

Jersey Law 23/1962

“OPTICIANS (REGISTRATION) (JERSEY) LAW, 1962”,

CONFIRMÉ PAR

Ordre de Sa Majesté en Conseil

en date du 2 octobre 1962.

ARRANGEMENT OF ARTICLES.

Article

1. Interpretation
2. Individuals who may be registered
3. Registration
4. Roll of registered opticians to be kept
5. Penalty for abuse of certificates or fraudulently obtaining registration
6. Lists of bodies corporate carrying on business as opticians
7. Supplementary provisions as to lists
8. Procedure where the names of opticians are erased from the register kept by the registrar of the General Optical Council
9. Power of Court to cancel registration or to order erasure from list
10. Cancellation of registration and erasure from list on grounds of fraud or error
11. Re-registration of individuals and restoration of names erased
12. Restriction of testing of sight
13. Restriction on sale of optical appliances
14. Restriction on use of optician's titles
15. Provision as to death or bankruptcy of registered optician
16. Offences by bodies corporate
17. Consultation with registered opticians
18. Miscellaneous matters with respect to which orders may be made

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

19. General provision as to orders
20. Repeal
21. Short title and commencement

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

OPTICIANS (REGISTRATION) (JERSEY) LAW, 1962.

A LAW to re-enact, with amendments, the Law requiring the registration of ophthalmic and dispensing opticians, to provide for 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, and for purposes connected therewith, sanctioned by Order of Her Majesty in Council of the

2nd day of OCTOBER, 1962.

(Registered on the 27th day of October, 1962).

STATES OF JERSEY.

The 25th day of January, 1962.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

INTERPRETATION

- (1) In this Law, unless the context otherwise requires –
- “the Committee” means the Public Health Committee;
- “the Court” means the Inferior Number of the Royal Court;
- “dispensing optician” means an individual engaged or proposing to engage in the fitting and supply of optical appliances;

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

“enrolled” means enrolled in either of the lists;

“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;

“ophthalmic optician” means an individual engaged or proposing to engage in the testing of sight (otherwise than as a registered medical practitioner), 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;

“the Opticians Act” means the Opticians Act, 1958 (6 & 7 Eliz. 2, c. 32);

“prescribed” means prescribed by order made by the Committee under this Law;

“the Register” means either of the registers of ophthalmic opticians or the register of dispensing opticians kept in pursuance of the Opticians Act;

“registered dispensing optician” means an individual registered as a dispensing optician in pursuance of this Law or of the Law repealed by this Law;

“registered medical practitioner” has the same meaning as in the Medical Practitioners (Registration) (Jersey) Law, 1960;¹

“registered ophthalmic optician” means an individual registered as an ophthalmic optician in pursuance of this Law or of the Law repealed by this Law;

¹ Tome 1957–1960, page 493.

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

“registered optician” means a registered ophthalmic optician or a registered dispensing optician, and “registration” shall be construed accordingly;

“test the sight” means test the 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.

(2) References in this Law to any other enactment (including an enactment of the Parliament of the United Kingdom) shall be construed as references thereto, as amended and as including references thereto as extended, by or under any subsequent enactment.

ARTICLE 2

INDIVIDUALS WHO MAY BE REGISTERED

(1) No individual shall be registered as an ophthalmic optician in pursuance of this Law unless he is duly registered as an ophthalmic optician in pursuance of the Opticians Act.

(2) No individual shall be registered as a dispensing optician in pursuance of this Law unless he is duly registered as a dispensing optician in pursuance of the Opticians Act.

ARTICLE 3

REGISTRATION

(1) An application for registration in pursuance of this Law shall be made to the Court and shall be accompanied by either –

- (a) (i) a copy of the last official edition of the Register published in accordance with section eight of the Opticians Act; and

- (ii) the certificate or certificates of qualification by virtue of which the applicant was registered in the Register; or
 - (b) a certificate under the hand of the Registrar of the General Optical Council to the effect that the applicant is registered in the Register and specifying the qualifications by virtue of which he was so registered.
- (2) Where the applicant is an alien, the Court may require him to produce a duly authenticated certificate of good character.
- (3) The qualifications by virtue of which an individual is registered in pursuance of this Law shall be set out in the act of the Court ordering the registration.

ARTICLE 4

ROLL OF REGISTERED OPTICIANS TO BE KEPT

The Judicial Greffier shall make and keep posted in the Lobby of the Royal Court House a roll of registered ophthalmic opticians and a roll of registered dispensing opticians, showing their names and addresses and the qualifications by virtue of which they were registered.

ARTICLE 5

PENALTY FOR ABUSE OF CERTIFICATES OR FRAUDULENTLY OBTAINING REGISTRATION

If any individual –

- (a) with intent to deceive, forges, or uses, or lends to or allows to be used by any other individual, a certificate of registration or other certificate issued under the Opticians Act, or a certificate of qualification entitling him to be registered in the Register, or makes or has in his possession a document so closely resembling any such certificate as aforesaid as to be calculated to deceive; or

- (b) obtains or attempts to obtain the registration of himself as an optician in pursuance of this Law by assuming the name or qualifications of another individual;

he shall be liable in respect of each offence to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding one year.

