

SCHEDULE 1

Minor and consequential amendments

PART 1

Minor and consequential amendments to the Opticians Act 1989

1. In section 13 (supervision of training institutions and qualifying examinations)—
 - (a) for the words “institution” and “institutions”, wherever they occur, substitute respectively “establishment” and “establishments”;
 - (b) in subsections (1) and (5)(a)(i), for the word “opticians” substitute “optometrists or dispensing opticians”;
 - (c) in subsections (1), (2) and (4)(a) and (b), and in the section heading, for the word “examinations” substitute “assessments”;
 - (d) in subsection (3), for the word “examination” substitute “assessment”;
 - (e) in subsection (5)(a)(ii), for the words “examinations taken” substitute “assessment undertaken”;
 - (f) after subsection (5), insert—

“(5A) Where rules are made under section 23A(2) above, a notice under subsection (5) above or subsection (8) below may be given by means of an electronic communication.”;

and
 - (g) in subsection (11), omit the words “with the approval of the Privy Council”.
2. In section 24 (testing of sight)—
 - (a) in subsection (1), for the words “ophthalmic optician” substitute “optometrist”; and
 - (b) in subsection (3), for the words “ophthalmic opticians” substitute “optometrists”.
- 3.—(1) In section 28 (penalty for pretending to be registered etc.)—
 - (a) in subsection (1)—
 - (i) in paragraph (a), for the words “ophthalmic optician” substitute “optometrist”, and for the words “either of the registers of ophthalmic opticians” substitute “the register of optometrists”, and
 - (ii) for paragraph (c), substitute—
 - “(c) who takes or uses the title of registered optometrist when he is not registered in the register of optometrists maintained under section 7 above;
 - (cc) who holds himself out as being a student registrant when he is not registered in the register of those undertaking training as optometrists or dispensing opticians maintained under section 8A above;
 - (ccc) who holds himself out as having a specialty or proficiency which qualifies for entry in the appropriate register in accordance with rules made under section 10(1A) above but for whom no entry is extant;”;
 - (b) in subsection (4), for the words “optical appliances only” substitute “only optical appliances or zero powered contact lenses or both”;
 - (c) for subsections (5) and (6), substitute—

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“(5) Any body corporate which—

- (a) takes or uses the title of ophthalmic optician, the title of optometrist, the title of dispensing optician or the title of registered optician when it is not registered;
- (b) takes or uses any name, title, addition or description falsely implying that it is registered;
- (c) otherwise pretends that it is registered,

shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(6) On any prosecution for an offence under subsection (5)(b) or (c) above, the taking or using of the title of optician by a body corporate to which this subsection applies is to be taken to imply that it is registered, but the implication may be rebutted if the body corporate took or, as the case may be, used the title in circumstances where it would have been unreasonable for people to believe, in consequence of its taking or, as the case may be, use of it, that it was in fact registered.”;

(d) in subsection (7)—

- (i) for the words “subsection (5)” substitute “subsection (6)”, and
- (ii) in paragraphs (a) and (b), after the words “optical appliances” insert “or zero powered contact lenses”; and

(e) in subsection (8), for the words “Subsection (5)” substitute “Subsection (6)”.

(2) The amendments made by sub-paragraph (1) do not affect any offence committed before this paragraph comes into force.

4. In section 29 (provisions as to death or bankruptcy of registered optician)—

(a) in subsections (1) and (2)—

- (i) for the words “registered optician” substitute “registered optometrist or registered dispensing optician”, and
- (ii) for the words “an optician” substitute “an optometrist or dispensing optician”;

(b) in subsection (3)—

- (i) in paragraphs (a)(i) and (ii), for the word “optician” substitute “optometrist or dispensing optician”, and
- (ii) for the words “Disciplinary Committee” substitute “Fitness to Practise Committee”;

(c) in subsection (4), for the words “a disciplinary case and a disciplinary order” substitute “a case in which it is alleged that a registrant’s fitness to practise or as the case may be a business registrant’s fitness to carry on business as an optometrist or a dispensing optician or both, is impaired and the making of an order under Part 2A above”;

(d) in subsection (5)—

- (i) in paragraph (a), for the words “registered optician” in both places where they occur substitute “registered optometrist or registered dispensing optician”, and
- (ii) in paragraph (b), for the word “optician's” substitute “optometrist’s or registered dispensing optician's”; and

(e) in subsection (6), for the words “registered optician's” substitute “registered optometrist’s or a registered dispensing optician's”.

