



Australian Capital Territory

# **Optometrists Act 1956**

**A1956-4**

**Republication No 8**

**Effective: 16 June 2006 – 1 July 2006**

Republication date: 16 June 2006

Last amendment made by A2005-9  
(republication for updated endnotes  
as amended by A2006-27)

Uncommenced repeal: see endnote 3

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Optometrists Act 1956* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 16 June 2006. It also includes any amendment, repeal or expiry affecting the republished law to 16 June 2006.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Optometrists Act 1956

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Australian Capital Territory

## Optometrists Act 1956

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An Act to provide for the registration of persons engaged in the practice of optometry and to control optometrical practice

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Optometrists Act 1956*.

### 3 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

*board* means the Optometrists Board established by section 6.

*chairperson* means the chairperson of the board.

*deputy chairperson* means the deputy chairperson of the board.

*member* means a member of the board.

*Mutual Recognition Act* means the *Mutual Recognition Act 1992* (Cwlth).

*optometry* means—

- (a) the employment of methods, other than methods that involve surgery, in—
  - (i) the examination of the eyes for evidence of abnormal or defective vision; or
  - (ii) the measurement of the powers of vision; or
  - (iii) the measurement of ocular motility or coordination; or
- (b) the adaptation of lenses for the aid of the powers of vision;

but does not include—

- (c) the dispensing of prescriptions for lenses written by medical practitioners; or



(d) the craft of lens grinding or spectacles making.

**register** means the register of optometrists kept in accordance with section 22.

**registered optometrist** means a person—

- (a) who is registered under this Act; or
- (b) who is to be deemed to be registered under this Act because of the Mutual Recognition Act, section 25.

(2) For this Act—

- (a) an individual shall be deemed to practise optometry if—
  - (i) he or she practises optometry personally on his or her own account or as a member of a firm; or
  - (ii) in the course of a business carried on by him or her, a person or persons employed by him or her is or are engaged in optometry; or
  - (iii) he or she is engaged in optometry as a person employed in a business carried on by another person (including a company) or by a 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, for a firm, a member or members of the firm, is or are engaged in optometry.

### **3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 49 (Refusal to permit examination of books etc).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

#### **4 Competence to practise optometry**

For this Act, a person shall be taken to be competent to practise optometry only if the person—

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

#### **5 Impairment**

- (1) For 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 that detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise optometry.
- (2) For subsection (1), habitual drunkenness or addiction to a deleterious drug shall be taken to be a physical or mental disorder.

## Part 2                      The Optometrists Board

### 6                      The Optometrists Board

For this Act there shall be a board, which shall be known as the Optometrists Board.

### 7                      Constitution of board

- (1) The board shall consist of—
  - (a) a chairperson, and 1 other member, appointed in accordance with the *Health Professions Boards (Procedures) Act 1981*; and
  - (b) 1 member elected, as occasion requires, in accordance with the *Health Professions Boards (Elections) Act 1980*.
- (2) A person is not eligible for appointment as a member unless—
  - (a) he or she is a registered optometrist; and
  - (b) he or she was, at all times during the 3 years immediately before his or her appointment, entitled, under the law of a State or Territory, to practise as an optometrist in that State or Territory.
- (3) The chairperson shall be the executive officer of the board.

## Part 3 Registration

### Division 3.1 Qualifications for registration

#### 8 Entitlement to registration based on qualifications and training

- (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
  - (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 the further education or training, gained the experience in practising optometry and passed the examinations that the board requires.
- (2) The board shall not, for subsection (1) (b) (ii), require a person to gain experience in practising 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.

#### 9 Registration under mutual recognition principle

- (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.

- (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.
- (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.

## **10 Registration at discretion of board**

- (1) If a person is a graduate of a course of education or training referred to in section 8 (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 practising optometry.
- (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
  - (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 the conditions on the registration of a person under this section that it considers appropriate.

## 11 Interim registration

- (1) An applicant for registration may be granted interim registration if—
  - (a) the applicant is entitled to registration under section 8 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 8 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.
- (2) A person authorised by the board for this section may grant interim registration in accordance with this section to an applicant for registration.

*Note* A fee may be determined under s 55 (Determination of fees) for this section.

- (3) Interim registration granted to a person under this section remains in force from the time when it is granted until the person is given written notice that the board has—
  - (a) granted him or her registration; or
  - (b) refused his or her application for registration; or
  - (c) cancelled the interim registration.
- (4) The board may cancel a person's interim registration for any reason that it considers proper and shall immediately give the person written notice of the cancellation.
- (5) A person who holds interim registration is for all purposes to be taken to be a registered optometrist.

**12 Conditions of registration in cases of impairment**

- (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.
- (2) If 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;the board may alter or remove the conditions or impose new conditions.

**13 Refusal of registration if applicant convicted of offence**

- (1) Subject to subsection (3), the board may refuse an application for registration if—
  - (a) the applicant has been convicted in the ACT of an offence or has been convicted outside the ACT by a court for or in relation to an act or omission that would, had it taken place in the ACT, 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.
- (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).
- (3) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

**14 Refusal of registration if applicant deregistered outside ACT**

- (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.
- (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 under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

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

- (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.
- (2) Subsection (1) does not apply in relation to a person who is entitled to registration under the Mutual Recognition Act and who has lodged with the board a notice under that Act, section 19.

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

- (1) Subject to subsection (2), if the registration of a person under this Act has been cancelled (otherwise than under section 25 or 29 (2)) or suspended (otherwise than under section 40 (2)) the person may not apply for re-registration or termination of the suspension otherwise than under section 39.



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

## **Division 3.2            Registration procedure**

### **17            Applications for registration**

- (1) This section applies to applications for registration other than applications by persons who are entitled to registration under the Mutual Recognition Act and who lodge with the board a notice under that Act, section 19.
- (2) The applicant must give the board a completed application form.

*Note 1*    A fee may be determined under s 55 (Determination of fees) for this section.

*Note 2*    If a form is approved under s 55A (Approved forms) for an application, the form must be used.

### **18            Applications to be considered and determined**

The board shall consider each application under section 17 and shall determine the application by—

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

### **19            Registration of applicants**

If a person who is applying for registration otherwise than under the Mutual Recognition Act—

- (a) complies with this Act; and
- (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, register the applicant.

