

Legislative Council.

No. , 1906.

A BILL

To regulate the practice of opticians as regards the testing of sight.

[MR. ROBSON ;—12 *September*, 1906.]

WHEREAS it is expedient that persons professing to test sight should possess a competent practical knowledge of the subject, and that provision be made for the regulation and registration of persons specially qualified to test sight in New South Wales: Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Sight-testing Opticians Act, Short title.
10 1906."

Interpretation.

2. In this Act, unless the context or subject matter otherwise indicates or requires,—

- (1) "Sight testing" and "the practice of sight-testing or testing sight" mean the science of measuring the refraction of the eye and the adaptation of lenses for aiding defective sight, and the practice of the said science respectively. 5
- (2) "Sight-testing optician" means a person registered under this Act.
- (3) "The council" means the general optical council constituted under this Act. 10
- (4) "Registrar" means the registrar appointed under this Act.
- (5) "Prescribed" means prescribed by this Act or by any rules or regulations made thereunder.

This Act not to apply to legally qualified medical practitioners.

No person to be registered without compliance with this Act.

Registration not to imply medical qualifications.

3. The provisions of this Act shall not apply to any person registered as a legally-qualified medical practitioner under the Medical Practitioners Act, 1898, or any Act amending the same. 15

4. No person shall be registered under this Act until he has complied with the regulations made in pursuance thereof.

5. Registration under this Act shall not confer upon any person any right or title to be registered under the Medical Practitioners Act, 1898, or any Act amending the same, or to assume any name, title, or designation implying that he is by law recognised as a medical practitioner or that he is qualified to practice ophthalmic medicine or surgery. 20

Qualification for registration.

6. Subject to the provisions of this Act, any person who— 25

- (1) holds some recognised certificate as hereinafter defined, and who proves to the satisfaction of the council that he is of good character; or
- (2) prior to the first day of January, one thousand nine hundred and seven, has been bonâ fide engaged in the practice of sight-testing or testing sight, or is at the commencement of this Act an assistant over the age of twenty-one years, and has been bonâ fide engaged in the practice of sight-testing or testing sight for five years, provided that in either case application for registration is made before the first day of January, one thousand nine hundred and seven; or 30
- (3) has passed the examination in sight-testing or testing sight required by the council, 35

and has duly complied with the regulations of the council, shall be entitled to be registered as a sight-testing optician under this Act. 40

Persons registered may practice sight-testing, &c., and charge fees; other persons may not.

7. Every person registered under this Act shall be entitled to practice sight-testing or testing sight in any part of New South Wales, and to charge fees therefor, and may recover such fees in any court of competent jurisdiction; but from and after the first day of January, one thousand nine hundred and seven, no person shall be entitled 45

entitled to recover any fee or charge in any court for practising sight-testing or testing sight in New South Wales unless he is registered under this Act.

8. (1) After the first day of January, one thousand nine hundred and seven, no person shall take or use the name or title sight-testing optician or any other name, title, designation, addition, or description, whether by means of initials or letters placed after his name or otherwise, implying that he is registered under this Act, or that he is a person qualified to practice sight-testing or testing sight, unless he is registered under this Act.

Persons not to assume any name, &c., implying registration under this Act or qualification to practice sight-testing, &c.

(2) Any person who after the date aforesaid, not being a person registered under this Act, takes or uses any such name, title, designation, addition, or description as aforesaid shall on summary conviction be liable to a penalty not exceeding *twenty* pounds.

9. (1) A council, which shall be known as the general optical council, shall be constituted for the purpose of carrying this Act into effect, and such council shall consist of eight members, of whom one shall be the president of the council.

Constitution of council.

(2) (a) The members of the first council shall, as soon as is practicable after the commencement of this Act, be appointed by the Governor, and shall consist of six persons eligible to be registered under this Act, and of two other persons not being opticians.

First council to be appointed by the Governor.

(b) The Governor shall appoint one of such persons to be president of the council.

(c) Such appointments shall be for a period of three years, or until their successors are elected and appointed.

10. If any vacancy occurs in the council during the period for which the first members of the council shall have been appointed, the Governor may appoint some person to fill such vacancy, and the person so appointed shall hold office for the unexpired period of office of the person in whose place he was appointed, and no longer

Filling vacancy in first council.

11. (1) On the expiration of the period for which the members of the first council shall have been appointed, another council shall be constituted in the manner following:—

Constitution of subsequent councils

(a) Six persons registered under this Act shall be elected by the persons registered hereunder; and

(b) Two persons, not being persons registered or entitled to be registered hereunder, shall be appointed by the Governor.

(c) The persons so elected and appointed shall elect one of their number to be president of the council.

(d) Such persons, whether elected or appointed, shall hold office for three years from the date when the elected members were elected or until their successors are elected and appointed.

(e) Any member of the council who ceases to hold the qualification in respect of which he was elected or appointed shall thereupon cease to hold office.

(2)

(2) At the expiration of the said period of three years, and after each successive period of three years, another council shall be constituted of persons elected and appointed in like manner as is hereinbefore in this section provided, and the retiring members shall, if still qualified, be eligible for re-election or reappointment respectively. 5

(3) All elections under this section and all vacancies occurring in the council shall be conducted and filled respectively in accordance with the regulations made hereunder.

Council may appoint registrar, &c.

12. The council may appoint a registrar and such other officers, including examiners, as it may think fit, for the purposes of this Act. 10

Register.

