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## OPTOMETRISTS AND DISPENSING OPTICIANS (REGISTRATION, ETC.) ACT

**SUPPORTED BY**

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## **OPTOMETRISTS AND DISPENSING OPTICIANS (REGISTRATION, ETC.) ACT**

**An Act to establish a Board for the control and practice of the profession of optometry and dispensing optics.**

[7th December, 1989]

[Commencement.]

PART I: *Establishment of the Optometrists and Dispensing Opticians Registration Board of Nigeria*

**1. Establishment of the Optometrists and Dispensing Opticians Registration Board of Nigeria**

- (1) There is hereby established for optometrists and dispensing opticians a body to be known as the Optometrists and Dispensing Opticians Registration Board of Nigeria (in this Act referred to as "the Board").
- (2) The Board shall be charged with the duties of-
  - (a) determining what standards of knowledge and skill are to be attained by persons seeking to become members of the profession of optometry and dispensing optics and improving those standards from time to time as circumstances may permit;
  - (b) securing in accordance with the provisions of this Act, the establishment and maintenance of a

register of persons registered under this Act as members of the profession of optometry and dispensing optics and the publication from time to time of lists of those persons;

- (c) conducting examinations in the relevant profession, and awarding certificates or diplomas to successful candidates as appropriate; and for such purpose the Board shall prescribe fees to be paid in respect thereof; and
- (d) performing the other functions conferred on the Board by this Act.

## **2. Membership of the Board**

(1) The Board shall comprise the following members, that is-

- (a) a chairman;
- (b) one optometrist;
- (c) one dispensing optician;
- (d) four optometrists to represent the States in rotation for two years at a time;

- (e) one person to represent the Nigerian Medical Council;
  - (f) two optometrists to represent schools involved in training members or the profession in rotation for two years at a time;
  - (g) one ophthalmologist;
  - (h) one person to represent public interest;
  - (i) one person to represent the Federal Ministry of Health;
  - (j) one person to represent the National Eye Centre;  
and
  - (k) one orthoptist.
- (2) All the appointments in subsection (1) of this section shall be made by the President, on the recommendation of the Minister.
- (3) The provisions of the First Schedule to this Act shall have effect with respect to the matters therein mentioned in relation to the Board.

[First Schedule.]

### **3. Fund of the Board**

(1) The Board shall establish and maintain a fund into which shall be paid-

- (a) all fees and other moneys payable to the Board in pursuance of this Act; and
- (b) such moneys as may be payable to the Board whether in the course of the discharge of its functions or otherwise.

(2) There shall be paid out of the fund of the Board-

- (a) all expenditure by the Board in the discharge of its functions under this Act;
- (b) the remuneration and allowances of the Registrar and other staff of the Board; and
- (c) such reasonable travelling and subsistence allowances of members of the Board in respect of the time spent on the business of the Board as the Board may, with the approval of the Minister, determine.

### **4. Powers of the Board**

- (1) Subject to subsection (2) of this section and to any direction of the Minister under this Act, the Board shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its functions under this Act.
- (2) The Board shall not have power to borrow or to dispose of any property except with the prior consent of the Minister and shall not have power to pay remuneration (including pensions), allowances or expenses to any employee of the Board or any other person except in accordance with scales approved by the Minister.

**5. Annual estimates, accounts and audit**

- (1) It shall be the duty of the Board to prepare and submit to the Minister not later than the 30th September of the year in which this Act comes into force (so however that the Minister may, if he considers it necessary, extend the period) and of each subsequent year, an estimate of its income and expenditure for the next succeeding year.
- (2) The Board shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year to which the accounts relate by a firm of auditors appointed from the list of auditors and in accordance

with the guidelines supplied by the Auditor-General for the Federation.

## **6. Control of the Board by the Minister**

The Minister may give to the Board directions of a general character or relating generally to particular matters (but not to any individual person or case) with regard to the exercise by the Board of its functions and it shall be the duty of the Board to comply with the directions.

## **7. Registrar and other employees of the Board**

- (1) It shall be the duty of the Board to appoint a fit and proper registered person to be the Registrar for the purposes of this Act.
- (2) The Registrar shall, in addition to his other functions under this Act, be the secretary to the Board and shall on the instruction of the chairman of the Board convene meetings of the Board or of any committee of the Board and shall keep minutes of the proceedings of all such meetings.
- (3) The Board may appoint such other persons to be employees of the Board as the Board may determine to assist the Registrar in the exercise of his functions under this Act.

