

OPTOMETRISTS AND OPTICIANS ACT 2008



BERMUDA

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OPTOMETRISTS AND OPTICIANS ACT 2008

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WHEREAS it is necessary to uphold the standards of practice in the professions of optometrist and optician;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Optometrists and Opticians Act 2008.

Interpretation

2 In this Act unless the context otherwise requires—

"Bermuda Health Council" means the Bermuda Health Council as established under section 3 of the Bermuda Health Council Act 2004;

"Council" means the Optometrists and Opticians Council established under section 3;

"Minister" means the Minister responsible for Health;

"optometrist" means a person skilled in—

- (a) the examination, diagnosis, treatment, management and prevention of disease and disorders of the visual system, the eye and associated structures;
- (b) the fitting, prescribing, manufacturing and dispensing of contact lenses, spectacles and other aids designed for the relief, prevention or correction of ocular anomalies of the eye; and
- (c) the diagnosis and treatment of ocular manifestations of systemic conditions;

"optician" means a person skilled in the fitting of spectacles and other aids to improve sight and in advising on types of lenses or frames to be used, or in the manufacture of lenses or frames, according to prescription;

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“Permanent Secretary” means the Permanent Secretary of the Department of Health;

“prescribed” means prescribed by regulations made under this Act;

“professional misconduct” includes—

- (a) incompetence or negligence in practice as an optometrist or optician;
- (b) improper or unethical conduct in relation to professional practice; and
- (c) a contravention of or failure to comply with—
 - (i) a provision of this Act; or
 - (ii) an applicable statement of conduct issued under section 13;

“the register” means the register of optometrists and opticians maintained by the Permanent Secretary under section 5;

“registered person” means a person registered as an optometrist, an optometrist authorised to prescribe therapeutic pharmaceutical agents, a registered optician or a locum tenens referred to in section 12;

“regulations” means the regulations made under section 29;

“rules” means the rules made under section 29;

“therapeutic pharmaceutical agents” means topical ocular pharmaceutical drugs used for the investigation, diagnosis or prevention of disease, injury or other abnormal condition of the eye.

Optometrists and Opticians Council

3 (1) There shall continue to be a body of persons known as the Optometrists and Opticians Council established under section 3 of the Optometrists and Opticians Act 1973.

(2) The Council shall consist of the following members—

- (a) a Chairperson who is a registered optometrist and appointed by the Minister;
- (b) three persons who are registered optometrists and appointed by the Minister after consultation with the Council; and
- (c) one person who is a registered optician and appointed by the Minister after consultation with the Council.

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(3) The provisions of the First Schedule have effect with respect to the Council.

Functions of the Council

4 The functions of the Council are to—

- (a) promote high standards of professional education and professional conduct among members of the professions of optometrist and optician;
- (b) prescribe initial and continuing qualifications for registration;
- (c) assess applications for registration and decide if applicants qualify for registration;
- (d) establish requirements for the continuing professional education of registered persons;
- (e) prescribe and monitor adherence to standards of practice and ethical guidelines for registered persons;
- (f) examine, and advise the Minister about, the operation of this Act and the regulations in their application to the profession; and
- (g) perform such other functions as may be given to it under this Act or any other statutory provision.

Registration of Optometrists and Opticians

5 (1) The Permanent Secretary shall maintain a register of optometrists and opticians containing the names of those optometrists and opticians entitled to be registered under this Act and such other particulars about those persons as may be prescribed.

(2) The Permanent Secretary shall cause to be published in the Gazette, as soon as may be after the 1st day of January in each year, a list of names entered in the register as of that day.

