CHAPTER 32

An Act to provide for the registration of opticians and the enrolment of bodies corporate carrying on business as opticians; to regulate the practice of opticians and the conduct by such bodies corporate of their business as opticians; to impose restrictions on the testing of sight and the supply of optical appliances; and for purposes connected therewith. [7th July, 1958]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The General Optical Council

Establishment of General Optical Council.

1.—(1) There shall be a body to be called the General Optical Council which shall have the general function of promoting high standards of professional education and professional conduct among opticians and the additional functions assigned to the Council by or under this Act.

(2) The General Optical Council shall be constituted in accordance with the Schedule to this Act and the supplementary provisions contained in that Schedule shall have effect with respect to the Council.

Registration and Training of Opticians

Registers of opticians.

2. The General Optical Council shall establish and maintain—

(*a*) two registers of ophthalmic opticians, one for the registration of persons engaged or proposing to engage both in the testing of sight and in the fitting and supply of optical appliances and the other for the registration of

persons engaged or proposing to engage in the testing of sight, but not in the fitting and supply of optical appliances; and

(*b*) a register of dispensing opticians;

each containing the names, addresses and qualifications, and such other particulars as may be prescribed, of all persons who are entitled under the provisions of this Act to be registered therein and apply in the prescribed manner to be so registered.

Qualifications for being registered.

3.—(1) Any person who at the time of the establishment of the General Optical Council is entitled to have his name included in one of the health service ophthalmic lists, and whose name has not at that time been removed from one of those lists by direction of a health service tribunal, shall be entitled to be registered in the appropriate register.

(2) Any person who on an application made not later than the day appointed for the coming into operation of the next following subsection satisfies the Council that he holds, or on an application made thereafter satisfies the Council that on that day he held, a qualification as an ophthalmic optician or dispensing optician recognised by them for the purposes of this subsection at the time of the application or on that day, whichever is the earlier, and that he has had adequate practical experience in the work of an ophthalmic or dispensing optician and is of good character shall be entitled to be registered in the appropriate register.

(3) Any person who after the day appointed for the coming into operation of this subsection satisfies the Council that he holds a qualification as an ophthalmic optician or dispensing optician for the time being approved by them under section five of this Act, being a qualification granted to him after receiving instruction from one or more of the institutions so approved, and that he has had adequate practical experience in the work of an ophthalmic or dispensing optician shall be entitled to be registered in the appropriate register.

(4) A person who at any time satisfies the Council that he holds a qualification as an ophthalmic optician or dispensing optician for the time being recognised by them for the purposes of this subsection, being a qualification granted outside the United Kingdom, and that he has had adequate practical experience in the work of an ophthalmic or dispensing optician and is of good character shall be entitled to be registered in the appropriate register.

(5) In the case of a person whose qualifications (including experience) are appropriate for an ophthalmic optician, both registers of ophthalmic opticians and the register of dispensing

opticians are appropriate registers for the purposes of this section and, in the case of a person whose qualifications (including experience) are only appropriate for a dispensing optician, the register of dispensing opticians is appropriate for those purposes, but a person shall not be registered at the same time in more than one register.

(6) Where the General Optical Council have refused to grant an application for registration under subsection (2) of this section, the Privy Council, on representations being made to them, may if they think fit, after considering the representations and after communicating with the General Optical Council, order the General Optical Council to grant the application.

Lists of bodies corporate carrying on business as opticians.

4.—(1) The General Optical Council shall establish and maintain a list of bodies corporate carrying on business as ophthalmic opticians and a list of bodies corporate carrying on business as dispensing opticians, each containing the names, principal places of business and such other particulars as may be prescribed of the bodies which are entitled under the following provisions of this Act to be enrolled therein and apply in the prescribed manner to be so enrolled.

(2) A body corporate shall be entitled to be enrolled in the appropriate list—

(*a*) if it satisfies the General Optical Council that a majority of its directors are registered opticians or, in the case of a body corporate having only one director, that he is a registered optician;

(*b*) if its name or a name under which it carried on business was on the twentieth day of November, nineteen hundred and fifty-seven, included in one of the health service ophthalmic lists or if it subsequently came into existence on the reconstruction of a body corporate entitled to be enrolled by virtue of this paragraph;

(*c*) if it satisfies the Council that the greater part of its business consists of activities other than the testing of sight and the fitting and supply of optical appliances and that so much of its business as consists of the testing of sight is carried on under the management of a registered ophthalmic optician and that so much thereof as consists of the fitting and supply of optical appliances is carried on under the management of a registered optician; or

(*d*) if it is a society registered under the Industrial and Provident Societies Acts, 1893 to 1954, or the Industrial and Provident Societies Acts (Northern Ireland), 1893 to 1955, and if it satisfies the General Optical Council

that so much of its business as consists of the testing of sight, or of the fitting and supply of optical appliances, as the case may be, is carried on under such management as aforesaid:

Provided that a body corporate shall not be entitled to be enrolled by virtue of paragraph (*b*) of this subsection if its name, or the name of any body on whose reconstruction it came into existence, or a name under which it or any such body carried on business, has at any time been removed from one of the health service ophthalmic lists by direction of a health service tribunal or been erased from the list established under subsection (1) of this section on any ground mentioned in section eleven of this Act.

Approval of training institutions and qualifications.

5.—(1) The General Optical Council may approve for the purposes of this Act any institution (hereafter in this Act referred to as " an approved training institution ") where the instruction given to persons training as opticians appears to the Council to be such as to secure to them adequate knowledge and skill for the practice of their profession.

(2) The General Optical Council may approve for the purposes of this Act any qualification (hereafter in this Act referred to as " an approved qualification ") which appears to the Council to be granted to candidates who reach such a standard of proficiency at a qualifying examination as to secure to them adequate knowledge and skill for the practice of their profession.