- (4) The Board may, whenever the Registrar is absent or for any other reason is unable to discharge the functions of his office, appoint an acting Registrar to discharge those functions.
- (5) The Registrar and other employees of the Board shall hold office on such conditions as the Board may, with the approval of the Minister, determine.

## PART II

### *Registration and related matters*

#### **8. Preparation and maintenance of register**

- (1) It shall be the duty of the Registrar to prepare and maintain, in accordance with rules made by the Board under this section, a register of the names, addresses, approved qualifications and of such other particulars as may be specified, of all persons who are entitled in accordance with the provisions of this Act to be registered as optometrists or dispensing opticians and who apply in the specified manner to be so registered.
- (2) Subject to the following provisions of this section, the Board shall make rules with respect to the form of keeping of the register and the making of entries therein, and in particular-

- (a) regulating the making of application for registration and providing for the evidence to be produced in support of such application;
- (b) providing for the notification to the Registrar by the person to whom any registered particulars relate, of any change in those particulars;
- (c) authorising a registered person to have any qualification which is, in relation to the relevant profession whether an approved qualification or an accepted qualification for the purposes of subsection (2) of section 10 of this Act, registered in relation to his name in addition to or, as he may elect, in substitution for any other qualifications so registered;
- (d) specifying the fees to be paid to the Board in respect of the entry of names on the register and authorising the Registrar to refuse to enter a name on the register until any fee specified for entry has been paid;
- (e) specifying any other matter so required under the foregoing provisions of this section,

but rules made for the purposes of paragraph (d) of this subsection shall not come into force until they have been approved by the Minister.

- (3) It shall be the duty of the Registrar-
  - (a) to correct, in accordance with the directions of the Board, any entry in the register which the Board directs him to correct as being in the opinion of the Board an entry which was incorrectly made;
  - (b) to make from time to time any necessary alterations to the registered particulars of registered persons;
  - (c) to remove from the register the name of any registered person who has died or has become insane or who has, for any other reason, ceased to be qualified to be a member of the profession.
- (4) If the Registrar-
  - (a) sends by post to any registered person a registered letter addressed to him at his address on the register enquiring whether the registered particulars relating to him are correct and receives no reply to that letter within three months from the date of posting it; and
  - (b) upon the expiration of that period sends in like manner to the person in question a second letter and receives no reply to that letter within three months from the date of posting it,

the Registrar may remove the particulars relating to the person from the register; but the Board may direct the Registrar to restore to the register any particulars removed therefrom under this subsection.

**9. Publication of the register and lists of corrections**

- (1) It shall be the duty of the Registrar-
  - (a) to cause the register to be printed, published and put on sale to members of the public not later than two years from the beginning of the year in which this Act comes into force;
  - (b) in each year after that in which a register is first published under paragraph (a) of this subsection, to cause to be printed, published and put on sale as aforesaid either a corrected edition of the register or a list of alterations made to the register since it was last printed; and
  - (c) to cause a print of each edition of the register and of each list of corrections to be deposited at the principal office of the Board, and it shall be the duty of the Board to keep each register and lists so deposited open at all reasonable times for inspection by members of the public.

- (2) A document purporting to be a print of an edition of a register published under this section by authority of the Registrar in the current year or documents purporting to be prints of an edition of a register so published in the current year, shall (without prejudice to any other mode of proof) be admissible in any proceedings as evidence that any person specified in the documents, or the documents read together as being registered, is so registered and that any person not so specified is not so registered.

