

CONSOLIDATION OF OPTOMETRY ACT
R.S.N.W.T. 1988,c.O-3

(Current to: March 17, 2006)

AS AMENDED BY:

S.Nu. 2001,c.10,s.6

s.6 in force May 29, 2001

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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OPTOMETRY ACT

INTERPRETATION

Definitions

1. In this Act,

"licence" means a licence issued under subsection 4(2); (*permis*)

"practice of optometry" means the employment of means other than drugs and surgery for the measurement of the refractive or muscular condition of the eye and the prescribing or supplying of lenses, prisms or spectacles for the relief or correction of any visual or muscular defect of the eye; (*exercice de l'optométrie*)

"Register" means the Optometrists Register referred to in section 3; (*registre*)

"registered optometrist" means a qualified optometrist who is registered in the Register; (*optométriste inscrit*)

"Registrar" means the Registrar of Health Professions appointed under the *Dental Profession Act*. (*registraire*)
S.Nu. 2001,c.10,s.6(2).

APPLICATION

Persons to whom Act does not apply

2. (1) This Act does not apply to a person who sells protective glasses for industrial purposes, coloured glasses not embodying ophthalmic lenses, goggles or simple magnifying glasses not sold or devised for the relief or correction of a visual or muscular defect of the eye.

Activities to which Act does not apply

(2) This Act does not apply to any activity lawfully performed under the *Ophthalmic Medical Assistants Act* or the regulations made under that Act.

REGISTRATION AND LICENSING

Optometrist Register

3. (1) The Registrar shall keep a register called the Optometrists Register and shall enter in the Register the name, address and qualifications of every person who is entitled to be registered in the Register.

Persons entitled to be registered

(2) The following persons are, on application and on payment of the fee required by this Act, entitled to be registered in the Register, namely,

- (a) a person engaged in the practice of optometry in the Territories on April 1, 1966, and who is resident in the Territories;
- (b) a person who, within two years before his or her application, graduated from a college of optometry in Canada approved by the Registrar and who satisfies the Registrar that he or she is of good character; and
- (c) a person entitled to engage in the practice of optometry in a province or the Yukon Territory on providing evidence of this entitlement satisfactory to the Registrar.

Registration fee

(3) The fee for registration of a person in the Register is the prescribed fee. S.Nu. 2001,c.10,s.6(3),(4),(5).

Annual fee

4. (1) A person who is registered in the Register shall send to the Registrar on or before March 31 in each year the prescribed annual licence fee.

Issue of licence

(2) On receiving the prescribed annual licence fee referred to in subsection (1), the Registrar shall issue a licence to the applicant. S.Nu. 2001,c.10,s.6(6),(7).

ACTIONS BY AND AGAINST OPTOMETRISTS

Fees where practice unlicensed

5. (1) No person shall recover a fee or charge for professional services rendered or material or appliances provided by him or her in practising optometry unless he or she holds a licence at the time the services are rendered or materials or appliances are provided.

Exception

(2) Subsection (1) does not apply to a charge for professional services made by a medical practitioner entitled to practise in the Territories.

Limitation of actions

6. No action lies against a registered optometrist for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within two years after the day when, in the matter complained of, the professional services terminated.

DISCIPLINE

Board of Inquiry

7. (1) The Commissioner may establish a Board of Inquiry composed of not less than three and not more than five persons appointed by the Commissioner, for the

purpose of investigating any complaint made against a registered optometrist with respect to malpractice on the part of that optometrist.

Remuneration of members

(2) The Commissioner may determine the fees and allowances for expenses to be paid to members of a Board of Inquiry.

Reference of complaints to Board

8. (1) Where a complaint is made to the Commissioner in respect of any alleged malpractice by a registered optometrist, the Commissioner shall refer it to a Board of Inquiry.

Security for cost of investigation

(2) The Commissioner may direct that a person making a complaint deposit with the Commissioner a sum not exceeding \$500 as security for the costs of investigating the complaint, and where that deposit is not made, the Commissioner may refuse to refer the complaint to a Board of Inquiry.

Investigation and report

9. (1) A Board of Inquiry shall investigate every complaint referred to it and shall, on completion of the investigation, make a report in writing of its findings to the Commissioner.

Power of Board

- (2) In investigating a complaint, a Board of Inquiry may
- (a) summon and bring before it any person whose attendance it considers necessary;
 - (b) swear and examine persons under oath;
 - (c) compel the production of documents; and
 - (d) do all things necessary to conduct a full and proper investigation.

Quorum

(3) A majority of the members of a Board of Inquiry constitutes a quorum.

Appeal

10. An appeal lies from any finding of a Board of Inquiry within 30 days to a judge of the Supreme Court and the judge may make an order quashing or confirming the finding of the Board.

Striking name off Register

11. Where a registered optometrist is found by a Board of Inquiry to be guilty of malpractice and

- (a) no appeal is made within the time mentioned in section 10, or
- (b) an appeal is made and the judge of the Supreme Court to whom the appeal is made confirms the findings,

the Registrar may strike the name of the registered optometrist off the Register and suspend or cancel his or her licence. S.Nu. 2001,c.10,s.6(8).

Reinstatement

12. A person whose name has been struck off the Register and whose licence has been suspended or cancelled may be reinstated on the Register, his or her licence renewed and his or her rights and privileges under that licence restored in the manner and on the conditions that the Commissioner, in the Commissioner's discretion, may decide.

OFFENCES AND PUNISHMENT

Unlawful practice

13. (1) Every person who is not the holder of a licence and who in the Territories

- (a) engages in the practice of optometry, other than a medical practitioner entitled to practise in the Territories,
- (b) appends to his or her name the title of optometrist or any word indicative of that title or used in substitution or abbreviation of that title, or
- (c) holds himself or herself out in any way to be entitled to practise optometry in the Territories,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months or to both.

Board of Inquiry

(2) Every person who, on the request of a Board of Inquiry,

- (a) fails, without valid excuse, to attend an inquiry,
- (b) fails to produce any document, book or paper in his or her possession or under his or her control, or
- (c) refuses during an inquiry to take an oath or answer any proper question,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

Limitation period

14. A prosecution for an offence under this Act may not be commenced after two years from the time when the subject-matter of the prosecution arose.

Burden of proof

15. In a prosecution for an offence under this Act, the burden of proof that the person against whom the charge is laid is the holder of a licence is on the person against whom the charge is laid.

REGULATIONS

Regulations

16. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the amount of fees to be paid in respect of a licence or renewal of licence issued under this Act and a registration applied for or made under this Act; and
- (b) respecting any matter that the Commissioner considers necessary for the effective carrying out of the intent and purposes of this Act.

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