ARTICLE 6

LISTS OF BODIES CORPORATE CARRYING ON BUSINESS AS OPTICIANS

(1) The Committee 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 Law to be enrolled therein and which 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 Committee 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; or
- (b) if it satisfies the Committee 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;
- (c) if it is a society registered under the Industrial and Provident Societies Acts, 1893 to 1954, and if it satisfies the Committee 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.

ARTICLE 7

SUPPLEMENTARY PROVISIONS AS TO LISTS

(1) The Committee may by order make provision with respect to the form and keeping of lists and the making of entries and alterations therein and, in particular –

- (a) regulating the making of applications for enrolment or for transfer from one list to another, and providing for the evidence to be produced, in support of any such application;
- (b) providing for the notification to the Committee of any change in the particulars entitling 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 list;
- (d) prescribing a fee to be charged in respect of the retention in the list of any name in any year subsequent to the year in which that name was first entered in the list;
- (e) providing that the entry of a name in, or the restoration of a name to, the list may be refused until a fee prescribed for the entry or restoration has been paid, and that the name of a body corporate may be erased from the list if, after the prescribed notices and warnings, the body corporate fails to pay the fee prescribed in respect of the retention of that name in the list;
- (f) prescribing anything required or authorized to be prescribed by the provisions of this Law relating to the lists.

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

(2) An order under this Article which provides for the erasure of a name from the 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.

(3) An order under this Article prescribing fees may provide for the charging of different fees in different classes of cases.

(4) All fees received under this Article shall be credited to the general revenues of the States and all expenses incurred under this Article shall be defrayed out of the general revenues of the States.

ARTICLE 8

**PROCEDURE WHERE THE NAMES OF OPTICIANS ARE
ERASED FROM THE REGISTER KEPT BY THE REGISTRAR
OF THE GENERAL OPTICAL COUNCIL**

The Court shall, on the motion of the Attorney General, order that the registration of any registered optician be cancelled where the name of the optician has been erased from the Register by virtue of rules made under section seven of the Opticians Act or by direction of the Disciplinary Committee of the General Optical Council under the powers conferred on it by the said Act.

ARTICLE 9

**POWER OF COURT TO CANCEL REGISTRATION OR TO
ORDER ERASURE FROM LIST**

(1) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled where the optician –

- (a) has been convicted in the Island of a crime or misdemeanour or has been convicted, either in Her Majesty's dominions or elsewhere, of an offence which, if

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

committed in the Island, would be a crime or misdemeanour; or

- (b) has been guilty of infamous or disgraceful conduct in a professional respect.

(2) The Court may, on the motion of the Attorney General, order that the name of any enrolled body corporate be erased from the list where –

- (a) the body corporate has been convicted of an offence under this Law, or of aiding, abetting, counselling or procuring the commission of, or inciting another person to commit, such an offence ; or
- (b) the Court is of opinion that the conditions, or any of the conditions, for the enrolment of the body corporate are no longer satisfied.

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 paragraph, 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 first occurs.

(3) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court that the optician or body corporate has contravened or failed to comply with the provisions of any order made under Article 18 of this Law and that the contravention or failure is such as to render the optician unfit to be registered or the body corporate unfit to have its name on the list.

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

(4) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court –

- (a) that the optician or 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, a registered ophthalmic optician 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.

(5) The Court may, on the motion of the Attorney General, order that the name of any enrolled body corporate be erased from the list where –

- (a) the registration of a director of the body corporate is cancelled under Article 8 of this Law or under paragraph (1) of this Article ; or
- (b) a director of the body corporate is convicted of an offence under this Law ; or
- (c) the registration of a registered optician employed by the body corporate is cancelled under Article 8 of this Law or under paragraph (1) of this Article and the act or omission constituting the ground on which it was cancelled 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 :

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

Provided that the Court 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 paragraph being rendered inapplicable in that case or while any such proceedings are pending.

(6) Where it appears to the Court 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 Article and that the events giving rise to the liability were confined, or substantially confined, to a particular set of premises, the Court may, instead of ordering the erasure of the name of the body corporate from the list, order that the body corporate shall not use the title of ophthalmic optician, dispensing optician, registered optician or enrolled optician in connexion with that set of premises ; and if at any time thereafter it appears to the Court that the body corporate has contravened an order in force under this paragraph, the Court may, if it thinks fit, order the erasure of the name of the body corporate from the list.

(7) No order shall be made under this Article unless the registered optician or body corporate concerned has been given an opportunity of showing cause why the order should not be made.

ARTICLE 10

CANCELLATION OF REGISTRATION AND ERASURE FROM LIST ON GROUNDS OF FRAUD OR ERROR

The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court that the registration of the optician or the entry of the name in the list has been fraudulently made or that any matter relating to the registration or entry is incorrect.