(3) An institution may be approved under this section as suitable for the giving of all, or some part of, the instruction necessary for the training of ophthalmic opticians or of dispensing opticians, or of both, and a qualification may be so approved as suitable to be granted to ophthalmic opticians or to dispensing opticians.

(4) Where the General Optical Council have refused to approve an institution or qualification under this section as suitable for any purpose, the Privy Council, on representations being made to them within one month of the refusal, may, if they think fit, after considering the representations and after communicating with the General Optical Council, order the General Optical Council to approve the institution or qualification as suitable for that purpose.

(5) The General Optical Council shall publish before the day appointed for the coming into operation of subsection (3) of section three of this Act, and from time to time thereafter, a list of approved training institutions and approved qualifications, indicating the purpose for which the approval was granted.

Supervision of training institutions and qualifying examinations.

6.—(1) It shall be the duty of the General Optical Council to keep themselves informed of the nature of the instruction given by any approved training institution to persons training as opticians and of the examinations on the results of which approved qualifications are granted.

(2) For the purposes of their duty under the foregoing subsection the General Optical Council may appoint persons to visit approved training institutions and to attend at the examinations held by the bodies which grant approved qualifications.

(3) It shall be the duty of visitors appointed under the last foregoing subsection to report to the Council as to the sufficiency of the instruction given by the institutions visited by them, or of the examinations attended by them, and as to any other matters relating thereto which may be specified by the Council either generally or in any particular case, but no visitor shall interfere with the giving of any instruction or the holding of any examination.

(4) Where it appears to the Council (as a result of a report under the last foregoing subsection or otherwise) that the instruction given by any approved training institution to persons training as opticians or the examinations taken by such persons are not such as to secure the possession by them of adequate knowledge and skill for the practice of their profession and that by reason thereof the approval of the institution or qualification in question should be withdrawn, the Council shall give notice in writing to the institution or body of their opinion, sending therewith a copy of any report on which their opinion is based, and on the receipt of the notice the institution or body may, within such period (not being less than one month) as the Council may have specified in the notice, make to the Council observations on the notice and any report sent therewith or objections to the notice and report.

(5) As soon as may be after the expiration of the period specified under the last foregoing subsection the Council shall determine whether or not to withdraw their approval of the institution or qualification, as the case may be, taking into account any observations or objections duly made under that subsection.

(6) The Council shall give notice in writing of any decision under this section to withdraw approval of an institution or qualification to the institution or body concerned and the decision shall not take effect until the expiration of one month from the date of the giving of the notice or, if during that time the institution or body makes representations with respect to the decision to the Privy Council, until the representations are finally dealt with.

(7) Where an institution has been approved as suitable for more than one purpose, the Council may instead of entirely withdrawing approval of the institution withdraw approval in relation to one or some of the purposes only and references in the foregoing provisions of this section to the withdrawal of approval shall be construed accordingly.

(8) Where the General Optical Council have decided to withdraw approval of an institution or a qualification (whether entirely or to a limited extent), the Privy Council, on representations being made to them within one month from the giving of notice of the decision, may, if they think fit, after considering the representations and after communicating with the General Optical Council, order the General Optical Council to annul the withdrawal of approval or, in the case of an institution approved as suitable for more than one purpose, to withdraw approval in relation to one or some of the purposes only.

(9) The Council may pay to visitors appointed under this section such fees and such travelling and subsistence allowances, to be paid as part of the expenses of the Council, as the Council may with the approval of the Privy Council determine.

Supplementary provisions as to the registers and lists.

7.—(1) The General Optical Council may make rules with respect to the form and keeping of the registers and lists and the making of entries and alterations therein and, in particular,—

(*a*) regulating the making of applications for registration or enrolment or for transfer from one register or list to another, and providing for the evidence to be produced in support of any such application;

(*b*) providing for the notification to the Council of any change in the particulars entitling a person to be registered or a body corporate to be enrolled;

(*c*) prescribing a fee to be charged on the entry of a name in, or the restoration of a name to, the register or list;

(*d*) prescribing a fee to be charged in respect of the retention in the register or list of any name in any year subsequent to the year in which that name was first entered in the register or list;

(*e*) providing for the entry in the register of qualifications (whether approved qualifications or not) possessed by persons whose names are registered therein and for the removal of such qualifications from the register, and prescribing a fee to be charged in respect of the entry;

(*f*) authorising the registrar of the General Optical Council to refuse to enter a name in, or restore it to, the register or list until a fee prescribed for the entry or restoration has been paid and to erase from the register or list

the name of a person who or body corporate which, after the prescribed notices and warnings, fails to pay the fee prescribed in respect of the retention of that name in the register or list;

(*g*) prescribing anything required or authorised to be prescribed by the provisions of this Act relating to the registers or lists.

(2) On registering the death of an ophthalmic or dispensing optician a registrar of births and deaths shall send forthwith by post to the registrar of the General Optical Council a copy certified under his hand of the entry relating to the death in the register of deaths; and the cost of the certificate and of sending it by post shall be payable by the registrar of the Council to the registrar of births and deaths from whom it is received.

(3) Rules under this section which provide for the erasure of a name from the register or list on failure to pay a fee shall provide for its restoration thereto on the making of the prescribed application in that behalf and on payment of that fee and any additional fee prescribed in respect of the restoration.

(4) Rules under this section prescribing fees may provide for the charging of different fees in different classes of cases.

(5) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument.

Publication of registers and lists.

8.—(1) The General Optical Council shall cause the registers and lists to be printed and published within three years of the establishment of the Council and as often thereafter as they think fit.

(2) Where any of the registers or lists are not published in any year after the first publication thereof, the Council shall cause any alterations in the entries in that register or list which have been made since the last publication thereof to be printed and published within that year.

(3) A copy of any of the registers or lists purporting to be printed and published by the Council, shall, as altered by any alterations purporting to be printed and published by the Council, be evidence in all proceedings that the individuals specified in that register are registered therein or, as the case may be, that the bodies corporate specified in that list are enrolled therein; and the absence of the name of any individual or body corporate from any such copy of a register or list shall be evidence, until the contrary is shown, that he is not registered or, as the case may be, that it is not enrolled therein.

