

# *The Optometry Act, 1985*

*being*

Chapter O-6.1 of the *Statutes of Saskatchewan, 1984-85-86* (effective July 15, 1985) as amended by the *Statutes of Saskatchewan*, 1988-89, c.16; 1989-90, c.54; 1991, c.T-1.1; 1996, c.34; 2004, c.L-16.1; and 2010, c.B-12, and c.19 and 20.

## **NOTE:**

**This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.**

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APPENDIX  
Repealed

## CHAPTER O-6.1

### An Act respecting the Profession of Optometry

#### Short title

1 This Act may be cited as *The Optometry Act, 1985*.

#### Interpretation

2 In this Act:

- (a) **Repealed.** 1988-89, c.16, s.3.
- (b) **Repealed.** 1988-89, c.16, s.3.
- (c) **“association”** means the Saskatchewan Association of Optometrists continued by section 3;
- (d) **“bylaws”** means the bylaws of the association made pursuant to section 11;
- (e) **“certificate”** means a professional certificate issued pursuant to section 17;
- (f) **“competent”** means having adequate skill and knowledge to engage in the practice of optometry and the ability and capacity to practise optometry in a manner that does not constitute a danger to the public;
- (g) **“council”** means the council of the association;
- (h) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan;
- (i) **“licence”** means an annual licence issued pursuant to section 20;
- (j) **“member”** means a member of the association;
- (k) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (l) **“practice of optometry”** means the performance of services usually rendered by an optometrist, which may include:
  - (i) measuring and assessing vision;
  - (ii) prescribing and dispensing ophthalmic appliances and orthoptics for the relief or correction of visual or muscular errors or defects of the eye; and
  - (iii) prescribing and using pharmaceutical agents for diagnostic and treatment purposes as set out in the bylaws;
- (m) **“register”** means the register mentioned in section 19;
- (n) **“registrar”** means the registrar of the association.

1984-85-86, c.O-6.1, s.2; 1988-89, c.16, s.3;  
1996, c.34, s.8.

**Association continued**

**3(1)** The Saskatchewan Optometric Association is continued as a body corporate with the name the Saskatchewan Association of Optometrists.

(2) The change of name does not affect any rights or obligations of the association, or render defective any legal proceedings by or against the association, and any legal proceedings that might have been continued or commenced by or against the association in its former name may be continued or commenced by or against it in its new name.

(3) All property, real and personal, held in trust by or belonging to, or held in trust for or to the use of, The Saskatchewan Optometric Association is, on the coming into force of this Act, vested in the Saskatchewan Association of Optometrists to be held, used and administered as it could have been by The Saskatchewan Optometric Association.

1984-85-86, c.O-6.1, s.3.

**Membership**

**4** The membership of the association consists of those persons registered and licensed on the day before the day on which this section comes into force pursuant to *The Optometry Act* as that Act existed on the day before this section comes into force and any other persons who become registered and licensed pursuant to this Act.

1984-85-86, c.O-6.1, s.4.

**Power to hold property**

**5** The association may acquire and hold real and personal property for its corporate purposes, and may alienate, exchange, lease, mortgage or otherwise charge or dispose of that property or any part of it.

1984-85-86, c.O-6.1, s.5.

**Council**

**6(1)** Subject to subsection (7), the council of the association is continued consisting of:

- (a) the president of the association elected in accordance with section 7;
  - (b) the immediate past president of the association;
  - (c) the member appointed pursuant to clause 9(2)(b) to be the delegate of the association to the Canadian Association of Optometrists;
  - (d) any person appointed by the Lieutenant Governor in Council in accordance with section 8; and
  - (e) six members elected by the association in accordance with section 7.
- (2) The council shall control, manage and regulate the affairs of the association.
- (3) A member of the council may resign his position by letter addressed to the registrar.

(4) Subject to subsection (5), every person appointed or elected pursuant to this Act continues in office until his successor is appointed or elected, as the case may be.

(5) On the death, resignation or removal of a member of the council, other than a member appointed pursuant to section 8, the council may appoint another member of the association to fill the vacancy for the remainder of the unexpired term of the member of the council being replaced.

(6) A retiring member of the council is eligible for re-election.

