

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

OPTOMETRISTS AND OPTICIANS AMENDMENT ACT 2010

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WHEREAS it is necessary to amend the Optometrists and Opticians Act 2008 to better regulate optometrists and opticians, to ensure a high standard of practice and to safeguard the welfare of the public;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Optometrists and Opticians Act 2008 (the "principal Act"), may be cited as the Optometrists and Opticians Amendment Act 2010.

Amends section 2

2 Section 2 of the principal Act is amended in the definition of "Permanent Secretary" by deleting "Department" and substituting "Ministry".

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Amends section 3

3 Section 3 of the principal Act is amended—

- (a) in subsection (1) by inserting the following immediately after “Optometrists and Opticians Act 1973” —

“who shall have the powers and perform the duties conferred or imposed upon them by or under this Act”;

- (b) by inserting the following immediately after subsection (1)—

“(1A) The general function of the Council shall be to protect the public by ensuring high standards of professional competence and conduct in the practice of optometry in Bermuda.

(1B) The Council shall be a body corporate under the name of “The Optometrists and Opticians Council”, with the exclusive right to use that name, and with power to sue and liability to be sued in their corporate capacity by that name in all courts, and with power to have and use a common seal and to renew or vary the same at pleasure.”; and

- (c) in subsection (3) by inserting “to” immediately after “regulating the procedures of”.

Amends section 4

4 Section 4 of the principal Act is amended—

- (a) by repealing paragraph (a);
- (b) in paragraph (c) by inserting “and re-registration” immediately after “registration” in both places;
- (c) in paragraph (e) by deleting “and ethical guidelines for registered persons”; and
- (d) by inserting the following immediately after paragraph (e)—

“(ea) prescribe the code of conduct for registered persons;

(eb) exercise disciplinary control over registered persons on matters referred by the Complaints Committee;”.

Amends section 6

5 Section 6 of the principal Act is amended by inserting the following immediately after subsection (1)—

“(1A) An applicant for registration whose first language is not English must satisfy the Council that he or she has sufficient knowledge of the English language to be able to function as a practitioner in Bermuda.”.

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Amends section 8

6 Section 8 of the principal Act is amended—

- (a) by deleting “three” wherever it appears and substituting “two”;
- (b) in subsection (1) by deleting “third” and substituting “second”; and
- (c) in subsection (2)(a) by inserting “, professional conduct” next after “qualifications”.

Amends section 11

7 Section 11 of the principal Act is amended—

- (a) by deleting “three” wherever it occurs and substituting “two”;
- (b) by deleting subsection (1) and substituting the following—

“(1) Every registered person shall complete the prescribed number of hours of continuing professional education during the time period required in section 8(2)(b).”; and

- (c) by repealing subsection (2).

Repeals and replaces section 13

8 Section 13 of the principal Act is repealed and replaced by the following—

“Code of conduct

13 The Council may prescribe a code of conduct for registered persons which may include what the Council considers proper conduct or professional conduct and the Council shall send a copy of the code of conduct, as amended from time to time, by post to each registered person at their address on the register.”.

Amends section 16

9 Section 16 of the principal Act is amended by deleting the section heading “Professional Conduct” and replacing it with “Enquiry into complaint by Council”.

Amends section 21

10 Section 21 of the principal Act is amended by inserting the following immediately after paragraph (c)—

- “(ca) a registered person fails to renew their registration or whose application for renewal is refused;”.

Amends section 24

11 Section 24 of the principal Act is amended by deleting “7” and substituting “28”.

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Amends First Schedule

12 The First Schedule to the principal Act is amended by—

(a) inserting the following as the title of the Schedule—

“Optometrists and Opticians Council”; and

(b) inserting the following next after paragraph 7—

“7A At any meeting of the Council three members present shall constitute a quorum, but for matters affecting opticians the member representing opticians must be present.”.

Amends Second Schedule

13 The Second Schedule to the principal Act is amended by inserting the following as the title of the Schedule—

“Prescription Drugs”.

Amends Third Schedule

14 The Third Schedule to the principal Act is amended—

(a) in paragraph 9 by deleting “Two” and substituting “Three”;

(b) by repealing paragraphs 8 and 10; and

(c) by inserting the following next after paragraph 9—

“9A (1) Where any complaint is before the Committee, a member of the Committee shall advise the Chairperson if they are personally acquainted with the facts of the case and may, with leave of the Chairperson, withdraw on that ground or for any other reason which the Chairperson deems sufficient; and the Chairperson may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the Chairperson may request the Minister appoint a member of equal standing as the withdrawn member or some other person, who need not be a registered person, to be a member of the Committee for the purpose of those proceedings, and the Minister may make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Committee for such purpose.”.

Commencement

15 This Act comes into operation on such day as the Minister responsible for Health may appoint by Notice in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks to make a number of amendments to streamline and update the Optometrists and Opticians Act 2008 (the “Act”).

Clause 1 provides the short title of the Bill.

Clause 2 amends the definition of “Permanent Secretary” in section 2 to reflect the Permanent Secretary of the Ministry and not the Department of Health.

Clause 3 provides that the general function of the Council is to protect the public through a higher standard of professional competence of optometrists and opticians registered under the Act.

Clause 4 removes certain functions and adds to the functions of the Council, that of prescribing the code of conduct for and exercising disciplinary control over registered optometrists and opticians.

Clause 5 clarifies the requirement for registered optometrists and opticians to have knowledge of the English language.

Clause 6 reduces, by one year, the time period registered optometrists and registered opticians have to reregister and reapply for registration, and comply with the prescribed continuing professional education requirements.

Clause 7 reduces, by one year, the time period a registered optometrist and registered optician has to complete the prescribed number of hours of continuing professional education. It also clarifies that the prescribed number of hours are as provided in section 8(2)(b).

Clause 8 clarifies the authority the Council has to prescribe the code of conduct for registered optometrists and registered opticians.

Clause 9 changes the section heading to properly reflect the effect of the section.

Clause 10 adds that a registered optometrist and registered optician can have their name removed from the register if their registration is not renewed or is refused.

Clause 11 increases the number of days a registered optometrist and registered optician has to appeal the Council’s decision to the Supreme Court.

Clause 12 adds the title to the First Schedule and clarifies the members required to constitute a quorum at a meeting of the Council.

Clause 13 adds the title to the Second Schedule.

Clause 14 increases, by one, the number of persons required to constitute a quorum at a meeting of the Complaints Committee. It provides that a Committee member must notify the Chairperson of personal knowledge of any matter before it and may withdraw on that or for any other reason, with the Chairperson’s permission.

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Clause 15 provides for the commencement of the Act.