(3) The Permanent Secretary shall cause—

- (a) to be entered in the register the names of optometrists registered under this Act who are entitled to be registered to prescribe therapeutic pharmaceutical agents;
- (b) to be made in the register such alterations, additions and deletions relating to the particulars of registered persons as may be necessary to keep the register current and accurate;

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- (c) to be struck off the register the name of any registered person whose name is to be struck off the register under section 18;
- (d) to be removed from the register the name of any registered person—
 - (i) who has died; or
 - (ii) who has, under section 19, applied to have their name removed from the register; and
- (e) to be entered in the register as may from time to time become necessary, a note of the commencement or termination of the suspension from practice of a registered person under section 20;
- (f) to be entered in the register the name of any person whose name, having been struck off or removed from the register, is to be restored to the register in pursuance of section 22; and
- (g) may, without prejudice to anything in the foregoing provisions of this section, cause such notices to be published in the Gazette as appear to be expedient in the circumstances.

Application for registration

6 (1) Any person who applies to be registered under this Act (hereinafter referred to as an “applicant for registration”) shall apply in the prescribed form to the Permanent Secretary, and shall forward with the application—

- (a) such documents relating to professional qualifications, experience and character in support of the application as may be prescribed; and
- (b) the fee prescribed in the Government Fees Regulations 1976.

(2) The Permanent Secretary shall forward the application and accompanying documents to the Council which shall meet to consider the application.

(3) After considering the application, if the Council is satisfied that the applicant for registration is a duly eligible applicant, the Council shall instruct the Permanent Secretary to enter the applicant’s name and such other particulars as may be prescribed in the register.

(4) Where the applicant for registration does not appear to the Council to be a duly eligible applicant, the Council shall inform the

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Permanent Secretary and the applicant of its decision and the reasons for such decision.

(5) A person aggrieved by a decision of the Council under subsection (4) may appeal to the Supreme Court against the decision in the manner provided in section 24.

(6) In this section “duly eligible applicant” means an applicant for registration—

- (a) who has satisfactorily completed a course of study that is approved by the Council and has such practical experience as the Council consider sufficient evidence of their competence, knowledge and skill efficiently to practise the profession of optometrist or optician; and
- (b) who is of good character.

Registration of additional qualification

7 In any case where a registered person has, since the date of their registration under this Act, been granted any degree, diploma or other qualification, the Permanent Secretary shall, upon application made by the registered person in the prescribed form, without charge cause the particulars of the new qualification to be entered in the register.

Re-registration

8 (1) Every person whose name is entered in the register shall apply in the prescribed form for re-registration on the third anniversary of—

- (a) the day on which this section comes into operation; or
- (b) the day on which their name is entered in the register, if their name is first entered in the register after the day referred to in paragraph (a),

and shall reapply for registration every three years after the date that they are first re-registered.

(2) The Council shall re-register a person under subsection (1) if it is satisfied that the person—

- (a) continues to meet the requirements of this Act relating to qualifications and experience;
- (b) has, in the three years preceding the date of application for re-registration, complied with the requirements of continuing professional education that are applicable to them;

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(c) has made the application before the expiration of the relevant three year period referred to in subsection (1); and

(d) has paid the fee provided in the Government Fees Regulations 1976.

(3) For the purposes of subsection (2), continuing professional education means a programme approved by the Council under section 11.

Proof of registration

9 (1) A certificate signed by the Permanent Secretary declaring that a person named in the certificate is, or is not—

(a) a registered optometrist;

(b) a registered optician; or

(c) an optometrist authorised to prescribe therapeutic pharmaceutical agents,

and specifying the date of registration shall be admissible in any proceedings as prima facie evidence of the facts stated in the certificate.

(2) A registered person shall display their certificate in a conspicuous location at their principal place of practice.

Ability to prescribe drugs

10 (1) An optometrist authorised to prescribe therapeutic pharmaceutical agents may—

(a) prescribe the drugs set out in the Second Schedule for topical application in the treatment of ocular anterior segment disorders; and

(b) perform, in the removal of superficial foreign bodies from the eye, procedures on body tissue below the dermis or the mucous membrane or in or below the surface of the cornea.