**10. Registration as optometrist or dispensing optician**

- (1) Subject to section 28 of this Act and to rules made under subsection (2) of section 8 of this Act, a person shall be entitled to be registered under this Act and being so registered to receive a registration certificate if-
  - (a) he has attended a course of training approved by the Board under section 18 of this Act;
  - (b) the course was conducted at an institution so approved or partly at one such institution and partly at another;
  - (c) he holds at least one of the qualifications prescribed in the Third Schedule to this Act for the purpose of registration on a particular register and has

complied with the other requirements prescribed under subsection (2) of section 8 of this Act;

- (d) he holds a certificate of experience issued in pursuance of section 21 of this Act;
  - (e) he is of good character; and
  - (f) he thereafter pays any prescribed fees.
- (2) Subject as aforesaid, a person shall also be entitled to be registered under this Act and being so registered to receive a registration certificate if he satisfies the Board that-
- (a) he holds a qualification granted outside Nigeria for the time being accepted by the Board for the purposes of this subsection as respects the profession;
  - (b) in the country in which the qualification was granted he was under no legal disability in the practice of the profession;
  - (c) he holds a certificate of experience issued in pursuance of section 21 of this Act;

- (d) he is of good character; and
- (e) he thereafter pays any prescribed fee.
- (3) The Board shall, from time to time, publish in the Federal Gazette particulars of the qualifications for the time being accepted as aforesaid.
- (4) The qualifications specified in the Third Schedule to this Act are those accepted for the time being by the Board as the minimum qualifications for the purpose of registration on the relevant register established under section 8 of this Act.
- (5) Subject as aforesaid, a person shall be entitled to be temporarily registered under this Act in the cases specified in section 11 of this Act.

#### **11. Temporary registration**

- (1) Where a person satisfies the Board-
  - (a) that he has been selected for employment for a specified period in a capacity in which a registered person under this Act would normally be employed and that he is or intends to be in Nigeria temporarily for the purpose of serving for that period in the employment in question;

- (b) that he holds or has passed examinations necessary for obtaining some qualification granted outside Nigeria which is for the time being accepted by the Board for the purposes of this section as respects the capacity in which, if employed, he is to serve; and
- (c) he pays any fee prescribed for registration, the Board may, if it thinks fit, give a direction that he shall be temporarily registered.
- (2) The temporary registration of a person shall continue only while he is in such employment as is mentioned in subsection (1) (a) of this section and shall cease-

  - (a) on the termination of the period of employment specified to the Board under that subsection; or
  - (b) on the termination of the said employment before the end of that period, whichever first occurs.
- (3) Nothing in subsection (2) of this section shall preclude the Board from giving a further direction under subsection (1) of this section in respect of a specified period, the commencement of which coincides with the termination of another such period.

- (4) A person who is temporarily registered shall, in relation to his employment mentioned under subsection (1) (a) of this section, and to things done or omitted to be done in the course of that employment, be deemed to be fully registered, but in respect of other matters he shall be treated as not so registered.
- (5) In case of doubt as to whether a person's employment has been terminated, the decision of the Board shall be conclusive for the purposes of subsection (2) of this section.
- (6) The Registrar, as directed from time to time by the Board, shall remove from the register the name of any person ceasing to be entitled to the benefit of this section.

### PART III

*Privileges of registered persons and offences by unregistered persons*

#### **12. Certificate invalid if given by unregistered person**

A certificate required by any written law from any class of persons for whom a register is maintained under this Act

shall not be valid unless the person signing it is registered in accordance with this Act.

**13. Appointment not to be held by unregistered persons**

- (1) Subject to the provisions of this Act, no person, not being registered on the appropriate register, shall be entitled to hold any appointment in the civil service of the Federation or of a State or in any public or private establishment, body or institution, if the holding of such appointment involves the performance by him in Nigeria of any act pertaining to the profession.
- (2) Nothing in this section or in any other provisions of this Part of this Act shall prevent a person from holding any appointment referred to in subsection (1) of this section while he is undergoing training for the purpose of becoming qualified for registration under this Act and the training is done under the supervision of persons who are registered on the appropriate register.

**14. Prohibition of falsely professing to be a registered person**

Any person who, not being registered on any register established under section 8 of this Act, holds himself out to be so registered or uses any name, title, description or

symbol calculated to lead any person to infer that he is so registered or is a member of the profession, shall be guilty of an offence and liable on conviction for a first offence to a fine of not less than ₦ 10,000 and not more than ₦ 50,000 or to imprisonment for a term of two years or to both such fine and imprisonment, and on conviction for a second or any subsequent offence to imprisonment for a term of not less than three years and not more than five years.