(4) In the case of an individual whose name or a body corporate the name of which does not appear in any such copy

of a register or list as altered as aforesaid, a certified copy, under the hand of the registrar of the Council, of the entry relating to that individual or body corporate in the register or list shall be evidence of the entry.

Disciplinary Proceedings

Preliminary investigation of disciplinary cases.

9.—(1) The General Optical Council shall set up a committee, to be known as the Investigating Committee, for the preliminary investigation of cases in which it is alleged that an individual or body corporate is liable to have his or its name erased from the register or list on any ground specified in subsection (1), (2), (3) or (4) of section eleven of this Act.

Any such case is hereafter in this Act referred to as "a disciplinary case".

(2) It shall be the function of the Investigating Committee to decide whether a disciplinary case ought to be referred to the Disciplinary Committee set up under the next following section to be dealt with by them in accordance with the following provisions of this Act.

(3) The General Optical Council shall make rules as to the constitution of the Investigating Committee, and any such rules shall include provision requiring the Investigating Committee, on the occasion of a disciplinary case involving an allegation against a body corporate or against a director or employee of a body corporate, to co-opt as a member of the committee for that occasion a person selected by them from whichever of the following panels is appropriate, that is to say, a panel of persons appointed by the General Optical Council as capable of representing the interests of bodies corporate carrying on business as ophthalmic opticians and a panel of persons appointed by the Council as capable of representing the interests of bodies corporate carrying on business as dispensing opticians, being, in either case, persons appointed after consultation with organisations appearing to the Council to represent the interests of a substantial number of the bodies concerned.

(4) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The Disciplinary Committee.

10.—(1) The General Optical Council shall set up a committee, to be known as the Disciplinary Committee, for the consideration and determination of disciplinary cases referred to them under the last foregoing section and of any other cases of which they have cognizance under the following provisions of this Act.

(2) The General Optical Council shall make rules as to the constitution of the Disciplinary Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members thereof.

(3) Rules under this section shall secure that a person, other than the Chairman of the General Optical Council, who has acted in relation to any disciplinary case as a member of the Investigating Committee does not act in relation to that case as a member of the Disciplinary Committee.

(4) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Erasure from the register and list for crime, infamous conduct, etc.

11.—(1) If any registered optician—

(*a*) is convicted by any court in the United Kingdom of any criminal offence, not being an offence which, owing to its trivial nature or the circumstances under which it was committed, does not render him unfit to have his name on the register, or

(*b*) is judged by the Disciplinary Committee to have been guilty of infamous conduct in any professional respect,

the Committee may, if they think fit, direct that his name shall be erased from the register.

(2) If—

(*a*) an enrolled body corporate is convicted of an offence under this Act, or of aiding, abetting, counselling or procuring the commission of, or inciting another person to commit, such an offence, or

(*b*) in the case of a body corporate which is for the time being enrolled by virtue of paragraph (*a*), paragraph (*c*) or paragraph (*d*) of subsection (2) of section four of this Act, the Disciplinary Committee is of opinion that the condition, or any of the conditions, for the enrolment of the body corporate under that subsection is no longer satisfied,

the committee may, if they think fit, direct that the name of the body corporate shall be erased from the list.

Where a registered optician dies while he is either a director of an enrolled body corporate or the manager of that part of the business of an enrolled body corporate which consists of the testing of sight or the fitting and supply of optical appliances, he shall be deemed, for the purposes of this subsection, to have continued to be a director of that body or a manager of that part of its business, as the case may be, until the expiration of the three months beginning with the date of his death or until a

director or manager is appointed in his place, whichever occurs first.

(3) If it appears to the Disciplinary Committee that a registered optician or an enrolled body corporate has contravened or failed to comply with any rules made under section twenty-five of this Act and that the contravention or failure is such as to render the optician unfit to have his name on the register or the body corporate unfit to have its name on the list, the Disciplinary Committee may, if they think fit, direct that the name of the optician or body corporate shall be erased from the register or list.

(4) If it appears to the Disciplinary Committee that—

(*a*) a registered optician or enrolled body corporate is engaged in the fitting and supply of optical appliances, and

(*b*) that the arrangements made by the optician or body corporate for carrying on his practice or his or its business are not such as to secure that the fitting and supply of optical appliances in the course of that practice or business are carried out by, or under the supervision of, an ophthalmic optician registered in the register of ophthalmic opticians engaged or proposing to engage both in the testing of sight and in the fitting and supply of optical appliances or a registered dispensing optician,

the Committee may, if they think fit, direct that the name of the optician or body corporate shall be erased from the register or list.

(5) Where—

(*a*) the name of a director of any such body corporate as aforesaid is erased from the register under subsection (1) of this section, or

(*b*) a director of any such body corporate is convicted of an offence under this Act, or

(*c*) the name of a registered optician employed by any such body corporate is erased from the register under subsection (1) of this section and the act or omission constituting the ground on which it was erased was instigated or connived at by a director of the body corporate, or, if the act or omission was a continuing act or omission, a director of the body corporate had or reasonably ought to have had knowledge of the continuance thereof,

the Disciplinary Committee may, if they think fit, direct that the name of the body corporate shall be erased from the list:

Provided that the Committee shall not take a case into consideration during any period within which proceedings by way

of appeal may be brought which may result in this subsection being rendered inapplicable in that case or while any such proceedings are pending.

(6) Where it appears to the Disciplinary Committee that a body corporate which carries on business as an ophthalmic or dispensing optician at more than one set of premises is liable to have its name erased from the list under this section and that the events giving rise to the liability were confined, or substantially confined, to a particular set of premises, the Committee may, instead of erasing the name of the body corporate from the list, direct that the body corporate shall not use the title of ophthalmic optician, dispensing optician, registered optician or enrolled optician in connection with that set of premises; and if at any time thereafter it appears to the Committee that the body corporate has contravened a direction in force under this subsection, the Committee may, if they think fit, erase the name of the body corporate from the list.