(7) The persons who are members of the council on the day before the day on which this section comes into force continue to be members of the council until the expiration of the term for which they were elected or appointed, as the case may be, or until they vacate their positions.

1984-85-86, c.O-6.1, s.6; 1988-89, c.16, s.4.

#### **Election of president and council**

7(1) Subject to subsection (2), the members shall, at each annual general meeting, elect:

- (a) a member to be the president of the association for a term of one year;
- (b) two members to be members of the council each for a term of three years; and
- (c) where:
  - (i) a vacancy in the council exists due to death, resignation or removal of a member of the council, other than a member appointed pursuant to section 8; and
  - (ii) an appointment has not been made pursuant to subsection 6(5);

a member to be a member of the council for the remainder of the unexpired term of the member of the council being replaced.

(2) Only members who are resident in Saskatchewan are eligible to be nominated for the office of and to be elected as president of the association and members of the council.

(3) Only members who are:

- (a) in good standing; and
- (b) resident in Saskatchewan;

are eligible to vote pursuant to this section.

(4) Every person who votes shall vote for the number of persons to be elected, and any ballot that contains the names of more or less than the number of persons to be elected is void.

1984-85-86, c.O-6.1, s.7; 1988-89, c.16, s.5.

**Members of council appointed by Lieutenant Governor in Council**

8(1) The Lieutenant Governor in Council may, if he considers it advisable, appoint one or two persons who are residents of Saskatchewan as members of the council.

(2) Where two persons are appointed simultaneously pursuant to this section, one is to be appointed to hold office for one year and one is to be appointed to hold office for two years.

(3) Where one person is appointed pursuant to this section and no other person is presently holding office pursuant to this section, he is to be appointed to hold office for two years.

(4) Where one person is appointed pursuant to this section and another person is presently holding office pursuant to this section, he is to be appointed to hold office for one year more or one year less than the unexpired term of that other person.

(5) No person appointed pursuant to this section shall hold office for more than two consecutive terms.

(6) Where a vacancy occurs on the council with respect to a member appointed pursuant to this section, the Lieutenant Governor in Council may appoint a person to fill the vacancy for the remainder of the term of office of the member being replaced.

(7) Subject to subsection (8), the members of the council appointed pursuant to this section may exercise the same rights, and may hold office and serve as members of committees and subcommittees to the same extent as other members of the council.

(8) No person appointed pursuant to this section shall hold the office of president or vice-president of the association.

(9) The minister may determine any remuneration or reimbursement for expenses to be paid to the members of the council appointed pursuant to this section for attending meetings of the council and for otherwise attending to the affairs of the council.

1984-85-86, c.O-6.1, s.8.

**Powers and duties of the council re appointments**

9(1) The officers of the association are:

- (a) the president;
- (b) the vice-president; and
- (c) the registrar.

(2) The council shall, at its first meeting after the annual meeting of the association:

- (a) elect the vice-president and registrar from among its members; and
- (b) appoint a person who is a member of the association in good standing, other than an elected member of the council, to be a delegate to the Canadian Association of Optometrists.

(3) A delegate to the Canadian Association of Optometrists appointed pursuant to clause (2)(b) is a member of the council for the term of his appointment as a delegate.

(4) The council may appoint any officers and engage any persons that it considers necessary for the purposes of this Act.

1984-85-86, c.O-6.1, s.9.

#### **Meetings of council**

**10(1)** The council shall hold at least two meetings in each year at any time and place that the members of the council may determine.

(2) The council shall not transact business at a meeting at which less than a majority of the members of the council are present.

1984-85-86, c.O-6.1, s.10.

#### **Bylaws**

**11(1)** The council may make bylaws relating to the administrative and domestic affairs of the association and, without limiting the generality of the foregoing, the council may make bylaws:

- (a) prescribing the seal of the association;
- (b) providing for the execution of documents by the association;
- (c) respecting banking and financial dealings by the association;
- (d) fixing the fiscal year of the association and providing for the audit of the accounts and transactions of the association;
- (e) prescribing the terms of office and the duties of the officers and appointees of the council;
- (f) prescribing the duties of members of the council;
- (g) respecting the calling, holding and conducting of meetings of the council;
- (h) providing for the election of members of the council, prescribing the procedures with respect to such elections and prescribing the procedures for contesting the validity of the election of any member to the council;
- (i) respecting participation with associations or organizations in other provinces having the same or similar powers and duties;
- (j) providing for committees of the council and their duties and powers, and the terms office of, and the remuneration or reimbursement for expenses to be paid to, the members of those committees;
- (k) prescribing the amount of registration and license fees and the times at which those fees are to be paid;
- (l) governing any special assessment which may be required for the efficient and proper operation of the association;
- (m) prescribing any forms that are required for the purposes of administering this Act.