#### **15. Recovery of fees**

- (1) Subject to the provisions of this Act, a registered member of the profession shall be entitled to recover his fees for professional service by action in any court of competent jurisdiction.
- (2) No fees shall be recoverable by legal proceedings in respect of any act pertaining to the profession of a registered person when performed by a person who is prohibited from performing such act for gain.

#### **16. Offences**

- (1) Any person who for the purpose of procuring the registration of any name, qualification or other matter-

- (a) makes a statement which he believes to be false in a material particular; or
  - (b) recklessly makes a statement which is false in a material particular,  
  
is guilty of an offence.
- (2) If the Registrar or any other person employed by the Board wilfully makes any falsification in any matter relating to any register maintained under this Act he is guilty of an offence.
  - (3) A person guilty of an offence under this section shall be liable on conviction in a High Court, to a fine not exceeding ₦ 1,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.
  - (4) Where an offence under this Part of this Act which has been committed by a body corporate is proved to have been committed with the connivance of or is 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.

## **17. Burden of proof**

In any criminal proceedings against any person upon a charge of having performed an act which constitutes an offence if performed by an unregistered person, the person charged shall be deemed to be unregistered unless he proves the contrary.

## PART IV

### *Training*

## **18. Approval of courses**

- (1) Subject to subsection (2) of this section, the Board may approve for the purposes of section 10 of this Act-
  - (a) any course of training which is intended for persons seeking to become members of the profession under this Act and which the Board considers is designed to confer on persons completing the training sufficient knowledge and skill for the practice of the profession;
  - (b) any institution whether in Nigeria or elsewhere which the Board considers is properly organised and equipped for conducting the whole or any part of the

course of training approved by the Board under this section; or

- (c) any qualification which, as a result of examinations taken in conjunction with the course of training approved by the Board under this section is granted to candidates reaching a standard at the examination indicating, in the opinion of the Board, that they have sufficient knowledge and skill to practise the profession to which the qualification relates.
- (2) The Board shall, from time to time, publish in the *Federal Gazette* a list of qualifications relating to the profession approved by it for the purposes of subsection (1) of this section.
- (3) The Board may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualification or institution; but before withdrawing such an approval the Board shall-
  - (a) give notice that it proposes to do so to persons in Nigeria appearing to the Board to be persons by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be;

- (b) afford each such person an opportunity of making representation to the Board with regard to the proposal; and
  - (c) take into consideration any representation made as respects the proposal in pursuance of paragraph (b) of this subsection.
- (4) As respects any period during which the approval of the Board under this section for a course, institution or qualification is withdrawn the course or qualification shall not be treated as approved under this section; but the withdrawal of such an approval shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered immediately before the approval was withdrawn.
- (5) The giving or withdrawal of an approval under this section shall have effect from such date, after the execution of the instrument signifying the giving or withdrawal of the approval, as the Board may specify in that instrument; and the Board shall-
  - (a) as soon as may be, publish a copy of every such instrument in the *Federal Gazette*; and
  - (b) not later than seven days before its publication as aforesaid, send a copy of the instrument to the

Minister.

**19. Supervision of instruction and examinations leading to approved qualifications**

- (1) It shall be the duty of the Board to keep itself informed of the nature of-
  - (a) the instruction given at approved institutions to persons attending approved courses of training; and
  - (b) the examinations as a result of which approved qualifications are granted,

and for the purpose of performing that duty, the Board may appoint, either from among its own members or otherwise, persons to visit approved institutions or attend such examinations.

- (2) It shall be the duty of a person appointed under this section to report to the Board on-
  - (a) the adequacy of the instructions given to persons attending approved courses of training at institutions visited by him;
  - (b) the adequacy of examinations attended by him; and

- (c) any other matter relating to the institutions or examinations on which the Board may, either generally or in a particular case, request him to report,

but no such person shall interfere with the giving of any instruction or the holding of any examination.

- (3) On receiving a report made in pursuance of this section, the Board shall as soon as may be send a copy of the report to the person appearing to the Board to be in charge of the institution or responsible for the examinations to which the report relates requesting that person to make representations to the Board within such time as may be specified in the request, not being more than one month beginning with the date of the request.

## **20. Power of the Board to consider matters relating to training**

- (1) The Board may consider and if it thinks fit, report to the Minister upon all matters relating to the professional and technical training and other qualifications required for admission to the profession under this Act and the conditions of practice after registration.