A direction under this subsection shall remain in force until revoked, on an application made to them in that behalf, by the Disciplinary Committee.

(7) When the Disciplinary Committee direct that the name of an individual or body corporate shall be erased from the register or list, or that a body corporate shall not use any of the titles specified in the last foregoing subsection in connection with a set of premises, the registrar shall serve on that individual or body a notification of the direction.

(8) A notification required to be served under the last foregoing subsection on an individual may be served by post in a registered letter addressed to him at his address in the register or at his last known address if that address differs from his address in the register and it appears to the registrar that service at his last known address would be more effective, and a notification required to be so served on a body corporate may be served by post in a registered letter addressed to it at its address in the list or at the address of its registered or principal office if that address differs from its address in the list and it appears to the registrar that service at its registered or principal office would be more effective.

Restoration of names erased as result of disciplinary cases, etc.

12.—(1) Where the name of an individual or body corporate has been erased from one of the registers or lists in pursuance of a direction under the last foregoing section, the name of that individual or body corporate shall not again be entered in any of the registers or lists unless the Disciplinary Committee on application made to them in that behalf otherwise direct.

(2) An application under the foregoing subsection for the restoration of a name to the register or list from which it has

been erased or for the entry of a name in one of the other registers or lists shall not be made to the Committee—

(*a*) within ten months of the date of erasure; or

(*b*) within ten months of a previous application thereunder.

Erasure from register and list on grounds of fraud or error.

13.—(1) If it is proved to the satisfaction of the Disciplinary Committee that any entry in the register or list has been fraudulently or incorrectly made, the Committee may, if they think fit, direct that the entry shall be erased from the register or list.

(2) An individual may be registered or a company enrolled in pursuance of any provision of this Act notwithstanding that his or its name has been erased under this section, but if it was so erased on the ground of fraud, that individual or company shall not be registered or enrolled except on an application in that behalf to the Disciplinary Committee; and on any such application the Committee may, if they think fit, direct that the individual or body corporate shall not be registered or enrolled, or shall not be registered or enrolled until the expiration of such period as may be specified in the direction.

(3) Where the Disciplinary Committee direct that the name of an individual or body corporate shall be erased from the register or list under this section, the registrar shall serve on that individual or body a notification of the direction, and subsection (8) of section eleven of this Act shall apply to any such notification as it applies to a notification required to be served under subsection (7) of that section.

Appeals in disciplinary and other cases.

14.—(1) At any time within twenty-eight days from the service of a notification that the Disciplinary Committee have under section eleven or section thirteen of this Act directed that the name of an individual or a body corporate be erased from the register or list or that a body corporate shall not use any of the titles specified in subsection (6) of the said section eleven in connection with a set of premises, that individual or body corporate may, in accordance with such rules as Her Majesty in Council may by Order provide for the purposes of this section, appeal to Her Majesty in Council; and the Judicial Committee Act, 1833, shall apply in relation to the Disciplinary Committee as it applies to such courts as are mentioned in section three of that Act (which provides for the reference to the Judicial Committee of the Privy Council of appeals to Her Majesty in Council).

(2) The General Optical Council may appear as respondent on any such appeal, and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.

(3) Where no appeal is brought against a direction under section eleven or section thirteen of this Act or where such an appeal is brought but withdrawn or struck out for want of prosecution, the direction shall take effect on the expiration of the time for appealing or, as the case may be, on the withdrawal or striking out of the appeal.

(4) Subject as aforesaid, where an appeal is brought against a direction under either of those sections, the direction shall take effect if and when the appeal is dismissed and not otherwise.

Procedure of Disciplinary Committee.

15.—(1) For the purpose of any proceedings under this Act before the Disciplinary Committee (whether relating to disciplinary cases or otherwise) the Committee may administer oaths, and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

Section forty-nine of the Supreme Court of Judicature (Consolidation) Act 1925 (which provides a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any such proceedings as aforesaid as it applies in relation to causes or matters in the High Court.

(2) The General Optical Council shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee, and in particular—

(*a*) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the individual or body corporate alleged to be liable to have his or its name erased from the register or list;

(*b*) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee;

(*c*) for enabling any party to the proceedings to be represented by counsel or solicitor or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;

(*d*) for requiring proceedings before the Committee to be held in public except in so far as may be provided by the rules;

(*e*) for requiring, in cases where it is alleged that a registered optician has been guilty of infamous conduct in a professional respect, that where the Committee judge that the allegation has not been proved they shall record a

finding that the optician is not guilty of such conduct in respect of the matters to which the allegation relates;

(*f*) for requiring, in cases where it is alleged that a registered optician or enrolled body corporate is liable to have his or its name erased from the register or list under subsection (3) or subsection (4) of section eleven of this Act, that where the Committee judge that the allegation has not been proved they shall record a finding that the optician or body corporate is not guilty of the matters alleged:

Provided that as respects proceedings for the restoration of names to the register or list, or for the revocation of a direction under subsection (6) of section eleven of this Act, the Council shall have power to make rules with respect to all or any of the matters aforesaid, but shall not be required to do so, and separate rules under this section may be made as respects such proceedings.

(3) Before making rules under this section the Council shall consult such organisations representing the interests of opticians and bodies corporate carrying on business as opticians as appear to the Council requisite to be consulted.

(4) Rules under this section shall not come into force until approved by order of the Privy Council, and the Privy Council may approve rules under this section either as submitted to them or subject to such modifications as appear to them requisite:

Provided that where the Privy Council propose to approve any such rules subject to modifications they shall notify to the General Optical Council the modifications they propose to make and consider any observations of the General Optical Council thereon.

(5) The power to make orders conferred by the last foregoing subsection shall be exercisable by statutory instrument.