## **21 Conditions of registration**

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.

## **Division 3.3 Register of optometrists**

### **22 Register**

- (1) The board shall keep a register called the register of optometrists.
- (2) The register may be maintained by electronic means.

### **23 Particulars to be entered in register**

The registration of a person shall be effected by entering in the register—

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

## **24 Certificates of registration**

- (1) If a person is registered as an optometrist under this Act, the board shall issue to the person a certificate of registration signed by the chairperson or deputy chairperson.
- (2) A certificate of registration shall state the provision under 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.
- (3) A certificate of registration is evidence that the person specified in the certificate was registered on the date specified in the certificate.
- (4) If a certificate issued under subsection (1) to a registered optometrist has been stolen, lost or destroyed, the board must, on application by the registered optometrist, issue a duplicate certificate.

*Note* A fee may be determined under s 55 (Determination of fees) for this section.

- (5) If the registration of a person has been cancelled or suspended, the chairperson shall, by written notice given to the person, require the person to give his or her certificate of registration to the chairperson within 14 days.
- (6) If a person whose registration has been suspended gives his or her certificate of registration to the board, the board shall keep the certificate during the period of the suspension and return it to the person at the end of that period unless the person's registration has sooner been cancelled.
- (7) If, 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;the chairperson may, by written notice given to the person, require the person to give 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, fail to comply with a notice under subsection (5) or (7).

Maximum penalty: 5 penalty units.

- (9) A notice for 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.

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

- (1) If 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) If—

- (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.

- (3) If 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.

- (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.

## **26 Imposition of conditions imposed under foreign law**

- (1) If 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.
- (2) If 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.

## **27 Cessation of registration**

A registered optometrist ceases to be registered—

- (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 ends.

## **Division 3.4 Annual registration fees**

### **28 Annual registration fee**

- (1) On or before 1 July in each year, a registered optometrist must pay to the Territory the annual registration fee determined under section 55 (Determination of fees) for the year.

- (2) The board shall send 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).
- (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).

### **29 Registration to be cancelled for nonpayment**

- (1) If a registered optometrist does not comply with subsection 28 (1), the board shall send 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.

### **30 Entitlement to re-registration on payment of fees**

- (1) A person whose registration has been cancelled for failure to pay the annual registration fee determined under section 55 (Determination of fees) for a year is entitled to be re-registered if the person gives the board a completed application form and pays the fee.

*Note* If a form is approved under s 55A (Approved forms) for an application, the form must be used.

- (2) 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.
- (3) 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.

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

### **31 Change of address to be notified**

If—

- (a) a change occurs in an address of a registered optometrist shown in the register; or
- (b) a registered optometrist establishes a professional address, or an additional professional address, in the ACT;

the registered optometrist shall, within 1 month of the change or establishment notify the chairperson in writing accordingly.

Maximum penalty: 5 penalty units.

### **32 Publication of names etc of registered optometrists**

- (1) As soon as practicable after 1 July in each year, the board must prepare a written notice containing the names and professional address (or addresses) of the optometrists registered on that day.
- (2) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

### **33 Alteration of register**

- (1) The board shall remove from the register the name of a registered optometrist who has died or whose registration has been cancelled.

*Note* A fee may be determined under s 55 (Determination of fees) for this section.

- (2) The board may, from time to time, at the request of a person or on its own initiative, make any other alterations to particulars in the register that are necessary.

## Part 4 The conduct of optometrical practice

### 34 Cancellation or suspension of registration

- (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 the period that the board considers appropriate;
- if it is satisfied that—
- (c) the registration of the person was obtained by fraud or misrepresentation; or
  - (d) the optometrical qualification of the person has been withdrawn or cancelled by the body that granted it; or
  - (e) the person has contravened this Act; or
  - (f) the person has contravened a condition to which his or her registration under this Act is subject; or
  - (g) the person has been convicted in the ACT 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; or
  - (h) the person has failed to exercise adequate judgment or care in practising optometry; or
  - (i) the person has engaged in conduct, whether in practising optometry or not, that adversely affects practising optometry by the person; or
  - (j) 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 relation to matters requiring professional discretion or skill; or

- (k) 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; or
- (l) 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; or
- (m) the person is guilty of habitual drunkenness, or addiction to a deleterious drug, that renders him or her unfit to practise as an optometrist; or
- (n) the person has engaged in any other improper or unethical conduct relating to practising optometry; or
- (o) the person is not competent to practise optometry.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) Subsection (1) does not apply to conduct of the kind referred to in subsection (1) (j) if that conduct takes place in connection with—
  - (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 this paragraph.

- (3) A registered optometrist may, in a way 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 where he or she practises; or
  - (b) publish a notice or notices of the fact that he or she has begun or resumed practice as an optometrist or a notice or notices of a change of the address where he or she practises as an optometrist; or
  - (c) exhibit at the place or places where he or she practises as an optometrist a notice or notices containing his or her name and qualifications.
- (4) In approving a way of giving notice for subsection (3), the board shall have regard to the accepted customs and usages of the optometry profession.

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

- (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 the period that the board considers appropriate.
- (2) The board may, instead of cancelling or suspending the registration of a person, if 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.

- (3) If 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.
- (4) A person on whom an order under subsection (1) (b) or (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.

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

If a person whose registration as an optometrist has been suspended is convicted of an offence against section 41 or 44, 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 the period the board considers appropriate.

### **37 Power of board to caution, reprimand etc**

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;
- (c) impose on the optometrist's registration the conditions relating to practising optometry the board considers appropriate.

### **38 Power of board to impose fines**

- (1) Subject to subsection (2), if the board finds that an optometrist has failed to comply with an order of the board under section 37 (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.
- (3) If 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 the period the board considers appropriate.

### **39 Application for re-registration**

- (1) If the registration of a person has been cancelled, otherwise than under section 25 or 29 (2), or suspended, otherwise than under section 40 (2), the person may apply for re-registration or termination of the suspension on the ground that, because of a specified change in the circumstances that has 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.
- (2) On an application under this section the board may, if it is satisfied that, because 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.