- (2) The Minister may require the Board to advise him on any matter referred to in subsection (1) of this section.

## **21. Certificate of experience**

- (1) A person who, after obtaining an approved qualification, satisfies the conditions mentioned in subsection (2) of this section shall be entitled to receive free of charge a certificate of experience in the prescribed form from the person in charge of the institution mentioned in that subsection.
- (2) The conditions which a person must satisfy under subsection (1) of this section, are-
  - (a) he shall have served his time for the prescribed period in Nigeria with a view to obtaining a certificate of experience;
  - (b) he shall have acquired during his employment practical experience under the personal supervision and guidance of one or more registered optometrist or dispensing optician, as the case may be, for such periods as may be prescribed; and
  - (c) the manner in which he carried out the duties of his employment and his conduct during the period of his employment shall have been satisfactory.

- (3) It shall be the duty of the employer being a registered optometrist or dispensing optician, as the case may be supervising the work of persons employed with a view to obtaining a certificate of experience, to ensure that the person is afforded proper opportunities of acquiring the practical experience required for the purposes of paragraph (b) of subsection (2) of this section.
- (4) Where after having served his time as mentioned in paragraph (a) of subsection (2) of this section a person is refused a certificate of experience he shall be entitled-
  - (a) to receive from his employer particulars in writing of the grounds of the refusal; and
  - (b) to appeal from the refusal to a committee of the Board in accordance with rules made by the Board in that behalf (including rules as to the time within which appeals are to be brought), and on any such appeal the committee shall either dismiss the appeal or itself issue the certificate of experience in question or give such other directions in the matter as it considers just.
- (5) Regulations may provide for the issue of certificate of experience in respect of employment and institutions outside Nigeria.

PART V

*Professional discipline*

**22. Establishment of Disciplinary Committee and Investigating Panel**

- (1) There shall be established a body to be known as the Optometrists and Dispensing Opticians Disciplinary Committee (in this Act referred to as the "Disciplinary Committee") which shall be charged with the duty of considering and determining any case referred to it by the Investigating Panel established by the following provisions of this Act.
- (2) The Disciplinary Committee shall consist of the chairman of the Board and six other members of the Board, including members holding office by virtue of paragraphs (b), (c) and (d) of subsection (1) of section 2 of this Act.
- (3) There shall be a body to be known as the Optometrists and Dispensing Opticians Investigating Panel (in this Act referred to as "the Investigating Panel") which shall be charged with the duty of-
  - (a) conducting preliminary investigation into any case where it is alleged that a registered person has misbehaved in his capacity as such or should for any

other reason be the subject of proceedings before the Disciplinary Committee; and

- (b) deciding whether the case should be referred to the Disciplinary Committee.
- (4) The Investigating Panel shall be appointed by the Board and shall consist of five members of the Board, but a member of the Disciplinary Committee shall not be a member of the Investigating Panel.
- (5) The provisions of the Second Schedule to this Act shall in so far as they are applicable to the Disciplinary Committee and the panel respectively, have effect with respect to those bodies.

### **23. Proceedings of the Disciplinary Committee**

- (1) The chairman shall preside at every meeting of the Disciplinary Committee.
- (2) At any meeting of the Disciplinary Committee three members present shall form a quorum.
- (3) Any question proposed for decision by the Disciplinary Committee shall be determined by the majority of the members present and voting.
- (4) At all meetings of the Disciplinary Committee each member present shall have one vote and, in the

event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.

#### **24. Penalties for unprofessional conduct**

- (1) Where-
  - (a) a person registered under this Act is convicted by any court or tribunal in Nigeria or elsewhere having power to award punishment for an offence (whether or not an offence punishable with imprisonment) which in the opinion of the Disciplinary Committee is incompatible with the status of membership of the profession; or
  - (b) a registered person is adjudged by the Disciplinary Committee guilty of infamous conduct in a professional respect; or
  - (c) the Disciplinary Committee is satisfied that the name of any person has been fraudulently registered, the Disciplinary Committee may give any of the directions mentioned in subsection (2) of this section.
- (2) The Disciplinary Committee may give a direction under this subsection-

- (a) ordering the Registrar to strike the person's name off the relevant part of the register;
- (b) suspending that person from practice for such period as may be specified in the direction;
- (c) reprimanding the person;
- (d) ordering the person to pay to the Board any costs of and incidental to the proceedings incurred by the Board;
- (e) cautioning him and binding him over for a period not exceeding one year on one or more conditions as to his conduct during the period,

and any such direction may, where appropriate, include provision requiring the refund of money paid or the handing over of documents or any other thing as the case may require.