Assessors to Disciplinary Committee.

16.—(1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before them there shall in all such proceedings be an assessor to the Committee who shall be a barrister, advocate or solicitor of not less than ten years' standing.

(2) The power of appointing assessors under this section shall be exercisable by the General Optical Council, but if no assessor appointed by them is available to act at any particular proceedings the Disciplinary Committee may appoint an assessor under this section to act at those proceedings.

(3) The Lord Chancellor may make rules as to the functions of assessors appointed under this section, and, in particular, rules under this subsection may contain such provisions for securing—

(*a*) that where an assessor advises the Committee on any question of law as to evidence, procedure or any other

matters specified in the rules, he shall do so in the presence of every party, or person representing a party, to the proceedings who appears thereat or, if the advice is tendered after the Committee have begun to deliberate as to their findings, that every such party or person as aforesaid shall be informed what advice the assessor has tendered;

(*b*) that every such party or person as aforesaid shall be informed if in any case the Committee do not accept the advice of the assessor on any such question as aforesaid,

and such incidental and supplementary provisions, as appear to the Lord Chancellor expedient.

(4) Subject to the provisions of this section, an assessor under this section may be appointed either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.

(5) Any remuneration paid by the General Optical Council to persons appointed to act as assessors shall be at such rates as the Privy Council may approve.

(6) The power to make rules conferred by this section shall be exercisable by statutory instrument.

Committees of the Council

The Education Committee.

17.—(1) The General Optical Council shall set up a committee, to be known as the Education Committee, to whom they shall refer for advice on all matters relating to optical training and examinations.

(2) The Education Committee shall be constituted in accordance with rules made by the Council, but the rules shall secure that the Committee includes one person appearing to the Council to represent persons training student ophthalmic opticians, one person appearing to the Council to represent persons training student dispensing opticians and one person nominated by the Minister of Education, being in each case persons who are not members of the Council.

(3) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument.

The Companies Committee.

18.—(1) The General Optical Council shall set up a committee, to be known as the Companies Committee, to whom they shall refer for advice on all matters relating to bodies corporate carrying on business as ophthalmic or dispensing opticians, other than matters required by this Act to be referred to the Investigating Committee or the Disciplinary Committee.

(2) The Companies Committee shall be constituted in accordance with rules made by the Council, but the rules shall secure that the Committee includes at least one person appearing to the Council to represent the interests of bodies corporate carrying on business as ophthalmic opticians and at least one person appearing to them to represent the interests of bodies corporate carrying on business as dispensing opticians, being in each case persons who are not members of the Council.

(3) Before making rules under this section the Council shall consult organisations appearing to the Council to represent the interests of a substantial number of the bodies corporate carrying on business as ophthalmic opticians and as dispensing opticians respectively.

(4) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument.

General power to appoint committees.

19.—(1) The General Optical Council may set up a committee for any purpose (other than a purpose for which the Council are required to set up a committee under this Act) and may delegate to a committee set up under this section, with or without restrictions or conditions, as they think fit, any functions exercisable by them except the following—

(*a*) the power to make rules under this Act,

(*b*) any functions expressly conferred by this Act on any committee set up under any of the foregoing provisions of this Act, and

(*c*) subject to any express provision for delegation in the rules, any functions expressly conferred on the Council by rules under this Act.

(2) The number of members of a committee set up under this section and their term of office shall be fixed by the Council.

(3) A committee set up under this section may include persons who are not members of the Council, but at least two-thirds of the members of every such committee shall be members of the Council.

(4) Every member of a committee set up under this section who at the time of his appointment was a member of the Council shall, upon ceasing to be a member of the Council, also cease to be a member of the committee:

Provided that for the purposes of this section a member of the Council shall not be deemed to have ceased by reason of retirement to be a member thereof if he has again been nominated or elected a member thereof not later than the day of his retirement.

Restrictions on testing of sight, supply of optical appliances and use of titles and descriptions

Restriction on testing of sight.

20.—(1) Subject to the following provisions of this section, a person who is not a registered medical practitioner or registered ophthalmic optician shall not test the sight of another person.

(2) The foregoing subsection shall not apply to the testing of sight by a person recognised by a medical authority as a medical student, if carried out as part of a course of instruction approved by that authority for medical students or as part of an examination so approved.

(3) The General Optical Council may by rules exempt from subsection (1) of this section the testing of sight by persons training as ophthalmic opticians, or any prescribed class thereof, in such cases and subject to compliance with such conditions as may be prescribed by the rules.

(4) Rules under the last foregoing subsection shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument.

(5) Any person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or on conviction on indictment to a fine not exceeding two hundred and fifty pounds.

Restriction on sale and supply of optical appliances.

21.—(1) Subject to the following provisions of this section, a person shall not sell any optical appliance unless the sale is effected by or under the supervision of a registered medical practitioner or registered optician.

(2) The foregoing subsection shall apply to the supply of an optical appliance in the course of the practice or business of an ophthalmic optician or dispensing optician, whether by the person carrying on the practice or business or by a person employed by him, if the supply was effected in pursuance of arrangements made—

(*a*) with a Minister of the Crown or Government department (including a department of the Government of Northern Ireland); or

(*b*) with any body on whom functions are conferred by or by virtue of Part II or Part IV of the National Health Service Act, 1946, Part II or Part IV of the National Health Service (Scotland) Act, 1947, or Part II or Part III of the Health Services Act (Northern Ireland), 1948;

as it applies to the sale of an optical appliance.

(3) Subsection (1) of this section shall not apply to the sale of an optical appliance—

(*a*) to a registered medical practitioner, registered optician or enrolled body corporate for the purposes of his practice or of his or its business;

(*b*) to a manufacturer of or dealer in optical appliances for the purposes of his business;

(*c*) to any authority or person carrying on a hospital, clinic, nursing home or other institution providing medical or surgical treatment;

(*d*) to a Minister of the Crown or Government department (including a department of the Government of Northern Ireland); or

(*e*) for the purpose of its export.