13. (1) The registrar shall keep a register for the purposes of this Act, and shall register therein, in the prescribed manner and on payment of the prescribed fee, the full names and addresses, date and description of qualifications for which registration is granted, and all other prescribed particulars of all sight-testing opticians, and shall 15 transmit in the month of January in each year a certified copy of such register to the Colonial Secretary, who shall cause the same thereupon to be published in the Gazette.

(2) A copy of such Gazette shall be prima facie evidence in all legal proceedings that the persons mentioned therein are 20 registered according to the provisions of this Act, and the absence of any name therefrom shall be prima facie evidence that such person is not so registered.

Removal from register of names of deceased persons.

14. The council shall cause to be removed from the register the names of deceased opticians. 25

Council may refuse to register, and may remove names from register.

15. (1) The council may refuse to register as a sight-testing optician, or may remove from the register, any person who—

(a) has been convicted of any felony or misdemeanour, or of any offence which, if committed within this State, would be a felony or misdemeanour; or 30

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

Provided that any such person shall not be refused registration, nor have his name removed from the register, on account of a conviction for an offence which, though within the provisions of this section, does 35 not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person from practising sight-testing or testing sight, nor until he has been called upon to explain any objection raised against him: Provided further, that in case of a charge of infamous conduct as aforesaid, the council 40 shall make due inquiry, sitting as an open court, and the person making such charge and the person charged shall be afforded an opportunity of adducing evidence, and of being heard either in person or by counsel.

Persons aggrieved may appeal to Supreme Court.

(2) Any person aggrieved by any decision, ruling, order, or 45 direction of the council under this section may appeal against the same by notice of motion to the Supreme Court. (3)

(3) Such notice of motion shall state the grounds of appeal, Notice of motion. and shall be served on every person directly affected, and shall be filed in the Supreme Court within fourteen days from the date of the decision, ruling, order, or direction complained of.

5 (4) The council shall, at the expense of the appellant, Evidence. furnish him with a copy of the evidence taken in the matter in which such decision, ruling, order, or direction was given or made, and of such decision, ruling, order, or direction, which copy shall be certified by the registrar to be a true copy. Such copy shall be filed in the
10 Supreme Court within fourteen days after the receipt thereof by the appellant, or within such extended time as may be allowed by the Supreme Court or a judge thereof, and shall be used and received at the hearing of such appeal, and the cost thereof shall be in the discretion of the Supreme Court.

15 (5) Such appeal shall be by way of rehearing, and the Appeal to be by way of rehearing. Supreme Court may make such order as to the costs of such appeal, as to the said court seems meet.

16. Where the council directs the removal from the register of Restoration of name removed. the name of any person, the name of that person shall not be again
20 entered on the register, except by direction of the council, or by order of a court of competent jurisdiction. The council may, if it thinks fit in any case, direct the registrar to restore to the register any name removed therefrom without fee, or on payment of such fee, not exceeding such registration fee, as the council may from time to time
25 direct, and the registrar shall restore the same accordingly.

17. A copy of the register kept in pursuance of this Act signed Copy of register to be evidence. by the president of the council shall, in any proceedings under this Act, be prima facie evidence that the persons whose names are therein contained and no others were, up to and including the time when the
30 said copy of the register was so signed, sight-testing opticians within the meaning of this Act.

18. (1) The council may, with the approval of the Governor, Regulations. make regulations for carrying this Act into effect, for the nomination and election of members of the council (after the first appointed
35 council), for regulating the proceedings of the council, fixing quorums, the removal of members of the council, regulating the duties of its officers, prescribing what certificates, diplomas, membership, degrees, licenses, letters, testimonials, or other titles, status, or documents will be recognised by the council under section six, and for holding
40 examinations and prescribing the subjects and fees therefor.

(2) All such regulations, on being published in the Gazette, shall have the force of law, and copies thereof shall be laid before both Houses of Parliament within fourteen days from publication thereof, if Parliament be then in session, or if not then within fourteen days
45 after the commencement of the next ensuing session.

Penalty for causing false entry in or falsification of the register.

19. Any registrar or other person who wilfully makes or causes to be made any false entry in or falsification of the register, and any person who wilfully procures or attempts to procure himself or any other person to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, and any person aiding or assisting therein, shall be guilty of a misdemeanour, and shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding *twelve* months. 5

Power to administer an oath and to examine witnesses.

20. The council may by summons require the attendance of any person as a witness, and may examine any person upon oath, or take a solemn declaration from any person, for the purposes of this Act; and whosoever wilfully makes any false statement upon such examination or in such declaration, or utters or attempts to utter or put off as true before the council any false, forged, or counterfeit certificate, diploma, license, letter, testimonial, or other title, document, or writing shall be guilty of a misdemeanour, and shall on conviction be liable to imprisonment for any period not exceeding *twelve* months. 15

Offences and penalties.

21. All informations for offences against this Act shall be laid by the registrar or some other person appointed by the council for that purpose, and all penalties when recovered shall be paid to the council for the purposes of this Act. All such penalties may be recovered before any two justices of the peace sitting in petty sessions. 20

Fees.

22. The fees mentioned in the Schedule to this Act shall be payable by persons applying to be registered, or obtaining certificates of registration under this Act, or inspecting the register or obtaining an alteration of the register respectively to the registrar, and shall be applied by the council in defraying the expenses and carrying out the provisions of this Act. 25

SCHEDULE.

	£	s.	d.	30
On application to be registered until first January, one thousand nine hundred and seven	2	2	0	
On application after first January, one thousand nine hundred and seven	5	5	0	
Certificate of registration	0	5	0	35
Inspection of register	0	5	0	
Alteration of register	0	5	0	