### **40 Inquiry by board**

- (1) The board shall hold an inquiry before—
  - (a) cancelling the registration of a person otherwise than under section 25 or 29 (2); or
  - (b) suspending the registration of a person otherwise than under subsection (2); or
  - (c) directing a person not to give or perform specified services under section 35 (2); or

(d) taking any action under section 37.

- (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.

#### **41 Unregistered persons not to practise optometry**

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

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Notwithstanding anything contained in the *Medical Practitioners Act 1930*, a registered optometrist may practise optometry.

- (3) Subsection (1) does not apply to, or in relation to, a medical practitioner or a company.

#### **42 Provisions relating to practice of optometry by firms and companies**

- (1) 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.

Maximum penalty: 250 penalty units.

- (2) A firm or company shall not advertise that it will provide an optometry service whether through a registered optometrist or otherwise.

Maximum penalty: 150 penalty units.

#### **43 Administration of estate of deceased optometrist**

On the death of a registered optometrist who was at the time of his or her death carrying on business as an optometrist, an executor or executrix of the will of the deceased optometrist, or an administrator, administratrix or trustee of the estate of the deceased

optometrist, may continue the business for 2 months (or for any longer period permitted by the board) if the practice of optometry in the business is carried on by a registered optometrist.

#### 44 Use of title 'optometrist' etc

A person who, by this Act, is prohibited from practising optometry, shall not—

- (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 or her name) indicating or implying that he or she is a registered optometrist or that he or she is a person qualified to practise optometry; or
- (b) hold himself or herself out, by advertisement or otherwise, as being qualified or authorised to practise optometry or as being a person who practises optometry.

Maximum penalty: 30 penalty units.

#### 45 Sale of spectacles

- (1) A person other than a registered optometrist shall not sell spectacles or contact lenses other than spectacles or contact lenses dispensed in accordance with a prescription written by a medical practitioner or by a registered optometrist and produced to him or her by the person to whom the spectacles or contact lenses are sold.
- (2) In this section:  
*spectacles* does not include sunglasses, other than sunglasses prescribed by a medical practitioner or by a registered optometrist.
- (3) A person who contravenes subsection (1) commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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## Part 4A                      Authorisation for possession and use of poisons and restricted substances

### 45A            Definitions for pt 4A

In this part:

*ACT requirements*—see section 45B.

*optometrist drug authority* means an optometrists drug authority approved by the optometrists drug authority committee.

*Note*        Under the *Poisons and Therapeutic Goods Act 1966* (NSW), s 17B, the optometrists drug authority committee may approve:

- different classes of optometrists drug authority
- the poisons and restricted substances covered by different classes of optometrists drug authority
- competency standards for an optometrists drug authority
- the criteria for meeting the competency standards
- the maximum period for an optometrists drug authority
- the treatment of ocular conditions authorised by a class of optometrists drug authority.

*optometrists drug authority committee* means the Optometrists Drug Authority Committee established under the *Poisons and Therapeutic Goods Act 1966* (NSW), section 17B.

*poison*—see the *Poisons Act 1933*, dictionary.

*Note*        The *Poisons Act 1933* defines *poison* as a substance (other than a substance that is a poison under the *Poisons and Drugs Act 1978*) the introduction of which into the body of a person by any route involves the risk of death to the person, and includes a substance declared to be a poison under that Act, s 10.

*restricted substance*—see the *Poisons Act 1933*, dictionary.

*Note*        The *Poisons Act 1933* defines *restricted substance* as a substance declared to be a restricted substance under that Act, s 10.

**45B ACT requirements for drug authorities**

(1) For this part, the *ACT requirements* are the NSW requirements with the changes (if any) determined, in writing, by the Minister.

(2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) For subsection (1), the *NSW requirements* are—

- (a) the competency standards approved from time to time by the optometrists drug authority committee; and
- (b) the criteria approved from time to time by the optometrists drug authority committee for meeting the competency standards; and
- (c) the maximum periods for optometrists drug authorities set from time to time by the optometrists drug authority committee; and
- (d) the poisons or restricted substances approved from time to time for optometrists drug authorities by the optometrists drug authority committee; and
- (e) the treatment of ocular conditions authorised from time to time for optometrists drug authorities by the optometrists drug authority committee.

**45C Optometrist drug authorities**

(1) The board may issue an optometrist drug authority to a registered optometrist if satisfied that the optometrist meets the competency standards under the ACT requirements for the authority.

(2) In deciding whether a registered optometrist satisfies the competency standards under the ACT requirements, the board must apply the criteria under the ACT requirements for meeting the competency standards.



- (3) The board may issue an optometrist drug authority subject to conditions.
- (4) The board may amend a condition of a registered optometrist's optometrist drug authority (other than a condition prescribed by regulation).
- (5) An optometrist drug authority is also subject to any condition prescribed by regulation.

#### **45D Term of drug authorities**

- (1) An optometrist drug authority is issued for the period (not longer than the maximum period allowed under the ACT requirements) stated in the authority.
- (2) The board may withdraw a registered optometrist's optometrist drug authority.

#### **45E Possession, use, supply and prescription of certain substances**

- (1) An optometrist is authorised to possess and use, in the practice of optometry—
  - (a) for paralysing the accommodation of the eye—a cycloplegic substance; or
  - (b) for tonometry or for fitting contact lenses—a local anaesthetic; or
  - (c) for enlarging the pupil of the eye—a mydriatic substance; or
  - (d) for instilling into the eye after a mydriatic substance has been used—a miotic substance; or
  - (e) a substance prescribed by regulation.
- (2) An optometrist who holds an optometrist drug authority is also authorised to possess, use, supply and prescribe, in the practice of optometry to treat an eye condition for which the optometrist holds

**Part 4A** Authorisation for possession and use of poisons and restricted substances

Section 45E

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an optometrist drug authority, a poison or restricted substance approved for the optometrist drug authority under the ACT requirements.

