices.

member of his staff and permanently engaged upon his premises as such, be liable on summary conviction to a penalty not exceeding *twenty* pounds.

23. Any person—

- (a) who procures or attempts to procure registration or a certificate of registration under this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate, or representation either in writing or otherwise ; or
- (b) who wilfully makes or causes to be made any falsification in the register ; or
- (c) who forges, alters, or counterfeits any certificate ; or
- (d) who utters or uses any forged, altered, or counterfeited certificate knowing the same to have been forged, altered, or counterfeited ; or
- (e) who falsely advertises or publishes himself as having obtained registration or a certificate under this Act ; or
- (f) who falsely personates a registered optometrist of a like or different name, or buys, sells, or fraudulently obtains a certificate under this Act issued to another,

Obtaining
registration
by false
pretences.

shall be liable on summary conviction to imprisonment for a term not exceeding *six* months or to a fine not exceeding *fifty* pounds.

PART V.

REGULATIONS AND MISCELLANEOUS.

24. Any optometrist registered under this Act, not being a legally qualified medical practitioner, who administers or prescribes mydriatics shall be liable upon summary conviction to a penalty not exceeding *fifty* pounds.

Use of
mydriatics
prohibited.

25.

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25. (1) The board, subject to the approval of the Regulations, Governor, may make regulations—

- (a) regulating the manner of keeping and controlling the register ;
- (b) regulating the granting and issue of certificates and the conditions of registration ;
- (c) prescribing what certificates, diplomas, membership, degree, letters, testimonials 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 ;
- (d) regulating the admission to the register of persons already engaged in practising optometry at the commencement of this Act ;
- (e) prescribing and regulating the method, subjects, and scope of examinations and the remuneration of examiners ;
- (f) prescribing a scale of fees to be charged and paid in respect of any application, examination, registration, certificate, inspection, or any other proceeding, act, or thing provided or required under this Act ;
- (g) prescribing forms to be used for any of the purposes of this Act ;
- (h) regulating the terms and period of apprenticeship or pupilage to be served by persons desiring to become optometrists and the nature of the instruction to be given to apprentices or pupils ;
- (i) generally providing for anything which by this Act is expressed to be prescribed or which the Governor considers necessary in order to carry out the purposes of this Act.

(2) The regulations may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches ; but no such penalty shall exceed *ten* pounds.

26. (1) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days of publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

Regulations
to be
published.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing the regulations or any part thereof, the regulations or part shall thereupon cease to have effect.

27. (1) Any person who thinks himself aggrieved by any decision, ruling, order, or direction of the board or registrar may in manner prescribed by rules of court, and until so prescribed by summons in chambers, appeal to a judge of the Supreme Court.

Right
of appeal.

(2) No appeal shall be entertained unless it is made within two months next after the notification to such person of the decision, ruling, order, or direction, nor unless ten days' notice in writing of appeal, stating the nature and grounds thereof, is given to the registrar.

(3) An appeal against refusal to register or the removal of a person from the register shall be by way of rehearing.

(4) The judge may make such order as he 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.

28. (1) 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 by the board in accordance with the regulations in defraying the expenses of the execution of this Act.

Application
of moneys-
received.

(2)

(2) 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 by it received and paid under this Act; and such accounts shall be audited by the Auditor-General and a statement of such accounts shall be forwarded annually to the Minister, who shall lay the same before both Houses of Parliament.

Accounts to be kept.

SCHEDULE.

OPTICIANS ACT, 1926.

OPTOMETRISTS.

Certificate of registration as an optometrist.

We do hereby certify that _____ residing at _____ has qualified to the satisfaction of the Board, and is registered under the Opticians Act, 1926, as an optometrist, and is entitled to practise optometry until and inclusive of the thirty-first day of December next.

Dated at Sydney this _____ day 19 _____

Registrar.
Chairman.