5. In section 30 (offences by bodies corporate), the current provision shall become subsection (1) and at the end add—

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“(2) In subsection (1) above, “responsible officer” means any director, manager, secretary or other similar officer of the body corporate, or of a branch or department of the body corporate, or any person purporting to act in any such capacity.”.

6. In section 31 (miscellaneous matters with respect to which rules may be made)—

(a) in subsection (1)—

(i) omit paragraph (a),

(ii) for paragraph (b), substitute—

“(b) the carrying on of a practice or business by registered optometrists, registered dispensing opticians and business registrants under names other than those under which they are registered;”,

(iii) for paragraph (c), substitute—

“(c) the prescription, sale, supply and administration of drugs by registered optometrists, registered dispensing opticians or business registrants, their employees and persons providing services to them in the course of their practice or business of an optometrist or a dispensing optician;”,

(iv) in paragraph (d), for the words “registered opticians, enrolled bodies corporate” substitute “registered optometrists, registered dispensing opticians, business registrants”, and

(v) for paragraph (e) substitute—

“(e) the prescription, sale, supply and fitting of contact lenses by registered optometrists, registered dispensing opticians, business registrants, their employees and persons providing services to them.”;

(b) omit subsection (2);

(c) for subsection (3) substitute—

“(3) The Council may make rules specifying requirements which registered optometrists, registered dispensing opticians and business registrants or employees of or persons providing services to them must meet if they are to prescribe, fit, supply or sell contact lenses.”;

(d) for subsection (4)(a) substitute—

“(a) in relation to registered optometrists, registered dispensing opticians and business registrants or employees of or persons providing services to them, to specify qualifications which they must have; and”;

(e) in subsection (4)(b), for the words “enrolled bodies corporate” substitute “business registrants”;

(f) in subsection (5), for the words “registered optician” and the word “optician” substitute “registered optometrist or registered dispensing optician”; and

(g) omit subsection (6).

7. In section 35(1) (Privy Council quorum and documents), omit the words “(other than the power of hearing appeals against disciplinary orders or directions under section 19 above)”.

8. In section 36 (interpretation)—

(a) omit the definitions of “disciplinary case”, “disciplinary order”, “enrolled”, “erasure order”, “list”, “penalty order”, “registered dispensing optician”, “registered ophthalmic optician”, “registered optician”, “responsible officer” and “suspension order”;

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- (b) for the definition of “approved training institution” and “approved qualification” substitute—
- ““approved training establishment” means an establishment approved by the Council under section 12(7)(a) above;
- “approved qualification” means any qualification approved by the Council under section 12(7)(b) above;”;
- (c) for the definition of “body corporate” substitute—
- ““body corporate” includes a limited liability partnership and, in Scotland, a partnership; and in relation to such partnerships, a reference to a director or other officer of a body corporate is a reference to a member;”;
- (d) after the definition of “body corporate” insert—
- ““business registrant” means a body corporate registered in the register maintained by the Council under section 9 above;”;
- (e) before the definition of “functions” insert—
- ““electronic communication” has the same meaning as in the Electronic Communications Act 2000(1);
- “financial penalty order” means an order under Part 2A above that a registrant shall pay to the Council a sum specified in the order;”;
- (f) after the definition of “health service ophthalmic lists”, insert—
- ““Hearings Panel” means the panel of persons appointed under section 5D(1) above;
- “individual registrant” means any person whose name is in a register maintained by the Council under section 7 or 8A above;”;
- (g) in the definition of “ophthalmic optician”, for the words ““ophthalmic optician” means” substitute ““optometrist” means”;
- (h) for the definition of “register” substitute—
- ““register” means, unless the context otherwise requires, any one of the following registers—
- (a) the register of optometrists maintained under section 7 above;
- (b) the register of dispensing opticians maintained under section 7 above;
- (c) the registers of students maintained under section 8A above;
- (d) the register of bodies corporate under section 9 above,
- and, except where used in relation to medical practitioners, “registered” and “registration” have corresponding meanings;” and
- (i) after the definition of “register” insert—
- ““registrant”, except in the expressions “individual registrant”, “business registrant” and “student registrant”, means a person whose name is in the appropriate register; “student registrant” means a person whose name is in one of the registers maintained by the Council under section 8A above;”.

(1) 2000 c. 7.