## Part 5 Appeals

### 46 Review of decisions

Application may be made to the administrative appeals tribunal for review of a decision of the board—

- (a) under section 10 (4), 12 or 26 (2) to impose conditions on the registration of a person; or
- (b) under section 11 (4) to cancel the interim registration of a person; or
- (c) under section 12 (2) to refuse to review conditions on the registration of a person; or
- (d) under section 12 (2) to refuse to alter or remove conditions on the registration of a person; or
- (e) under section 12 (2) to impose new conditions on the registration of a person; or
- (f) under section 18 to refuse to register a person; or
- (g) under section 25 (3), 34 (1) (a), 35 (1) (a), 36 (a) or 38 (3) (a) to cancel the registration of a person; or
- (h) under section 25 (4), 30 or 39 (2) to refuse to re-register a person; or
- (i) under section 34 (1) (b), 35 (1) (b), 36 (b) or 38 (3) (b) or 40 (2) to suspend the registration of a person; or
- (j) under section 35 (2) to make an order directing a person not to give or perform specified optometrical services; or
- (k) under section 35 (3) to refuse to review an order directing a person not to give or perform an optometrical service; or

- (l) under section 35 (3) to refuse to amend or revoke an order directing a person not to give or perform an optometrical service; or
- (m) under section 35 (3) to amend an order directing a person not to give or perform an optometrical service; or
- (n) under section 37 to take any action of the kind specified in that subsection in relation to a registered optometrist; or
- (o) under section 38 (1) to impose a fine on a registered optometrist; or
- (p) under section 39 (2) to refuse to terminate the suspension of the registration of a person; or
- (q) under section 43 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; or
- (r) under section 43 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
- (s) under section 45C (1) to refuse to issue an optometrist drug authority; or
- (t) under section 45C (3) to issue an optometrist drug authority subject to conditions; or
- (u) under section 45C (4) to amend a condition of a registered optometrist's optometrist drug authority; or
- (v) under section 45D (1) to issue an optometrist drug authority for a period less than the maximum period allowed under the ACT requirements; or

- (w) under section 45D (2) to withdraw a registered optometrist's optometrist drug authority; or
- (x) under section 53 (2) to certify the amount that, in the opinion of the board, is a reasonable amount of fees or remuneration for an optometry service.

#### **47 Notification of decisions**

- (1) If a decision of the kind referred to in section 46 (other than paragraphs (b), (i), (j) and (o)) is made, the board shall give written notice of the decision—
  - (a) for a decision referred to in section 46 (a)—to the person on whose registration conditions have been imposed; or
  - (b) for a decision referred to in section 46 (c) or (d)—to the person whose registration is subject to the conditions; or
  - (c) for a decision referred to in section 46 (e)—to the person on whose registration new conditions have been imposed; or
  - (d) for a decision referred to in section 46 (f)—to the person whose application for registration has been refused; or
  - (e) for a decision referred to in section 46 (g)—to the person whose registration has been cancelled; or
  - (f) for a decision referred to in section 46 (h)—to the person whose application for re-registration has been refused; or
  - (g) for a decision referred to in section 46 (k), (l) or (m)—to the person in relation to whom the order was made; or
  - (h) for a decision referred to in section 46 (n)—to the registered optometrist in relation to whom the action has been taken; or
  - (i) for a decision referred to in section 46 (p)—to the person whose registration has been suspended; or

- (j) for a decision referred to in section 46 (q) or (r)—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
  - (k) for a decision mentioned in section 46 (s), (t) or (v)—to the person who applied for the optometrist drug authority; or
  - (l) for a decision mentioned in section 46 (u)—to the person whose optometrist drug authority's condition has been amended; or
  - (m) for a decision mentioned in section 46 (w)—to the person whose optometrist drug authority has been withdrawn; or
  - (n) for a decision referred to in section 46 (x)—to the person who requested the review of the account.
- (2) A notice under section 11 (4) or under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (3) An order under section 34 (1) (b), 35 (1) (b), 35 (2), 36 (b) or 38 (1), section 38 (3) (b) or 40 (2) shall have endorsed on it or attached to it a notice in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989* section 25B (1).

## Part 6                      Miscellaneous

### 48            **Power of search**

For this Act a person authorised in writing by the chairperson or deputy chairperson of the board may enter at all reasonable times the premises where a registered optometrist is carrying on business or where it is reasonably suspected that optometry is practised and may examine any books, papers, records, apparatus, or articles stored or used in connection with any such business or practice.

### 49            **Refusal to permit examination of books etc**

- (1) A person commits an offence if the person—
- (a) fails to allow an authorised person to examine books, papers, records, apparatus or articles; or
  - (b) fails to produce them for examination.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

### 50            **Offences by firms**

If a firm contravenes a provision of this Act, every member of the firm shall be deemed to have contravened that provision.

### 51            **Publication of notice of decision**

- (1) The chairperson may prepare written notice of a decision of the board or of the administrative appeals tribunal on application for review of a decision of the board—
- (a) cancelling the registration of a person; or
  - (b) suspending, otherwise than under subsection 40 (2), the registration of a person; or

- (c) imposing a condition on the registration of a person; or
- (d) directing that a person not give or perform specified optometrical services; or
- (e) taking any action under section 37 (a) or (b); or
- (f) imposing a fine on a person under section 38 (1);

and the reasons for the decision, including the findings on material questions of fact.

- (2) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) The notice must not be notified until—
  - (a) the period within which an application may be made to the administrative appeals tribunal for review of the decision has ended; and
  - (b) if an application for review of the decision is made, the administrative appeals tribunal has given its decision on the application.

## **52 Actions for recovery of fees or remuneration**

- (1) A person who has given an optometry service to another person or a dependant of that other person is not entitled to begin an action for the recovery from that other person of fees or remuneration for that optometry service unless—
  - (a) he or she has served or caused to be served on that other person by delivery to that person personally or by post addressed to that person at his or her last-known place of residence, an account for the fees or remuneration setting out the amount claimed, a brief statement of the nature of the optometry service given, the dates when it was given and the person for whom it was given; and



- (b) a period of 3 months has passed since that service of the account and the account is unpaid at the end of that period.
- (2) Notwithstanding subsection (1), an action for the recovery of fees or remuneration for an optometry service may be begun without the service of an account for those fees or that remuneration in accordance with that subsection or, if such an account has been so served, before the end of the period of 3 months from the service of the account, if the action is one in which an application could, apart from that subsection, be made for an order under the *Court Procedures Act 2004*, sections 103 to 109.
- (3) Subsection (2) and this subsection expire on the existing rules expiry day under the *Court Procedures Act 2004*, section 100 (3).