(2) An optometrist authorised to prescribe therapeutic pharmaceutical agents may only perform the activities listed in subsection (1) if the optometrist has—

(a) successfully completed a 100-hour course approved by the Council of which 40 hours must be in a clinical setting dealing with therapeutic pharmaceutical agents; or

(b) graduated from an academic programme approved by the Council for this purpose.

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(3) The Minister may, after consultation with the Council, amend the Second Schedule by regulation to add or remove a drug or class of drugs by notice in the Gazette.

(4) Regulations made under subsection (3) are subject to the negative resolution procedure.

Continuing professional education

11 (1) Every registered person shall complete a prescribed number of hours of approved continuing professional education in every period of three calendar years, commencing the calendar year following the coming into operation of this section.

(2) A registered person shall be permitted to carry forward a prescribed number of hours of continuing professional education into the next three calendar year period in the event that they exceed the prescribed number of hours of continuing professional education in the previous three calendar year period.

(3) Every person shall file in their application for registration a report, duly signed by the person, in a form prescribed by the Council, in respect of the person's continuing professional education activities during the previous three calendar years.

(4) For the purpose of this section "continuing professional education" means any programme of training or development of knowledge that the Council may approve for an optometrist or an optometrist who is authorised to prescribe therapeutic pharmaceutical agents or an optician.

Locum tenens

12 (1) Notwithstanding anything in this Act, where it appears to the Council that any registered optometrist or registered optician is, or will be, absent from their practice and that it is desirable or necessary that their duties as an optometrist or optician be carried out for the period during which they are so absent, then the Council may authorise a qualified person (hereinafter referred to as a "locum tenens") to practise as an optometrist or optician in Bermuda for the purpose of discharging those duties.

(2) Subject to the terms of an authorisation, any locum tenens shall have the powers and privileges conferred by this Act upon a registered optometrist or registered optician and shall, for the purposes of this Act, while they are so acting, be deemed to be a registered person.

(3) Before granting an authorisation to practice as a locum tenens, the Council must be satisfied that—

(a) there is a need for the authorisation; and

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(b) the professional qualifications and general suitability of the locum tenens satisfies that need.

(4) The authorisation shall—

(a) be in the prescribed form;

(b) be valid only for a period of three months from the date of its being granted, subject to the power of the Council to extend the period for one further three month period;

(c) specify the nature and extent of the practice which is permitted; and

(d) specify such other special conditions or restrictions connected with practising as an optometrist or an optician in Bermuda by the locum tenens as the Council may see fit to impose.

(5) An authorization granted under this section shall be revocable by the Council at any time and upon its revocation the authorization shall cease to have any effect.

(6) Any person aggrieved by a refusal of the Council to grant an authorisation under this section or by the revocation by the Council of any such authorization and any locum tenens aggrieved by any term contained in any such authorisation may appeal against such refusal, revocation or term to the Supreme Court in the manner provided in section 24.

(7) Nothing in this section shall derogate or abridge any provision of the Bermuda Immigration and Protection Act 1956.

Statement of conduct

13 It shall be the duty of the Council to prepare, and from time to time to revise, a statement as to the kind of conduct which the Council considers to be proper conduct or professional misconduct, and the Council shall send by post to each registered person at their address on the register, a copy of the statement as for the time being revised.

Optometrists and Opticians Complaints Committee

14 (1) There shall be established, in accordance with the Third Schedule, a committee to be known as the "Optometrists and Opticians Complaints Committee".

(2) The functions of the Committee are—

(a) to receive and investigate, or cause to be investigated, complaints against any registered person, including any allegation that—