(3) In any inquiry under this section, any finding of fact which is shown to have been made in-

- (a) any criminal proceedings in a court in Nigeria; or
- (b) any civil proceedings in a court in Nigeria,

shall be conclusive evidence of the fact found.

- (4) If after due inquiry, the Disciplinary Committee is satisfied that during the period of binding over under paragraph (e) of subsection (2) of this section a person has not complied with the conditions imposed thereunder, the Disciplinary Committee may, if it thinks fit, impose anyone or more of the penalties mentioned in subparagraph (a), (b), (c) or (d) of that subsection.
- (5) A certificate under the hand of the chairman that any costs have been ordered to be paid under this section shall be conclusive evidence thereof.

## **25. Restoration of registration**

- (1) Where the name of a person has been struck off the register in pursuance of a direction given under section 24 of this Act, the Disciplinary Committee may, if it thinks fit, at any time direct the restoration of the person's name to the register.
- (2) An application for the restoration of a person's name to a register shall not be made to the Disciplinary Committee before the expiration of such period from the date of the striking off (and where he has duly made such an application, from the date of his last application) as may be specified in the direction.
- (3) There shall be payable to the Board by any person on the restoration of his name to a register in

pursuance of a direction given under this section, the like fees as would be payable by that person on first becoming registered in that register.

**26. Striking off entries from the register on ground of fraud or error**

- (1) If it is proved to the satisfaction of the Disciplinary Committee that any entry made in a register has been fraudulently or incorrectly made, the Disciplinary Committee may direct that the entry shall be struck off from the register.
- (2) A person may be registered in pursuance of any provisions of this Act notwithstanding that his name has been struck off in pursuance of a direction given under subsection (1) of this section, but if his name was struck off on ground of fraud he shall not be registered except if an application in that behalf is made to the Disciplinary Committee; and on any such application the Disciplinary Committee may, if it thinks fit, direct that he shall not be registered or shall not be registered until the expiration of such period as may be specified in the direction.
- (3) Any reference in this Act to the striking off from or the restoration to a register of the name of a person shall be construed as including a reference to the striking off from or the restoration to the register of

any other registrable particulars relating to that person.

## **27. Appeal to the Federal High Court**

- (1) Where the Disciplinary Committee-
  - (a) makes a finding and imposes a penalty on a registered person under section 24 of this Act;
  - (b) rejects an application for restoration of a name to the register under section 25 of this Act; or
  - (c) directs the striking off of an entry from a register under section 26 (1) of this Act,

the Registrar shall give the person to whom the proceedings relate notice in writing thereof and such person may, within twenty-eight days from the date of service on him of the notice, appeal to the Federal High Court.

- (2) On any appeal under this section, the Board shall be the respondent.
- (3) No direction for the striking off of the name of a registered person from a register under sections 24 and 26 of this Act shall take effect until the expiration of the time for appealing or if an appeal is brought, until such time as the appeal is disposed

of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The Federal High Court may, on an appeal under this section-

- (a) confirm, vary or set aside any finding of fact, penalty imposed or direction given by the Disciplinary Committee; or
- (b) confirm the rejection by the Disciplinary Committee of the application for restoration or direct the restoration of the same to the register; or
- (c) make such other order as to costs or otherwise, as may, to it, seem just.

## PART VI

### *Miscellaneous*

#### **28. Regulations**

Any power to make regulations, rules or orders conferred by this Act shall include-

- (a) power to make provisions for such incidental and supplementary matters as the authority making the

instrument considers expedient for the purposes of the instrument; and

(b) power to make different provisions for different circumstances.