### **53 Review of accounts for fees for optometry services**

- (1) A person liable to pay fees or remuneration for an optometry service to the person who gave the service may, within 6 months after service on him or her of an account for the fees or remuneration in accordance with section 52, apply in writing to the board to review the account.
- (2) The board shall, on receipt of an application under subsection (1), review the account and certify, by writing signed by the chairperson or the deputy chairperson, the amount that, in the board's opinion is a reasonable amount of fees or remuneration for the optometry service.
- (3) The board shall, in a certificate referred to in subsection (2), set out the facts on which the certificate is based.
- (4) The board may, by notice to a person, request the person to give on or before a day specified in the notice the information that it considers necessary or desirable for the purpose of a review under this section.
- (5) If a person does not give information requested by the board under subsection (4) on or before the day specified in the notice, the board

may proceed to review the account for fees or remuneration without that information.

- (6) In reviewing an account for fees or remuneration under this section, the board is not required to conduct a formal hearing, but the board shall provide the parties to the application with any information given to the board under subsection (4).
- (7) In reviewing an account for fees or remuneration under this section, the board shall have regard to the time occupied in giving, and the nature of, the optometry service and any other circumstances submitted by the person who gave the service in relation to the provision of the service.
- (8) In proceedings for the recovery of fees or remuneration in relation to an optometry service, a certificate of the board under subsection (2) in relation to that service is evidence that the amount certified in the certificate is a reasonable amount of fees or remuneration for the optometry service.
- (9) The board shall send a copy of a certificate of the board under subsection (2) by post to the person who gave the optometry service at his or her address as last known to the board.

#### **54 Name of optometrist to be exhibited**

- (1) A person who carries on business as an optometrist shall prominently display at all times at the premises where that business is carried on a notice that—
    - (a) can be clearly viewed from outside the premises; and
    - (b) specifies, in letters not less than 5cm and not more than 8cm in height, the names as recorded in the register of the optometrists practising optometry at those premises followed, in each case, by the word 'Optometrist'.
  - (2) A person who contravenes subsection (1) commits an offence
- Maximum penalty (subsection (2)): 5 penalty units.

**55 Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**55A Approved forms**

- (1) The board may, in writing, approve forms for this Act.

- (2) If the board approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

**56 Inspection of register**

- (1) A person may inspect, or obtain a certified copy of, an entry in the register.

*Note* A fee may be determined under s 55 (Determination of fees) for this section.

- (2) The board may, on request by the registration authority of a State, Territory or place outside Australia and without payment by the registration authority of a fee, give a certified copy of the register to that registration authority.

- (3) In this section:

***registration authority*** means a person or body empowered by or under the law of a State, Territory or place outside Australia to register optometrists or otherwise to authorise the practise of optometry.

**57 Regulation-making power**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Optometrists Ordinance 1956* No 4 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### Legislation before becoming Territory enactment

##### **Optometrists Act 1956 No 4**

notified 22 March 1956

commenced 28 October 1957 (s 2 and Cwlth Gaz 1957 p 3135)

as amended by

##### **Optometrists Ordinance 1957 No 4**

notified 28 March 1957

commenced 28 October 1957 (CwlthGaz 1957 p 3135)

##### **Optometrists Ordinance 1958 No 14**

notified 18 September 1958

commenced 18 September 1958

##### **Ordinances Revision (Decimal Currency) Ordinance 1966 No 19 sch 1**

notified 23 December 1966

commenced 23 December 1966

##### **Optometrists Ordinance 1967 No 19**

notified 8 June 1967

commenced 8 June 1967

**Optometrists Ordinance 1970 No 36**

notified 22 October 1970  
commenced 22 October 1970

**Optometrists Ordinance 1971 No 19**

notified 23 September 1971  
commenced 23 September 1971

**Ordinances Revision (Age of Majority) Ordinance 1974 No 47 s 3, sch 1**

notified 24 October 1974  
commenced 1 November 1974

**Ordinances Revision (Health Commission) Ordinance 1975 No 17 s 3, sch 1, s 13**

notified 1 July 1975  
commenced 1 July 1975

**Ordinances Revision Ordinance 1977 No 65 sch 2**

notified 22 December 1977  
commenced 22 December 1977

**Ordinances Revision Ordinance 1978 No 46 sch 2**

notified 28 December 1978  
commenced 28 December 1978

**Ordinances Revision (Penalties) Ordinance 1979 No 26 s 6**

notified 31 August 1979  
commenced 31 August 1979

**Optometrists (Amendment) Ordinance 1980 No 49**

notified 23 December 1980  
commenced 26 May 1981 (Cwlth Gaz 1981 No S101)

**Optometrists (Amendment) Ordinance 1981 No 50**

notified 9 December 1981  
commenced 31 December 1981 (Cwlth Gaz 1981 No S273)

**Optometrists (Amendment) Ordinance 1982 No 31**

notified 28 June 1982  
commenced 30 June 1982 (Cwlth Gaz 1982 No S139)

## Endnotes

3 Legislation history

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**Optometrists (Amendment) Ordinance (No 2) 1982 No 43**

notified 30 June 1982  
commenced 30 June 1982

**Optometrists (Amendment) Ordinance 1986 No 51**

notified 29 August 1986  
commenced 1 September 1986 (Cwlth Gaz 1986 No S430)

**Drug Laws (Consequential Amendments) Ordinance 1989 No 14 s 5**

notified 15 March 1989  
commenced 1 April 1989 (s 2 and Cwlth Gaz 1989 No S109)

**Self-Government (Consequential Amendments) Ordinance 1989  
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989  
No S164)

**Legislation after becoming Territory enactment**

**Health Services (Consequential Provisions) Act 1990 No 63 sch 1**

notified 28 December 1990 (Gaz 1990 No S102)  
s 1, s 2 commenced 28 December 1990 (s 2 (1))  
sch 1 commenced 31 January 1991 (s 2 (2) and see Gaz 1991 No S4)

**Health (Consequential Provisions) Act 1993 No 14 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993 (s 2)

**Optometrists (Amendment) Act 1993 No 87**

notified 17 December 1993 (Gaz 1993 No S258)  
s 1, s 2 commenced 17 December 1993 (s 2 (1))  
remainder commenced 1 January 1994 (s 2 (2) and Gaz 1993  
No S279)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60  
sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994  
No S250)