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- (i) the person's registration was improperly obtained;
 - (ii) the person is guilty of professional misconduct;
 - (iii) the person is unfit to be registered;
 - (iv) the person is unfit to practise by reason of a conviction of an indictable offence, adverse physical or mental health, or being drug or alcohol impaired in the course of performing professional functions;
 - (b) to prosecute, or cause to be investigated, under section 15, such complaints; and
 - (c) to perform such other functions as may be prescribed.
- (3) The Committee may investigate any complaint based on matters alleged to have occurred—
- (a) inside or outside Bermuda; or
 - (b) at any time, whether or not the person was a registered person at the time.
- (4) A complaint—
- (a) shall be in writing;
 - (b) shall be made—
 - (i) by the complainant;
 - (ii) if the complainant is a child or is physically or mentally unable to make the complaint, by a parent, guardian, friend or person acting on behalf of the complainant; or
 - (iii) if the conduct complained of relates to a person who is dead, by their executor or personal representative;
 - (c) shall be addressed to the Committee;
 - (d) shall set out the matters alleged to constitute grounds for disciplinary action to be taken against the registered person who is the subject of the complaint; and
 - (e) may be required by the Committee to be in a form approved by the Committee.
- (5) The Third Schedule has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.

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Investigation of complaints by Committee

15 (1) Where a complaint is made under section 14(4), the Committee shall investigate it and determine whether, in their opinion, the complaint—

- (a) is frivolous or vexatious, is made in bad faith, is an abuse of process, or for any other reason ought not to be considered by the Council; or
- (b) ought to be placed before the Council for its determination.

(2) If the Committee determines that a complaint ought to be placed before the Council, the Committee—

- (a) shall notify the registered person that a complaint has been made against them and of the matters alleged therein;
- (b) shall forward a copy of the complaint and any accompanying documents or information to the registered person;
- (c) shall request that the registered person show cause in writing, within a specified time after the notice is given, why the matter should not be placed before the Council for determination; and
- (d) may take evidence from any witness on oath or affirmation administered by the Chairperson of the Committee.

(3) If the Committee is satisfied that a complaint arose from a misapprehension on the part of the complainant or a misunderstanding between the parties, the Committee may, before proceeding further with the investigation of the complaint, require the parties to appear before it in order to discuss the matter with a view to clarifying the misapprehension or misunderstanding.

(4) If the Committee concludes that the complaint is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Committee, the Committee shall dismiss the complaint and, in the case of a complaint, notify the complainant, together with reasons for such dismissal.

(5) If the Committee concludes that the allegations or evidence against the registered person are sufficiently serious or that for some other reason it is appropriate to refer the matter to the Council the Committee shall, as soon as practicable, place the matter before the Council for determination.

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Professional conduct

16 (1) If, pursuant to an investigation under section 15, the Committee places the matter before the Council for determination, the Council shall enquire into the matter.

(2) The Council may take evidence on oath, and for that purpose the Chairperson of the Council may administer an oath.

(3) The Council shall afford the registered person and the Committee every facility—

- (a) to appear before the Council at all stages of the enquiry;
- (b) to be represented by counsel;
- (c) to call or cross-examine witnesses; and
- (d) generally to make a full defence or explanation in the matter.

(4) The Council shall inform the Permanent Secretary, of its findings and the Permanent Secretary shall inform the registered person.

(5) The registered person shall be entitled to appeal against any such finding to the Supreme Court in the manner provided in section 24.

(6) Any proceedings in connection with the holding of an enquiry by the Council in pursuance of this section shall, for the purposes of the provisions of the Criminal Code relating to perjury, be deemed to be judicial proceedings.

(7) If a member of the Council has taken part in an investigation of a disciplinary matter, they shall recuse themselves from an enquiry under this section.

Power of Council to obtain information

17 (1) For the purpose of an enquiry under section 16 the Council shall have power by order under the hand of the Chairperson to require any person to attend before the Council and to give evidence on oath or otherwise, and to require the production of documents, so as to elicit all such information as the Council may consider necessary.

(2) A person commits an offence if they—

- (a) fails without reasonable excuse to attend before the Council in compliance with an order under subsection (1);
- (b) when in attendance before the Council refuses to make an oath, or refuses to produce a document, or refuses to give evidence, in compliance with such an order as aforesaid:

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Punishment on summary conviction: a fine of \$500.

(3) Notwithstanding subsection (2)(b) a person shall not be punished for refusing to answer any question or to produce any document which the person could not be required to answer or produce before a court of Bermuda, or for failing or refusing to answer any question or produce any document which is not relevant to the matters in issue.