## **29. Interpretation**

In this Act, unless the context otherwise requires-

**"accepted qualification"** means a degree, diploma or other certificate prescribed under section 10 of this Act;

**"Board"** means the Optometrists and Dispensing Opticians Registration Board of Nigeria established under section 1 of this Act;

**"dispensing optics"** means the art and skill of fabricating, fitting and dispensing of optical aids and eye wear;

**"Minister"** means the Minister charged with responsibility for matters relating to health;

**optometry"** means a health-care profession specialising in the art and science of vision care and whose scope of practice includes-

- (a) eye examinations to determine refractive errors and other departures from the optimally healthy and visually efficient eye;
- (b) correction of refractive errors using spectacles, contact lenses, low vision aids and other devices;
- (c) correction of errors of binocularity by means of vision training (orthoptics);
- (d) diagnosis and management of minor ocular infections which do not pose a threat to the integrity of the ocular or visual system; and
- (e) ocular first aid;

**"profession"** means the profession of optometry or dispensing optics;

**"register"** means a register maintained under this Act and **"registered"** shall be construed accordingly;

**"Registrar"** means the Registrar appointed under section 7 of this Act;

**"registration certificate"** means a registration certificate issued under section 10 of this Act; and

**"student"** means a person receiving basic training in an approved training school for the purpose of the profession covered by this Act.

### **30. Short title**

This Act may be cited as the Optometrists and Dispensing Opticians (Registration, etc.) Act.

### SCHEDULES

#### FIRST SCHEDULE

[Section 2 (3).]

#### *Supplementary provisions relating to the Board*

#### *Qualification and tenure of office of members*

- 1.** (1) A person other than a person appointed under section 2 (1) (e), (g), (h), (i) and (j) of this Act shall not be a member of any Board unless he is a citizen of Nigeria and is fully registered or in the case of the first members of the Board, is eligible for registration.
- (2) Where a member of the Board ceases to hold office before the date when his term of office would have expired by effluxion of time, the body or person by whom he was appointed or elected shall as soon as

may be appoint or, as the case may be, elect a person to fill the vacancy for the residue of the term aforesaid, so however that the foregoing provisions of this subparagraph shall not apply where a person holding office as a member of the Board ceases to hold office at the time when the residue of his term does not exceed one year.

- (3) Subject to the provisions of this paragraph, a member of the Board, other than a public officer, shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment for a further period of three years; thereafter he shall no longer be eligible for re-appointment.
- (4) A member of the Board other than a public officer may resign his appointment by a letter addressed to the Minister and the resignation shall take effect from the date of the receipt of the letter by the Minister.
- (5) The Minister may appoint any person who is registered to be a temporary member of the Board during a long absence or the temporary incapacity by illness of any member; and

that person may, while the appointment subsists, exercise the functions of a member under this Act.

- (6) The foregoing provisions of this section shall be without prejudice to the provisions of section 11 of the Interpretation Act, which relates to appointment.

*Proceedings of the Board*

- 2.** Subject to the provisions of this Act and of section 27 of the Interpretation Act (which provides for decisions of a body to be taken by a majority of the members of the body and for the chairman to have a second or casting vote), the Board may make standing orders regulating the proceedings of the Board or of any committee thereof and elect a temporary vice-chairman in the absence of the chairman for the conduct of the affairs of the Board.
- 3.** The quorum of the Board shall be seven and the quorum of any committee of the Board shall be determined by the Board.
- 4.** At any time while the office of the chairman is vacant or the chairman is in the opinion of the Board temporarily or permanently unable to perform the functions of his office, the vice-chairman shall perform those functions and references in this

Schedule to the chairman shall be construed accordingly.

5. (1) Subject to the provisions of any applicable standing orders, the Board shall meet whenever summoned by the chairman; and if the chairman is required to do so by notice given to him by not less than six other members, he shall summon a meeting of the Board to be held within twenty-one days from the date on which the notice is given.
- (2) At any meeting of the Board, the chairman or, in his absence, the vice-chairman shall preside, but if both are absent the members present at the meeting shall appoint one of their number to preside at that meeting.
- (3) Where the Board wishes to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
- (4) Notwithstanding anything to the contrary, the first meeting of the Board shall be summoned by the President who may give such directions as to the

procedure to be followed at that meeting as he may deem fit.