**Statute Law Revision (Penalties) Act 1994 No 81 sch**

notified 29 November 1994 (Gaz 1994 No S253)  
s 1, s 2 commenced 29 November 1994 (s 2 (1))  
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 271**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 271 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.62**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.62 commenced 9 April 2004 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39 sch 5 pt 5.12**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 5 pt 5.12 commenced 1 July 2005 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 and CN2005-11)

**Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.58**

notified LR 2 September 2004  
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))  
sch 1 pt 1.58 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

**Optometrists Legislation Amendment Act 2005 A2005-9**

notified LR 14 March 2005  
s 1, s 2 commenced 14 March 2005 (LA s 75 (1))  
remainder commenced 14 September 2005 (s 2 and LA s 79)

## Endnotes

4 Amendment history

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as repealed by

**Health Professionals Act 2004 A2004-38 s 136 (1) (h)**

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

s 136 (1) (h) awaiting commencement (s 2 as am by A2005-28  
amdt 1.1; A2006-27 s 12)

Note 1 default commencement: 9 January 2007 (s 2 (2))

Note 2 default commencement under LA s 79 does not apply to this Act

## 4 Amendment history

### Commencement

s 2 om 2001 No 44 amdt 1.3066

### Interpretation

s 3 orig s 3 om 1977 No 65 sch 2  
(prev s 4) am 1957 No 4; 1967 No 19; 1971 No 19; 1975  
No 17 s 13; 1978 No 46 sch 2; 1980 No 49; 1981 No 50;  
1986 No 51; 1993 No 87 s 4  
renum 1993 No 87 s 27  
def **board** ins 1993 No 87 sch  
def **chairperson** ins 1993 No 87 sch  
def **deputy chairperson** ins 1993 No 87 sch  
def **determined fee** ins 1993 No 87 s 4  
om 2001 No 44 amdt 1.3067  
def **drug** sub 1989 No 14 s 5  
om 1993 No 87 s 4  
def **medical practitioner** sub 1993 No 87 s 4  
om A2004-39 amdt 5.19  
def **Mutual Recognition Act** ins 1993 No 87 s 4  
def **register** ins 1993 No 87 sch  
def **registered optometrist** sub 1993 No 87 s 4  
def **the board** om 1993 No 87 sch  
def **the chairman** om 1993 No 87 sch  
def **the deputy chairman** 1993 No 87 sch  
def **the register** om 1993 No 87 sch  
def **tribunal** sub 1989 No 38 sch 1  
om 1994 No 60 sch 1

### Offences against Act—application of Criminal Code etc

s 3A ins A2004-15 amdt 2.137

### Competence to practise optometry

s 4 orig s 4 renum as s 3  
(prev s 4A) ins 1993 No 87 s 5  
renum 1993 No 87 s 27

**Competence to practise optometry**

s 4A renum as s 4

**Impairment**

s 4B renum as s 5

**Impairment**

s 5 orig s 5 renum as s 6  
(prev s 4B) ins 1993 No 87 s 5  
renum 1993 No 87 s 27

**The Optometrists Board**

s 6 orig s 6 renum as s 7  
(prev s 5) am 1978 No 46 sch 2; 1981 No 50  
renum 1993 No 87 s 27

**Constitution of board**

s 7 orig s 7 renum as s 8  
(prev s 6) am 1967 No 19; 1971 No 19; 1975 No 17 s 13  
sub 1980 No 49  
am 1981 No 50; 1993 No 87  
renum 1993 No 87 s 27  
ss renum R3 LA

s 7A ins 1980 No 49  
om 1981 No 50

**Registration**

pt 3 hdg am 1993 No 87 s 6

**Qualifications for registration**

div 3.1 hdg (prev pt 3 div 1 hdg) ins 1993 No 87 s 7  
renum R3 LA

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

s 8 orig s 8 renum as s 9  
(prev s 7) sub 1980 No 49  
om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

**Registration under mutual recognition principle**

s 9 orig s 9 renum as s 10  
(prev s 8) om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

## Endnotes

### 4 Amendment history

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#### **Registration at discretion of board**

s 10 orig s 10 renum as s 11  
(prev s 9) sub 1980 No 49  
om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

#### **Interim registration**

s 11 orig s 11 renum as s 12  
(prev s 10) am 1980 No 49  
om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3068

#### **Conditions of registration in cases of impairment**

s 12 orig s 12 renum as s 13  
(prev s 11) am 1980 No 49  
om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

#### **Refusal of registration if applicant convicted of offence**

s 13 orig s 13 renum as s 14  
(prev s 12) om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

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

s 13A renum as s 15

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

s 13B renum as s 16

#### **Applications for registration**

s 13C renum as s 17

#### **Applications to be considered and determined**

s 13D renum as s 18

#### **Registration of applicants**

s 13E renum as s 19

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

s 13F renum as s 20

#### **Conditions of registration**

s 13G renum as s 21

**Refusal of registration if applicant deregistered outside ACT**

s 14 orig s 14 renum as s 22  
(prev s 13) am 1967 No 19  
om 1981 No 50  
ins 1993 No 87 s 7  
renum 1993 No 87 s 27

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

s 15 orig s 15 renum as s 23  
(prev s 13A) ins 1993 No 87 s 7  
renum 1993 No 87 s 27

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

s 16 orig s 16 renum as s 24  
(prev s 13B) ins 1993 No 87 s 7  
renum 1993 No 87 s 27

**Registration procedure**

div 3.2 hdg (prev pt 3 div 2 hdg) ins 1993 No 87 s 7  
renum R3 LA

**Applications for registration**

s 17 orig s 17 renum as s 25  
(prev s 13C) ins 1993 No 87 s 7  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3069

**Applications to be considered and determined**

s 18 orig s 18 renum as s 26  
(prev s 13D) ins 1993 No 87 s 7  
renum 1993 No 87 s 27

**Cessation of registration**

s 18A renum as s 27

**Annual registration fee**

s 18B renum as s 28

**Registration to be cancelled for nonpayment**

s 18C renum as s 29

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

s 18D renum as s 30

**Registration of applicants**

s 19 orig s 19 renum as s 31  
(prev s 13E) ins 1993 No 87 s 7  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3070