Striking off

18 (1) Where a registered person—

- (a) is convicted either in Bermuda or elsewhere of any offence and as a result of that conviction is sentenced to a term of imprisonment without the option of a fine; or
- (b) is ordered to have their name struck off any register of optometrists or opticians maintained and kept in any place outside Bermuda,

then in any such case—

- (i) it shall be the duty of the registered person to inform the Council of the conviction or striking off; and
- (ii) it shall be the duty of the Council, if it is satisfied as to the truth of any matter specified in paragraphs (a) or (b), and after giving the registered person every opportunity to make such explanation as they may wish to make, to decide as soon as may be whether the name of the optometrist or optician should be struck off the register:

Provided that the name of a registered person shall not be struck off the register on account of their adopting or refraining from adopting the practice of any particular theory of optometry.

(2) Where the Council decides that the name of a registered person should be struck off the register it shall so inform the Permanent Secretary and the Permanent Secretary shall cause the registered person to be informed by written notice accordingly.

(3) A registered person shall be entitled to appeal against any decision of the Council to strike the person's name off the register to the Supreme Court in the manner provided in section 24.

(4) The Permanent Secretary, in any case where the Council decides that the name of a registered person should be struck off the register—

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- (a) shall, on the tenth day after notice has been given to the registered person in accordance with subsection (2), cause the name of the registered person to be struck off the register, unless in the meantime an appeal has been duly entered in respect of the decision; or
- (b) shall, where an appeal is duly entered, and where the appeal is subsequently dismissed by the Supreme Court, cause the name of the registered person to be struck off the register immediately after the determination of the appeal.

(5) In either case referred to in subsection (4)(a) or (4)(b) the Permanent Secretary—

- (a) shall cause the person to be informed by written notice that their name has been struck off the register; and
- (b) shall by a notice given as aforesaid require the person to return their certificate of registration within seven days after receiving the notice; and
- (c) shall cause a notification of the striking off to be published in the Gazette.

(6) Any registered person who contravenes or fails to comply with subsection (1)(b)(i) or (5)(b) commits an offence against this Act:

Punishment on summary conviction: a fine of \$2,000.

Voluntary removal

19 A registered person may apply to the Permanent Secretary to have their name removed from the register and upon receiving the application the Permanent Secretary shall cause their name to be removed from the register.

Suspension

- 20 (1) Where it appears to the Council that a registered person—
- (a) is inefficient or negligent in carrying out their professional functions;
 - (b) has become incapable of properly carrying out their professional functions by reason of physical or mental infirmity;
 - (c) is addicted to alcohol or drugs to an extent which makes them unfit to carry out their professional functions; or
 - (d) has ceased for a period of more than two years to practice,

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then in any of the foregoing cases the Council, after holding an enquiry into the matter, may suspend the registered person from practice for such period as it thinks fit, or, where the circumstances so require, for an indefinite period.

- (2) The provisions of sections 17 and 18—
- (a) which relate to enquiries held by the Council; and
 - (b) which relate to notification of the findings and decisions of the Council; and
 - (c) which relate to the right of appeal against such findings or decisions of the Council,

shall apply to enquiries held by the Council under this section:

Provided that where a registered person is suspended from practice under this section their name shall not be struck off the register and the person shall not be required to return their certificate of registration.

(3) An optometrist or optician who is suspended from practice under this section shall, unless their name is restored to the register under section 22, be deemed for the purposes of any other Act not to be a registered person.

Removal of name from register

- 21 (1) Where—
- (a) a registered person is convicted either in Bermuda or elsewhere of any offence which, in the opinion of the Council, renders them unfit to be registered;
 - (b) a registered person is found by the Council to be guilty of professional misconduct;
 - (c) a registered person fails to complete the continuing professional education requirement referred to in section 11(1);
 - (d) the Council is satisfied that the name of a person has been fraudulently entered in the register; or
 - (e) the Council is satisfied that a registered person is, by reason of mental disorder or incapacity, incapable of carrying on their profession,

the Council may, if it thinks fit, direct that the name of the registered person shall be removed from the register and notify the registered person accordingly.