### *Committees*

- 6.** (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.
- (2) A committee appointed under this paragraph shall consist of the number of persons determined by the Board and not more than one-third of those persons may be persons who are not members of the Board who shall hold office on the committee in accordance with the terms of the instrument by which they are appointed.
- (3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

### *Miscellaneous*

- 7.** (1) The fixing of the seal of the Board shall be authenticated by the signature of the chairman or of some other member authorised generally or specially by the Board to act for that purpose.
- (2) Any contract or instrument which if made or executed by a person not being a body corporate

would not be required to be under seal may be made or executed by a person generally or specially authorised by the Board to act for that purpose.

SECOND SCHEDULE  
[Section 22 (5).]

*Supplementary provisions relating to the  
Disciplinary Committee and the Investigating Panel*

*The Disciplinary Committee*

- 1.** (1) The Chief Justice of Nigeria shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee-
- (2) The rules shall in particular provide-
  - (a) for ensuring that notice of proceedings shall be given at such time, and in such manner as may be specified by the rules, to the person who is the subject of the proceedings;
  - (b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;

- (c) for ensuring that any party to the proceedings, shall, if he so requires, be entitled to be heard by the Disciplinary Committee;
  - (d) for enabling any party to the proceedings to be represented by a legal practitioner;
  - (e) subject to the provisions of section 24 (2) (d) of this Act, for the costs of proceedings before the Disciplinary Committee;
  - (f) for requiring, in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the Disciplinary Committee adjudges that the allegation has not been proved, it shall record a finding that the person is not guilty of such conduct, in respect of the matter to which the allegation relates;
  - (g) for publishing in the Federal *Gazette* of notice of any direction of the Disciplinary Committee which has taken effect providing that a person's name shall be struck off a register.
- 2. (1)** For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the Disciplinary Committee who shall be appointed by the Board on

the recommendation of the Attorney-General of the Federation and shall be a legal practitioner of not less than seven years standing.

- (2) The Attorney-General of the Federation shall make rules as to the functions of assessors appointed under this paragraph, and in particular such rules shall contain provisions for securing-
  - (a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matter specified by 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 while the Disciplinary Committee is deliberating in private, that every such party or person as aforesaid shall be informed as to what advice the assessor has tendered;
  - (b) that every party or person as aforesaid shall be informed if in any case the Disciplinary Committee does not accept the advice of the assessor on such a question as aforesaid.
- (3) An assessor may be appointed under this paragraph 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 by which he is appointed.

*The Investigating Panel*

- 3.** The quorum of the panel shall be three.
- 4.** (1) The Investigating Panel may, at any of its meetings attended by not less than four members of the Investigating Panel, make standing orders with respect to the Investigating Panel.  
  
(2) Subject to the provisions of any such standing orders, the Investigating Panel may regulate its own procedure.

*General*

- 5.** A person ceasing to be a member of the Disciplinary Committee or the Investigating Panel shall be eligible for re-appointment as a member of that body.
- 6.** The Disciplinary Committee or Investigating Panel may act notwithstanding any vacancy in its membership; and the proceedings of either body shall not be invalidated by any irregularity in the appointment of a member of that body, or subject to section 24 (4) of this Act, by reason of the fact that

any person who was not entitled to do so took part in the proceedings of that body.

- 7.** The Disciplinary Committee and the Investigating Panel may each sit in two or more places.
- 8.** Any document authorised or required by virtue of this Act to be served on the Disciplinary Committee or the Investigating Panel shall be served on the Registrar.
- 9.** Any expenses of the Disciplinary Committee or the Investigating Panel shall be defrayed by the Board.

THIRD SCHEDULE  
[Sections 10 (1) and (4).]

*Accepted minimum qualification for the purpose of registration on the register established under this Act*

Profession	Accepted Qualification for registration
Optometry	1. Diploma in Optometry obtained before 1976

	<ul style="list-style-type: none"> <li>2. B.Sc. in Optometry</li> <li>3. O.D (Doctor of Optometry)</li> <li>4. Any equivalent qualification from any recognized institution</li> </ul>
Dispensing Optics	<ul style="list-style-type: none"> <li>1. Certificate of the National Institute</li> <li>2. Diploma in Dispensing Optics</li> <li>3. Any equivalent qualification from a recognized institution</li> </ul>

SUBSIDIARY  
LEGISLATION

*No Subsidiary Legislation*

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