**Publication of names etc of registered optometrists**

s 19A renum as s 32

## Endnotes

### 4 Amendment history

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

s 20 orig s 20 am 1966 No 19  
sub 1982 No 31  
om 1993 No 87 s 11  
(prev s 13F) ins 1993 No 87 s 7  
renum 1993 No 87 s 27  
om 2001 No 44 amdt 1.3071

#### **Conditions of registration**

s 21 orig s 21 sub 1982 No 31  
om 1993 No 87 s 11  
(prev s 13G) ins 1993 No 87 s 7  
renum 1993 No 87 s 27

#### **Register of optometrists**

div 3.3 hdg (prev pt 3 div 3 hdg) ins 1993 No 87 s 7  
renum R3 LA

#### **Register**

s 22 orig s 22 sub 1982 No 31  
om 1993 No 87 s 11  
(prev s 14) am 1993 No 87 s 8  
renum 1993 No 87 s 27

s 22A ins 1982 No 31  
am 1986 No 51  
om 1993 No 87 s 11

#### **Alteration of register**

s 22B renum as s 33

#### **Particulars to be entered in register**

s 23 orig s 23 renum as s 34  
(prev s 15) am 1957 No 4; 1966 No 19; 1982 No 31; 1982  
No 43; 1990 No 63 sch 1; 1993 No 14 sch 1  
sub 1993 No 87 s 9  
renum 1993 No 87 s 27

s 23A ins 1986 No 51  
om 1993 No 87 s 11

s 23B ins 1986 No 51  
om 1993 No 87 s 11

**Certificates of registration**

s 24 orig s 24 renum as s 35  
(prev s 16) am 1958 No 14; 1974 No 47 s 3, sch 1; 1986  
No 51  
sub 1993 No 87 s 9  
renum 1993 No 87 s 27  
am 1994 No 81 sch; 2001 No 44 amdt 1.3072

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

s 25 orig s 25 renum as s 36  
(prev s 17) om 1981 No 50  
ins 1986 No 51  
sub 1993 No 87 s 9  
renum 1993 No 87 s 27

**Imposition of conditions imposed under foreign law**

s 26 orig s 26 renum as s 37  
(prev s 18) am 1981 No 50  
sub 1982 No 31; 1993 No 87 s 9  
renum 1993 No 87 s 27

s 26A ins 1986 No 51  
am 1989 No 38 sch 1  
om 1993 No 87 s 13

**Cessation of registration**

s 27 orig s 27 renum as s 38  
(prev s 18A) ins 1993 No 87 s 9  
renum 1993 No 87 s 27

s 27A ins 1982 No 31  
om 1993 No 87 s 13

s 27B ins 1982 No 31  
om 1993 No 87 s 13

**Annual registration fees**

div 3.4 hdg (prev pt 3 div 4 hdg) ins 1993 No 87 s 9  
renum R3 LA  
sub 2001 No 44 amdt 1.3073

**Annual registration fees**

s 28 hdg sub 2001 No 44 amdt 1.3074  
s 28 orig s 28 renum as s 39  
(prev s 18B) ins 1993 No 87 s 9  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3075

## Endnotes

### 4 Amendment history

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#### **Inquiry by board**

s 28A renum as s 40

#### **Registration to be cancelled for nonpayment**

s 29 orig s 29 renum as s 41  
(prev s 18C) ins 1993 No 87 s 9  
renum 1993 No 87 s 27

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

s 30 orig s 30 renum as s 42  
(prev s 18D) ins 1993 No 87 s 9  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3076; ss renum R3 LA (see 2001  
No 44 amdt 1.3077)

#### **Change of address to be notified**

s 31 orig s 31 renum as s 43  
(prev s 19) am 1966 No 19 sch 1; 1979 No 26 s 6  
sub 1982 No 31  
am 1993 No 87 sch  
renum 1993 No 87 s 27  
am 1994 No 81 sch

#### **Publication of names etc of registered optometrists**

s 32 orig s 32 renum as s 44  
(prev s 19A) ins 1986 No 51  
renum 1993 No 87 s 27  
sub 2001 No 44 amdt 1.3078

#### **Alteration of register**

s 33 orig s 33 am 1966 No 19 sch 1; 1979 No 26 s 6  
om 1986 No 51  
(prev s 22B) ins 1982 No 31  
am 1993 No 87 s 12, sch  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3079, amdt 1.3080

#### **Sale of spectacles**

s 33A renum as s 45

#### **Cancellation or suspension of registration**

s 34 orig s 34 renum as s 46  
(prev s 23) am 1981 No 50  
sub 1986 No 51  
om 1993 No 87 s 13  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3081; amdt 1.3082; pars renum R3 LA



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

s 35 orig s 35 renum as s 47  
(prev s 24) am 1981 No 50  
sub 1986 No 51  
om 1993 No 87 s 13  
renum 1993 No 87 s 27

**Practising when registration suspended**

s 36 orig s 36 om 1981 No 50  
(prev s 25) am 1966 No 19 sch 1  
sub 1979 No 26 s 6  
om 1982 No 31  
renum 1993 No 87 s 27

**Power of board to caution, reprimand etc**

s 37 orig s 37 om 1981 No 50  
(prev s 26) sub 1981 No 50  
am 1982 No 31; 1986 No 51  
om 1993 No 87 s 13  
ins 1993 No 87 s 14  
renum 1993 No 87 s 27

**Power of board to impose fines**

s 38 orig s 38 om 1981 No 50  
(prev s 27) om 1993 No 87 s 13  
ins 1993 No 87 s 14  
renum 1993 No 87 s 27

**Application for re-registration**

s 39 orig s 39 am 1966 No 19 sch 1; 1979 No 26 s 6  
om 1981 No 50  
(prev s 28) om 1982 No 43  
ins 1993 No 87 s 14  
renum 1993 No 87 s 27

**Inquiry by board**

s 40 orig s 40 am 1966 No 19 sch 1; 1979 No 26 s 6  
om 1981 No 50  
(prev s 28A) ins 1993 No 87 s 14  
renum 1993 No 87 s 27

**Unregistered persons not to practise optometry**

s 41 orig s 41 om 1981 No 50  
(prev s 29) am 1958 No 14; 1966 No 19 sch 1  
sub 1979 No 26  
am 1986 No 51; 1993 No 87 s 13  
renum 1993 No 87 s 27  
am 1994 No 81 sch