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

ARTICLE 11

RE-REGISTRATION OF INDIVIDUALS AND RESTORATION OF NAMES ERASED

(1) Where the registration of an individual has been cancelled or the name of a body corporate has been erased from the list in pursuance of an order made under Article 8, 9 or 10 of this Law, that individual shall not be registered or, as the case may be, the name of that body corporate shall not be entered in either of the lists unless the Court, on an application made in that behalf, has rescinded the order.

(2) The reference in paragraph (1) of this Article to an order made under Article 9 of this Law shall include a reference to an order of the Royal Court made under Article 5 of the Law repealed by this Law.

ARTICLE 12

RESTRICTION ON TESTING OF SIGHT

(1) An individual who is not a registered medical practitioner or a registered ophthalmic optician shall not test the sight of another individual.

(2) Any individual who contravenes the provisions of this Article shall be liable to a fine not exceeding two hundred and fifty pounds.

ARTICLE 13

RESTRICTION ON SALE OF OPTICAL APPLIANCES

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

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

(2) Paragraph (1) of this Article 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 department of Her Majesty's Government or of the States ; or
- (e) for the purposes of its export.

(3) On any prosecution for selling an optical appliance in contravention of paragraph (1) of this Article, it shall be a defence for the defendant to prove that he sold the appliance as an antique 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.

(4) Any person who contravenes the provisions of this Article shall be liable to a fine not exceeding two hundred and fifty pounds.

ARTICLE 14

RESTRICTION ON USE OF OPTICIAN'S TITLES

- (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,

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

the title of ophthalmic optician when he is not a registered ophthalmic optician, or the title of dispensing optician, registered optician or enrolled optician when he is not a registered optician ; or

- (b) who takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that he is a registered optician ;

shall be liable 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 to a fine not exceeding two hundred and fifty pounds.

ARTICLE 15

PROVISION AS TO DEATH OR BANKRUPTCY OF REGISTERED OPTICIAN

- (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 Committee may in any particular case allow, Article 14 of this Law shall not operate

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

to prevent his personal representatives, his widow or any of his children 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, Article 14 of this Law shall not operate to prevent the person entrusted with the administration of his property 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, by virtue of the foregoing provisions of this Article, any title in relation to the business or practice of a deceased optician or an optician who has become bankrupt is taken or used, and an offence under Article 12 or 13 of this Law is committed in the course of that business or practice, the Committee may, if it thinks fit, direct that the said paragraph (1) or, as the case may be, the said paragraph (2) shall cease to apply in relation to that business or practice.

ARTICLE 16

OFFENCES BY BODIES CORPORATE

Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any individual 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.

ARTICLE 17

CONSULTATION WITH REGISTERED OPTICIANS

(1) The Committee shall nominate not less than two, and not more than four, registered opticians with whom the Committee shall consult before making any order under Article 18 of this Law, and from whom the Committee may seek advice on the discharge of its functions generally under this Law.

(2) Any such nomination may be terminated at any time by the Committee should it so think fit.

ARTICLE 18

**MISCELLANEOUS MATTERS WITH RESPECT TO WHICH
ORDERS MAY BE MADE**

(1) Subject to the provisions of Article 17 and paragraph (2) of this Article, the Committee may by order prohibit or regulate –

- (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;

Jersey Law 23/1962 Opticians (Registration) (Jersey) Law, 1962

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

(2) The power of the Committee to make orders by virtue of sub-paragraph (a) of paragraph (1) of this Article 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) Subject to the provisions of Article 17 of this Law, the Committee may by order provide that where it appears to a registered optician that an individual consulting him is suffering from an injury or disease of the eye, the optician shall, except in an emergency or where that individual is consulting him for the purpose of being given treatment in accordance with any order made under sub-paragraph (d) of paragraph (1) of this Article or any such other cases as may be prescribed by the order, being cases in which it is, owing to special circumstances, impracticable or inexpedient so to do, take the prescribed steps to refer that individual to a registered medical practitioner for advice and treatment.

(4) Any order made under this Article may make different provision for different classes of cases.

ARTICLE 19

GENERAL PROVISION AS TO ORDERS

The Subordinate Legislation (Jersey) Law, 1960,² shall apply to orders made under this Law.

² Tome 1957–1960, page 519.

Jersey Law 23/1962

Opticians (Registration) (Jersey) Law, 1962

ARTICLE 20

REPEAL

The Opticians (Registration) (Jersey) Law, 1951,³ is hereby repealed.

ARTICLE 21

SHORT TITLE AND COMMENCEMENT

(1) This Law may be cited as the Opticians (Registration) (Jersey) Law, 1962.

(2) This Law shall come into force on such day or days as the States may by Act appoint, and different days may be fixed for different purposes and different provisions of this Law.

A.D. LE BROCC,

Deputy Greffier of the States.

³ Tome 1951–1953, page 39.