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(2) A direction shall not be given under subsection (1) save after an enquiry in accordance with the regulations.

(3) The Council shall be guided by any relevant statement prepared under section 13 to determine if the name of a registered person should be removed from the register for professional misconduct, but it may hold a person guilty of professional misconduct even if such conduct is not prohibited by the statement.

(4) The Council shall not hold a person guilty of professional misconduct if the Council has stated that it is proper in the statement prepared under section 13.

(5) Any person aggrieved by a direction of the Council under subsection (1) may, at any time within twenty-eight days from the date of receiving notice of the direction, appeal to the Supreme Court in the manner provided in section 24.

(6) A direction for the removal of a name from the register shall take effect —

- (a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;
- (c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed.

Restoration of name

22 (1) Where the name of a person has been removed from the register under section 19 or 21 the person may, at any time after the expiry of three months from the date of removal, apply to the Council for their name to be restored to the register.

(2) Upon receipt of any application the Council may decide that the person's name be restored to the register having regard to—

- (a) the character of the person;
- (b) their conduct subsequent to their name being removed;
- (c) other circumstances of the case,

(3) The Council may declare it to be a condition of the restoration of the name of a person to the register, that the person apply for registration as though they were a new applicant for registration.

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(4) The Council shall inform the Permanent Secretary of its decision under subsection (2) and the Permanent Secretary shall take such steps as may be necessary to give effect to such decision including—

- (a) informing the registered person accordingly;
- (b) making such entries, deletions or otherwise in the register; and
- (c) forwarding a new certificate of registration to the registered person.

(5) Where the Council decides that the name of a person should not be restored to the register, the person may appeal to the Supreme Court in the manner provided in section 24.

Additional disciplinary powers of Council

23 In addition to the powers conferred by sections 18 and 20, after holding an enquiry, the Council may, depending on the nature and seriousness of the offence,—

- (a) impose one or more of the following conditions on the person's registration—
 - (i) a condition restricting the places and times at which the person may provide treatment;
 - (ii) a condition limiting the kind of treatment that the person may provide;
 - (iii) a condition requiring that the person is supervised in the provision of treatment, by a particular person or by another person of a particular class;
 - (iv) any other conditions that the Council thinks fit;
- (b) admonish, warn or censure the person;
- (c) suspend the person's registration;
- (d) disqualify the person from being registered;
- (e) stipulate that any condition, suspension, disqualification or prohibition imposed under this Act is to apply—
 - (i) permanently;
 - (ii) for a specified period;
 - (iii) until the fulfilment of specified conditions; or

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- (iv) until a further determination is made by the Council; or
- (f) stipulate that a determination relating to a person is to have effect at a specified future time and impose conditions as to the conduct of the person or the person's business until that time.

Appeals

24 Where a person is aggrieved by any decision of the Council in respect of which an appeal is allowed under this Act, they may, within 7 days of receiving any notice communicating that decision to them, appeal to the Supreme Court and the court shall determine any such appeal and may make such order as appears to the court just.

Use of titles

25 (1) A registered person shall be entitled to use the respective title of "Registered Optometrist" or "Registered Optician" as the case may be.

(2) Any person who —

- (a) takes or uses, whether alone or in conjunction with any other words, the title of registered optometrist or optician when their name is not on the register in respect of these professions; or
- (b) takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that their name is on the register,

commits an offence:

Punishment on summary conviction: a fine of \$2,000 and, in respect of a second or subsequent conviction, a fine of \$5,000.

False representations

26 Any person who, in connection with any application or other matter falling to be performed under this Act—

- (a) makes a statement knowing or having reason to believe it to be false in a material particular; or
- (b) produces any certificate, diploma or other document knowing or having reason to believe the same to be false,

commits an offence:

Punishment on summary conviction: a fine of \$5,000.