## Endnotes

### 4 Amendment history

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#### **Provisions relating to practice of optometry by firms and companies**

s 42 orig s 42 sub 1967 No 19  
am 1970 No 36  
om 1981 No 50  
(prev s 30) am 1966 No 19 sch 1; 1979 No 29 s 6; 1986 No 51  
renum 1993 No 87 s 27  
am 1994 No 81 sch

#### **Administration of estate of deceased optometrist**

s 43 orig s 43 om 1967 No 19  
(prev s 31) am 1993 No 87 sch  
renum 1993 No 87 s 27

#### **Use of title 'optometrist' etc**

s 44 orig s 44 om 1981 No 50  
(prev s 32) am 1966 No 19 sch 1; 1979 No 29 s 6; 1986 No 51; 1993 No 87 sch  
renum 1993 No 87 s 27  
am 1998 No 54

#### **Sale of spectacles**

s 45 orig s 45 renum as s 48  
(prev s 33A) ins 1957 No 4  
am 1966 No 19 sch 1; 1979 No 26 s 6; 1986 No 51; 1993 No 87 sch  
renum 1993 No 87 s 27  
am 1994 No 81

#### **Authorisation for possession and use of poisons and restricted substances**

pt 4A hdg orig pt 4A hdg renum as pt 5 hdg  
ins A2005-9 s 4

#### **Definitions for pt 4A**

s 45A ins A2005-9 s 4  
def **ACT requirements** ins A2005-9 s 4  
def **optometrist drug authority** ins A2005-9 s 4  
def **optometrists drug authority committee** ins A2005-9 s 4  
def **poison** ins A2005-9 s 4  
def **restricted substance** ins A2005-9 s 4

#### **ACT requirements for drug authorities**

s 45B ins A2005-9 s 4

#### **Optometrist drug authorities**

s 45C ins A2005-9 s 4

#### **Term of drug authorities**

s 45D ins A2005-9 s 4

#### **Possession, use, supply and prescription of certain substances**

s 45E ins A2005-9 s 4

**Appeals**

pt 5 hdg orig pt 5 hdg renum as pt 6 hdg  
(prev pt 4A hdg) ins 1993 No 87 s 16  
renum 1993 No 87 s 27

**Review of decisions**

s 46 orig s 46 renum as s 49  
(prev s 34) om 1986 No 51  
ins 1993 No 87 s 16  
renum 1993 No 87 s 27  
am 1994 No 60 sch 1; pars renum R3 LA; A2005-9 s 5;  
pars renum R7 LA (see A2005-9 s 6)

**Notification of decisions**

s 47 orig s 47 renum as s 50  
(prev s 35) am 1966 No 19; 1979 No 26  
om 1986 No 51  
ins 1993 No 87 s 16  
renum 1993 No 87 s 27  
am 1994 No 60 sch 1; pars renum R3 LA; A2005-9 s 7;  
pars renum R7 LA (see A2005-9 s 8)

**Publication of notice of decision**

s 47AA renum as s 51

**Actions for recovery of fees or remuneration**

s 47AB renum as s 52

**Review of accounts for fees for optometry services**

s 47AC renum as s 53

**Name of optometrist to be exhibited**

s 47AD renum as s 54

**Determination of fees**

s 47AE renum as s 55

**Inspection of the register**

s 47A renum as s 56

**Miscellaneous**

pt 6 hdg (prev pt 5 hdg) renum 1993 No 87 s 27

**Power of search**

s 48 orig s 48 renum as s 57  
(prev s 45) am 1993 No 87 sch  
renum 1993 No 87 s 27

## Endnotes

4 Amendment history

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### **Refusal to permit examination of books etc**

s 49 (prev s 46) am 1966 No 19 sch 1; 1979 No 29 s 6; 1993 No 87 sch  
renum 1993 No 87 s 27  
am 1994 No 81 sch  
sub A2004-15 amdt 2.138

### **Offences by firms**

s 50 (prev s 47) renum 1993 No 87 s 27

### **Publication of notice of decision**

s 51 (prev s 47AA) ins 1981 No 51  
am 1993 No 87 sch  
renum 1993 No 87 s 27  
am 1994 No 60 sch 1; 2001 No 44 amdts 1.3083-1.3086

### **Actions for recovery of fees or remuneration**

s 52 (prev s 47AB) ins 1986 No 51  
am 1993 No 87 sch  
renum 1993 No 87 s 27  
am A2004-60 amdt 1.599, amdt 1.600  
(2), (3) exp 1 July 2006 (s 52 (3))

### **Review of accounts for fees for optometry services**

s 53 (prev s 47AC ) ins 1986 No 51  
am 1993 No 87 sch  
renum 1993 No 87 s 27

### **Name of optometrist to be exhibited**

s 54 (prev s 47AD) ins 1986 No 51  
renum 1993 No 87 s 27  
am 1994 No 81 sch

### **Determination of fees**

s 55 (prev s 47AE) ins 1986 No 51  
renum 1993 No 87 s 27  
sub 2001 No 44 amdt 1.3087

### **Approved forms**

s 55A ins 2001 No 44 amdt 1.3087

### **Inspection of register**

s 56 (prev s 47A) ins 1982 No 31  
am 1993 No 87 sch  
renum 1993 No 87 s 27  
am 2001 No 44 amdt 1.3088; ss renum R3 LA (see 2001  
No 44 amdt 1.3089)

**Regulation-making power**

s 57 (prev s 48) am 1966 No 19 sch 1; 1979 No 29 s 6; 1986 No 51; 1989 No 38 sch 1  
renum 1993 No 87 s 27  
sub 2001 No 44 amdt 1.3090

**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 63	31 May 1991
2	Act 1993 No 87	1 January 1994
3	A2001-44	15 August 2002
4	A2004-15	9 April 2004
5	A2004-60	10 January 2005
6	<u>A2005-9</u>	7 July 2005
7	A2005-9	14 September 2005

**6 Renumbered provisions**

as made by the *Optometrists (Amendment) Act 1993* (1993 No 87)

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4B	Impairment	5
5	The Optometrists Board	6
6	Constitution of board	7

## Endnotes

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