(4) On any prosecution for selling an optical appliance in contravention of subsection (1) of this section it shall be a defence for the defendant to prove that he sold the appliance as an antique or second-hand article and that he did not know, and had no reason to believe, that the appliance was bought for the purpose of being used for correcting, remedying or relieving a defect of sight.

(5) A person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or on conviction on indictment to a fine not exceeding two hundred and fifty pounds.

Penalty for pretending to be registered, etc.

22.—(1) Any individual—

(*a*) who takes or uses any of the following titles (either alone or in combination with any other words) in the circumstances mentioned in relation thereto, that is to say, the title of ophthalmic optician when he is not registered in either of the registers of ophthalmic opticians, or the title of dispensing optician when he is not registered in the register of dispensing opticians, or the title of registered optician or enrolled optician when he is not registered in any of the registers, or

(*b*) who takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that he is registered in any of the registers,

shall be liable on summary conviction to a fine not exceeding one hundred pounds or on conviction on indictment to a fine not exceeding two hundred and fifty pounds.

(2) Any body corporate—

(*a*) which takes or uses any of the following titles (either alone or in combination with any other words) in the circumstances mentioned in relation thereto, that is to say, the title of ophthalmic optician when it is not

enrolled in the list of bodies corporate carrying on business as ophthalmic opticians or the title of dispensing optician when it is not enrolled in the list of bodies corporate carrying on business as dispensing opticians, or which takes or uses the title of registered optician or enrolled optician, when it is not enrolled in either of the lists, or

(*b*) which takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that it is enrolled in either of the lists,

shall be liable on summary conviction to a fine not exceeding one hundred pounds or on conviction on indictment to a fine not exceeding two hundred and fifty pounds.

Provision as to death or bankruptcy of registered optician.

23.—(1) Where a registered optician dies at a time when he is carrying on business or is in practice as an optician, then during the three years beginning with his death or such longer period as the General Optical Council may in any particular case allow, the last foregoing section shall not operate to prevent his personal representatives, his widow or any of his children or trustees on behalf of his widow or any of his children from taking or using in relation to that business or practice, but in conjunction with the name in which he carried it on, any title which he was entitled to take or use immediately before his death.

(2) Where a registered optician becomes bankrupt at a time when he is carrying on business or is in practice as an optician, then, during the three years beginning with the bankruptcy, the last foregoing section shall not operate to prevent his trustee in bankruptcy or, in Northern Ireland, the assignee in bankruptcy from taking or using in relation to that business or practice, but in conjunction with the name in which he carried it on, any title which he was entitled to take or use immediately before the bankruptcy.

(3) Where a person by virtue of subsection (1) or subsection (2) of this section takes or uses any title in relation to the business or practice of a deceased optician or of an optician who has become bankrupt and an offence under section twenty or section twenty-one of this Act is committed in the course of that business or practice, the Disciplinary Committee may, if they think fit, direct that the said subsection (1) or, as the case may be, the said subsection (2) shall cease to apply in relation to that business or practice; and this Act shall have effect in relation to any case in which it is alleged that there has been a conviction of any such offence and to any direction under this subsection as it has effect in relation to a disciplinary case and any direction that the name of a body corporate shall be erased from the list.

Offences by bodies corporate.

24. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Miscellaneous

Miscellaneous matters with respect to which rules may be made.

25.—(1) Subject to the provisions of the next following subsection, the General Optical Council may make rules prohibiting or regulating—

(*a*) the use by registered opticians and enrolled bodies corporate of any means of giving publicity, whether by advertisements or not, to their practice or business of ophthalmic or dispensing opticians;

(*b*) the carrying on of practice or business by registered opticians and enrolled bodies corporate under names other than those under which they are registered or enrolled;

(*c*) the administration of drugs by registered opticians, enrolled bodies corporate and their employees in the course of their practice or business of ophthalmic or dispensing opticians;

(*d*) the practice of orthoptics by registered opticians, enrolled bodies corporate and their employees;

(*e*) the prescription, supply and fitting by registered opticians, enrolled bodies corporate and their employees of contact lenses.

(2) The power of the General Optical Council to make rules by virtue of paragraph (*a*) of the foregoing subsection shall not include power to prohibit the display, for the purposes of the practice or business of a registered optician or enrolled body corporate, of optical appliances or parts of optical appliances on premises where the fitting and supply of optical appliances is being carried on as part of that business or practice or in any building comprising those premises.

(3) The General Optical Council shall as soon as practicable after the day appointed for the coming into operation of this section make and submit to the Privy Council rules providing that where it appears to a registered optician that a person consulting him is suffering from an injury or disease of the eye, the optician shall, except in an emergency or where that person is consulting him for the purpose of being given treatment in accordance with

rules under paragraph (*d*) of subsection (1) of this section or in such other cases as may be prescribed, being cases in which it is, owing to special circumstances, impracticable or inexpedient to do so, take the prescribed steps to refer that person to a registered medical practitioner for advice and treatment.

(4) Rules under this section may make different provision for different classes of cases.

(5) Rules under this section shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

The registrar.

26.—(1) There shall be a registrar of the General Optical Council, and he shall hold and vacate office in accordance with the terms of his appointment.

(2) The first registrar shall be appointed by the Privy Council and each of his successors shall be appointed by the General Optical Council.

Expenses and accounts of General Optical Council.

27.—(1) The General Optical Council may, after paying their expenses, allocate any money received by them whether by way of fees or otherwise to purposes connected with optical education and research or any other public purposes connected with the profession of ophthalmic opticians or dispensing opticians in such manner as they may think fit.

(2) The Council shall keep accounts of all sums received or paid by them and the accounts for each financial year of the Council shall be audited by auditors to be appointed by them and shall as soon as may be after they have been audited be published and laid before Parliament.