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Unlawful practice

- 27 (1) No person shall—
- (a) practise as an optometrist unless they are a registered optometrist;
 - (b) practise as an optician unless they are a registered optician;
 - (c) examine the eyes of another person unless they are registered as an optometrist or under the direction of an optometrist;
 - (d) manufacture or sell any appliance by prescription designed to remedy or relieve a defect of sight unless they are a registered optometrist or registered optician;
 - (e) supply a pharmaceutical prescription designed to relieve, prevent or correct visual or ocular anomalies of the eye unless they are registered as an optometrist authorised to prescribe therapeutic pharmaceutical agents.
- (2) Nothing in subsection (1) shall have effect in relation to the practice of medicine or surgery by a registered medical practitioner entitled to practice in Bermuda under the Medical Practitioners Act 1950.
- (3) Any person who contravenes subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$5,000 and, in respect of a second or subsequent conviction, a fine of \$10,000.

Annual Report

28 The Council shall submit to the Minister, not less than 14 days after the end of each year, an annual report concerning such activities of the Council as the Minister may prescribe.

Regulations and rules

- 29 (1) The Minister may make regulations implementing and giving effect to this Act, and, without prejudice to the generality of the foregoing provisions, such regulations may—
- (a) prescribe anything which, under this Act, is required or permitted to be prescribed;
 - (b) prescribe the procedure to be followed by the Council in the exercise of its powers under section 21;

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- (c) prescribe the manner in which any notice required by this Act or the regulations to be served on any person shall be served;
- (d) prescribe the number of hours for continuing professional education for an optometrist or an optometrist who is authorised to prescribe therapeutic pharmaceutical agents or an optician;
- (e) prescribe the manner in which the drugs listed in the Second Schedule are administered and prescribed;
- (f) regulate of the making of applications for registration and provide for the evidence to be produced in support of applications;
- (g) provide for the notification to the Council of any particulars entitling a person to registration; and
- (h) regulate the procedure of the Council including the quorum thereof.

(2) Regulations made under subsection (1) are subject to the negative resolution procedure.

Repeal

30 The Optometrists and Opticians Act 1973 is repealed.

Transitional provisions

31 (1) Any person who is a member of the Council on the coming into operation of this Act shall continue to be a member until the expiration of their term.

(2) Any person whose name appears in the register on the day that the repeal of the Optometrists and Opticians Act 1973 takes effect shall be considered a duly eligible applicant for the purposes of section 6 and shall be entitled to be registered under this Act for the purposes of section 5.

Consequential amendments

32 The Government Authorities (Fees) Act 1971 is amended in Part B of the First Schedule by—

(a) repealing the entry relating to Optometrists and Opticians Council and replacing it with the following—

“Optometrists and Opticians Council- established by section 3 of the Optometrists and Opticians Act 1973 and continued by the Optometrists and Opticians Act 2008”.

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(b) inserting in the proper place in alphabetical order the following—

“Optometrists and Opticians Complaints Committee- established by section 14 of the Optometrists and Opticians Act 2008”.

Commencement

33 This Act comes into operation on such day as the Minister may appoint by notice published in the Gazette.

FIRST SCHEDULE (section 3)

1 A member of the Council shall be appointed for a period of three years beginning on such day as may be determined by the Minister.

2 A member of the Council may resign his office at any time by notice in writing given to the Minister.

3 The Minister may declare the office of a member of the Council vacant if he is satisfied that the member—

(a) is unable through mental or physical incapacity or absence from Bermuda to perform the functions of his office;

(b) has failed, without adequate cause, to attend three successive meetings of the Council;

(c) has been sentenced to imprisonment for the commission of a criminal offence;

(d) has had his name removed from the register or suspended.

4 (1) A person appointed to fill the place of a member of the Council before the end of the member's term of office shall hold office so long only as the vacating member would have held office.