- (2) Subject to the approval of the minister, the council may make bylaws:
- (a) prescribing the qualifications for registration of members and governing the issue of licences to members;
  - (b) governing the examinations to be held for the purposes of this Act and prescribing the examination fees;
  - (c) establishing a code of ethics and standards of professional conduct, competence and proficiency to be maintained by members and governing the manner and method of their practice;
  - (d) defining professional misconduct and prescribing procedures for the investigation of complaints or allegations of professional misconduct or professional incompetence on the part of a member, or complaints or allegations that a member has violated any of the provisions of this Act or the bylaws;
  - (e) defining activities which constitute a conflict of interest and prohibiting a member from engaging in those activities;
  - (f) providing for the qualifications of members to be reviewed periodically;
  - (g) defining the circumstances under which members are required to attend refresher training programs and other courses of training and approving programs and courses for those purposes;
  - (h) prescribing the maintenance of records relating to the examination, treatment and counselling of patients by members and providing for the inspection of those records and the premises in which members conduct the practice of optometry;
  - (i) regulating advertising by members and regulating, limiting and prohibiting the use of titles or designations by members;
  - (j) regulating the practice of optometry by a person under the supervision of a practising optometrist for the purpose of complying with clause 16(b);
  - (k) designating those pharmaceutical agents and dosages that may be prescribed and used for diagnostic and treatment purposes by members;
  - (l) prescribing the qualifications necessary for a member to prescribe and use those pharmaceutical agents that are designated in the bylaws made pursuant to clause (k) and authorizing the issue of a certificate to a member who is authorized to prescribe and use those pharmaceutical agents; and
  - (m) respecting any other matter that the council may consider necessary to give effect to the provisions of this Act.

(3) No bylaw made pursuant to subsection (2) is effective until it has been approved by the minister and published in the Gazette.

(4) **Repealed.** 1989-90, c.54, s.5.

1984-85-86, c.O-6.1, s.11; 1988-89, c.16, s.6;  
1989-90, c.54, s.5; 1996, c.34, s.9.

**Power of minister**

**12** The minister may, where he considers it to be in the public interest, request the council to:

- (a) amend or repeal a bylaw made by it pursuant to subsection 11(2); or
- (b) make new bylaws.

1984-85-86, c.O-6.1, s.12.

**Power of Lieutenant Governor in Council**

**13** When the minister makes a request pursuant to section 12 and the council fails to comply with the request within 60 days from the date of the request, the Lieutenant Governor in Council may amend or repeal the bylaws or make a new bylaw in accordance with that request.

1984-85-86, c.O-6.1, s.13.

**Annual general meeting**

**14** The annual general meeting of the association is to be held on any day that the council may determine.

1984-85-86, c.O-6.1, s.14.

**Special general meetings**

**15(1)** Subject to subsection (2), a special general meeting of the association may be held at any time that the council considers appropriate.

(2) The council shall, within one month from the receipt by the registrar of a written request:

- (a) signed by at least 10 members in good standing of the association; and
- (b) specifying the purpose for which the meeting is to be called;

call a special general meeting of the association.

(3) Notice of every meeting of the association is to be given at any times and in a form that is prescribed in the bylaws and notice of a special general meeting is to state the purpose for which the meeting is to be held.

(4) No business shall be transacted at a special general meeting other than the business specified in the notice calling it.

1984-85-86, c.O-6.1, s.15.

**Examinations**

**16** Subject to the bylaws, any person who furnishes to the registrar or other person authorized by the registrar to deal with the matter, satisfactory evidence of:

- (a) graduation from a school or college of optometry recognized by council; and
- (b) having, subsequent to graduation from such a school or college, practised optometry under the direct supervision of a member of the association for any period that may be specified in the bylaws or having otherwise obtained experience in the practice of optometry considered by the council to be equivalent;

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is entitled on payment of the prescribed fee to take the examination prescribed in the bylaws.