(3) No person shall be qualified to be appointed auditor under the last foregoing subsection unless he is a member of one or more of the following bodies:—

the Institute of Chartered Accountants in England and Wales;

the Society of Incorporated Accountants;

the Institute of Chartered Accountants of Scotland;

the Association of Certified and Corporate Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom for the time being recognised for the purposes of paragraph (*a*) of subsection (1) of section one hundred and sixty-one of the Companies Act, 1948, by the Board of Trade.

Powers of Privy Council on default by General Optical Council.

28.—(1) If at any time it appears to the Privy Council that the General Optical Council have failed, but ought, to discharge a function of theirs to which this section applies, the Privy Council may notify their opinion to the General Optical Council and may direct them to discharge such of those functions, and in such manner and within such time or times, as may be specified in the direction.

(2) If the General Optical Council fail to comply with any directions of the Privy Council under the last foregoing subsection, the Privy Council may themselves discharge any function of the General Optical Council to which this section applies.

(3) This section applies to all functions of the General Optical Council under this Act except their functions under sections one, three, five, six and sixteen, and subsection (1) of section twenty-seven and their power to make rules under subsection (2) of section fifteen as respects such proceedings as are mentioned in the proviso to that subsection.

Exercise of powers conferred on Privy Council.

29.—(1) For the purpose of exercising any powers conferred by this Act on the Privy Council (other than the power of hearing appeals against directions to erase names from the register or list) the quorum of the Privy Council shall be two.

(2) Any document purporting to be—

(*a*) an instrument of appointment or approval made by the Privy Council under this Act or any other instrument so made; and

(*b*) signed by the Clerk of the Privy Council or by any other person authorised by the Privy Council in that behalf,

shall be evidence of the fact that the instrument was so made and of the terms of the instrument.

Interpretation.

30.—(1) In this Act, unless the context otherwise requires—

"approved qualification" and "approved training institution" have the meanings respectively assigned to them by section five of this Act;

"disciplinary case" has the meaning assigned to it by section nine of this Act;

"dispensing optician" means a person engaged or proposing to engage in the fitting and supply of optical appliances;

"enrolled" means enrolled in either of the lists and "enrolment" shall be construed accordingly;

"functions" includes powers and duties;

" health service ophthalmic lists " means the lists of ophthalmic opticians or dispensing opticians undertaking to provide supplementary ophthalmic services or supplementary eye services which are kept by virtue of section forty-one of the National Health Service Act, 1946, section forty-two of the National Health Service (Scotland) Act, 1947, or section twenty-two of the Health Services Act (Northern Ireland), 1948 ;

" health service tribunal " means a tribunal constituted under the Seventh Schedule to the said Act of 1946, the Eighth Schedule to the said Act of 1947, or the Second Schedule to the said Act of 1948 ;

" list " means the list of bodies corporate carrying on business as ophthalmic opticians or the list of bodies corporate carrying on business as dispensing opticians ;

" medical authority " means one of the universities and other bodies who choose appointed members of the General Medical Council ;

" ophthalmic optician " means a person engaged or proposing to engage in the testing of sight (otherwise than as a registered medical practitioner or a person recognised by a medical authority as a medical student), whether or not he is also engaged or proposing to engage in the fitting and supply of optical appliances ;

" optical appliance " means an appliance designed to correct, remedy or relieve a defect of sight ;

" prescribed " means prescribed by rules under this Act ;

" register " means either of the registers of ophthalmic opticians or the register of dispensing opticians and, except when used in relation to medical practitioners, " registered " and " registration " shall have corresponding meanings ;

" registered dispensing optician " means a person who is registered in the register of dispensing opticians, " registered ophthalmic optician " means a person who is registered in either of the registers of ophthalmic opticians and " registered optician " means a person who is registered in any of those registers.

(2) References in this Act to testing sight are references to testing sight with the object of determining whether there is any and, if so, what defect of sight and of correcting, remedying or relieving any such defect of an anatomical or physiological nature by means of an optical appliance prescribed on the basis of the determination.

(3) References in this Act to any other enactment (including an enactment of the Parliament of Northern Ireland) shall be

construed as references thereto, as amended, and as including references thereto as extended, by or under any subsequent enactment.

Short title, extent and commencement.

31.—(1) This Act may be cited as the Opticians Act, 1958.

(2) It is hereby declared that this Act extends to Northern Ireland and for the purposes of section six of the Government of Ireland Act, 1920 (which precludes the Parliament of Northern Ireland from amending Acts of the Parliament of the United Kingdom passed after the day appointed for that section to come into operation) this Act shall be treated as passed before that day.

(3) This Act shall come into operation on such day as Her Majesty may by Order in Council appoint and different days may be appointed for different provisions.

SCHEDULE

Section 1.

CONSTITUTION, ETC., OF GENERAL OPTICAL COUNCIL

1. The General Optical Council shall consist of—

(*a*) four persons nominated by the Privy Council;

(*b*) five persons chosen to represent registered ophthalmic opticians;

(*c*) two persons chosen to represent registered dispensing opticians;

(*d*) six persons nominated by the examining bodies hereinafter mentioned;

(*e*) six registered medical practitioners; and

(*f*) one person nominated by the Governor of Northern Ireland.

2.—(1) Subject to the provisions of the next following sub-paragraph, any person nominated by the Privy Council under sub-paragraph (*a*) of the last foregoing paragraph and the person nominated by the Governor of Northern Ireland shall not be a registered optician, a registered medical practitioner or a director of a body corporate carrying on business as opticians.

(2) One of the persons so nominated by the Privy Council shall be a person appearing to them to be specially qualified to advise the General Optical Council on educational problems generally and may be a registered optician or registered medical practitioner so long as he is not in practice as an optician or medical practitioner.

3.—(1) The persons chosen to represent the registered ophthalmic or dispensing opticians on the General Optical Council in the first instance shall be nominated by the Privy Council after consultation with organisations appearing to them to represent the interests of a substantial number of ophthalmic opticians and of dispensing opticians respectively.