(2) Where the place of a member of the Council becomes vacant before the end of his term of office and the unexpired portion of his term of office is less than three months, the vacancy need not be filled.

5 A person who has held office as a member of the Council shall be eligible for re-appointment.

6 The Council may act notwithstanding any vacancy in its membership, and no act of the Council shall be deemed to be invalid only by reason of a defect in the appointment of a member thereof.

7 The Council shall meet as often as may be necessary for it to carry out its functions under this Act.

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8 A minute shall be made of every decision of the Council in such form as the Minister may direct.

9 (1) Where any matter is before the Council under section 21, a member of the Council may, with the leave of the Chairperson, withdraw on the ground that they are personally acquainted with the facts of the case or for any other reason which the Chairperson deems sufficient and the Chairperson may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the Chairperson may request the Minister to appoint some person, who need not be a practitioner of the profession of optometrist or optician, to be a member of the Council for the purpose of those proceedings, and the Minister may, if he thinks fit, make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Council for such purpose.

10 Every question or matter to be determined by the Council at any meeting shall be decided by a majority of the members present at the meeting but, in the event of an equality of votes, the Chairperson shall have the casting vote.

11 (1) Fees shall be paid to members of the Council in accordance with Part B of the First Schedule to the Government Authorities (Fees) Act 1971.

(2) The attendance of a member at any meeting of the Council shall be certified in such manner as the Minister of Finance may direct.

12 Subject to the foregoing provisions of this Schedule and the regulations, the Council may determine its own procedure.

13 For the purposes of this Schedule a reference to a member or the membership of the Council shall, unless the context requires otherwise, be construed as including the Chairperson.

SECOND SCHEDULE (section 10)

Drugs that may be prescribed by an authorised optometrist:

- mydriatics;
- cyclopegics;
- miotics;
- non-steroidal anti-allergy medications;
- non-steroidal anti-inflammatory medication;
- corticosteroids;

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anti-infective medications including steroidal anti-infectives; and anti-glaucoma medication.

THIRD SCHEDULE (section 14)

Optometrists and Opticians Complaints Committee

- 1 The Committee shall consist of three members, of whom—
 - (a) one shall be appointed by the Minister from a list of at least three optometrists in good standing who are nominated by the Council;
 - (b) one shall be appointed by the Minister from a list of at least three opticians in good standing who are nominated by the Council; and
 - (c) one shall be a registered medical practitioner entitled to practice in Bermuda under the Medical Practitioners Act 1950 and appointed by the Minister.
- 2 A person who is a member of the Council may not be appointed as a member of the Committee.
- 3 Appointment as a member under paragraph 1 shall be for a term not exceeding three years and a member is eligible for reappointment.
- 4 The Minister may appoint a second person to act as an alternate to a member appointed under paragraph 1.
- 5 An alternate to a member shall be appointed in accordance with the requirements for the appointment of the member, and the term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.
- 6 There shall be a Chairperson of the Committee who shall, subject as hereinafter provided, be appointed annually by the Minister from among the members of the Committee to hold office until the thirty-first day of December of the year for which he was appointed, and who shall be eligible for re-appointment.
- 7 If at any time a person appointed to be the Chairperson ceases to be a member of the Committee, or for any other reason ceases to be the Chairperson, the Minister shall, as soon as may be, appoint from among the members of the Committee another person to be Chairperson in his stead.

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8 If at any meeting of the Committee the Chairperson is absent, the members present shall elect one of their number to act as Chairperson at the meeting.

9 Two members of the Committee shall form a quorum at any meeting.

10 Every question or matter to be determined by the Committee at any meeting shall be decided by a majority of the members present at the meeting but, in the event of an equality of votes, the Chairperson shall have the casting vote.

11 Fees shall be paid to members of the Committee in accordance with Part B of the First Schedule to the Government Authorities (Fees) Act 1971.

12 The validity of any act or proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of a member of the Committee.

13 Subject to this Act, the Committee may regulate its own proceedings.