(2) The persons chosen to represent the registered opticians on the General Optical Council after the retirement of those nominated under the foregoing sub-paragraph shall, subject to the provisions of this Schedule relating to casual vacancies, be elected in accordance with a scheme made by the Council, submitted by them to the Privy Council within two years of the establishment of the Council and approved with or without modifications by the Privy Council.

4. Of the persons nominated by the examining bodies one each shall be nominated by the following examining bodies, that is to say, the British Optical Association, the Worshipful Company of Spectacle Makers, the Institute of Optical Science, the Scottish Association of Opticians and the Association of Dispensing Opticians, and one shall be nominated jointly by the first four mentioned bodies and shall be a person engaged in the education or examination of persons training as ophthalmic opticians.

SCH. —*cont.*

5. Of the six registered medical practitioners on the General Optical Council—

(*a*) four shall be ophthalmologists and shall be nominated by the Faculty of Ophthalmologists and one of the four shall be a person appearing to the said Faculty to be a suitable person to represent ophthalmologists practising in Scotland;

(*b*) one shall be a medical practitioner engaged in the pre-clinical training of students and shall be nominated by the Privy Council after consultation with persons or bodies appearing to them to have special knowledge and experience of such training;

(*c*) one shall be a general medical practitioner nominated by the Privy Council after consultation with organisations appearing to the Privy Council to be representative of the medical profession.

6.—(1) Nominations of all the original members of the General Optical Council shall so far as practicable be made before the day appointed for the establishment of the Council in time to enable the persons nominated to assume membership on its establishment.

(2) At the expiration of three years from that day, and at the expiration of each succeeding period of five years, the following members of the Council shall retire, that is to say—

(*a*) all the members chosen to represent registered opticians;

(*b*) two of the members nominated by the Privy Council under sub-paragraph (*a*) of paragraph 1 of this Schedule, being neither the first chairman nor the person appointed as specially qualified to advise on educational problems generally;

(*c*) the four ophthalmologists nominated by the Faculty of Ophthalmologists.

(3) At the expiration of five years from that day, and at the expiration of each succeeding period of five years, all the members of the General Optical Council (other than those to whom the last foregoing sub-paragraph applies) shall retire.

(4) Elections or nominations required to fill any vacancy occurring at the expiration of any period mentioned in sub-paragraph (2) or sub-paragraph (3) of this paragraph shall, so far as practicable, be held or made before the expiration of that period.

7.—(1) A member of the General Optical Council may at any time, by notice in writing addressed to the registrar, resign his office.

(2) Where a casual vacancy occurs among the members of the Council, then—

(*a*) if the member whose office has become vacant was chosen to represent registered opticians, the vacancy shall be filled by a person nominated by the Council as being a person having qualifications for membership similar to that member's;

(*b*) in any other case, the vacancy shall be filled by a person nominated by the like authority after the like consultation, if any, as in the case of the member whose office has become vacant.

SCH. —*cont.*

(3) A person nominated to fill a casual vacancy shall hold office until the date upon which the member whose vacancy he has filled would have regularly retired.

8.—(1) The chairman of the General Optical Council shall be nominated by the Privy Council from among the members nominated by the Privy Council under sub-paragraph (*a*) of paragraph 1 of this Schedule.

(2) The chairman shall hold office until he next retires from membership of the Council.

9. A person ceasing to be chairman or member of the General Optical Council shall be eligible to be again nominated or elected chairman or member.

10. The General Optical Council shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

11.—(1) Subject to the following provisions of this Schedule, the General Optical Council shall have power to do anything which in their opinion is calculated to facilitate the proper discharge of their functions.

(2) The Council shall, in particular, have power—

(*a*) to appoint, in addition to a registrar, such officers and servants as the Council may determine;

(*b*) to pay to the members of the Council or their committees such fees for attendance at meetings of the Council or their committees and such travelling and subsistence allowances while attending such meetings or while on any other business of the Council as the Council may with the approval of the Privy Council determine;

(*c*) to pay to their officers and servants such remuneration as the General Optical Council may determine;

(*d*) as regards any officers or servants in whose case they may determine to do so, to pay to, or in respect of them, such pensions and gratuities, or provide and maintain for them such superannuation schemes (whether contributory or not), as the Council may determine:

Provided that the power conferred on the Council to determine the remuneration of their officers and servants shall be exercisable subject to the provisions of section twenty-six of this Act with respect to the first registrar.

(3) The powers of the Council and any of its committees may be exercised notwithstanding any vacancy, and no proceedings of the Council or of any of its committees shall be invalidated by any defect in the nomination or election of a member.

12. The General Optical Council may make standing orders for regulating the proceedings (including quorum) of the Council and of any committee thereof:

Provided that orders shall not be made under this paragraph with respect to the proceedings of the Disciplinary Committee.

SCH. —*cont.*

13.—(1) Subject to the provisions of the next following sub-paragraph, the Privy Council may by order after consultation with the General Optical Council and any other body or person they think fit to consult, make such alterations in the membership of the General Optical Council and the numbers and qualifications of members as may be expedient in view of changes in circumstances since the establishment of the General Optical Council or the last order under this paragraph, as the case may be, and may make consequential alterations in the membership, and qualifications of members, of the committees which the General Optical Council are required to set up by this Act.

(2) An order under this paragraph shall not operate to reduce below seven the number of members chosen to represent registered opticians on the General Optical Council.

(3) The power conferred by this paragraph to make an order shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Judicial Committee Act, 1833	3 & 4 Will. 4. c. 41.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Supreme Court of Judicature (Consolidation) Act, 1925	15 & 16 Geo. 5. c. 49.
National Health Service Act, 1946	9 & 10 Geo. 6. c. 81.
National Health Service (Scotland) Act, 1947 ...	10 & 11 Geo. 6. c. 27.
Companies Act, 1948	11 & 12 Geo. 6. c. 38.

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