1984-85-86, c.O-6.1, s.16; 1988-89, c.16, s.7.

**Professional certificate**

**17(1)** The council may issue a professional certificate in the form prescribed in the bylaws to every candidate who:

- (a) produces to the registrar evidence of having passed the examination mentioned in section 16;
- (b) has satisfied the conditions contained in the bylaws; and
- (c) pays the fee prescribed in the bylaws.

**(2)** Notwithstanding subsection (1), the council may issue a professional certificate in the form prescribed in the bylaws to every candidate who:

- (a) has satisfied the conditions contained in the bylaws;
- (b) pays the fee prescribed in the bylaws; and
- (c) produces evidence establishing to the satisfaction of the registrar that the candidate is registered as the equivalent of an optometrist in good standing pursuant to the legislation of another jurisdiction in Canada.

1984-85-86, c.O-6.1, s.17; 1988-89, c.16, s.8;  
2010, c.19, s.25.

**Appeal**

**18** A person whose application for a professional certificate is refused may appeal that decision to the court in accordance with section 40.

1988-89, c.16, s.9.

**Register**

**19(1)** The registrar shall keep a register in the form prescribed in the bylaws in which he shall enter the names and addresses of all persons who have received a professional certificate.

- (2)** The register is to be open to public inspection at all reasonable times.
- (3)** Certificates are to be numbered consecutively in accordance with their date of issue.

1984-85-86, c.O-6.1, s.19; 1988-89, c.16, s.10.

**Licensing**

**20** The council shall issue an annual licence in the form prescribed in the bylaws to any person who:

- (a) holds a professional certificate pursuant to this Act or a former Act;
- (b) meets the requirements of this Act and the bylaws; and
- (c) pays the prescribed fee.

1984-85-86, c.O-6.1, s.20; 1988-89, c.16, c.11.

**Annual licence**

**21(1)** Every person otherwise entitled to engage in the practice of optometry in Saskatchewan shall, before doing so, obtain a licence from the registrar.

(2) A licence issued pursuant to this section expires on the December 31 following the day on which it was issued.

(3) Every person who holds a valid licence and wishes to renew it for the next year shall, on or before December 15, apply to the registrar for a renewal and the registrar shall grant a renewal of the licence on payment of the prescribed fee and submission of any material that is required by the bylaws.

(4) In default of payment of the prescribed fee on or before December 31, the registrar may withhold renewal of a licence until the applicant has satisfied the council that he has not practised in Saskatchewan since the expiration of the period covered by his last licence and until payment has been made of any additional fee that is levied by council.

(5) Where a period of more than three years has elapsed since an applicant for an annual licence has received or has been eligible to receive such a licence, the council may require proof of the applicant's competence before reinstating the licence.

(6) The reinstatement of a licence as described in subsection (5) may be made conditional on the completion by the applicant of a program of training designed to improve his competence.

1984-85-86, c.O-6.1, s.21.

**List**

**22(1)** Each annual licence is to include the number which appears on the professional certificate held by the member to whom the licence is granted, and the number is to be recorded by the registrar in the annual members' register.

(2) The registrar shall keep an annual members' register in the form prescribed in the bylaws in which he shall enter the names and addresses of all members who are issued a licence for that year.

(3) The registrar shall, as early as possible in each year, prepare a list which shall contain the names and addresses of all members entered in the annual members' register for that year, and cause the list to be reproduced and a copy sent to each member.

(4) The annual members' register is to be open to public inspection at all reasonable times.

1988-89, c.16, s.12

**Display of licence and certificate**

**23** Every person who engages in the practice of optometry shall display his certificate and licence in a conspicuous place in the office or place where he practices and, when required, exhibit the certificate and licence to the council or its authorized representatives.

1984-85-86, c.O-6.1, s.23.

**Interpretation re discipline provisions**

**23.1** In sections 25.2 to 45, “**member**” includes a former member.

2010, c.20, s.42.

**Proceedings against former members**

**23.2(1)** No proceedings conducted pursuant to this Act shall be commenced against a former member more than two years after the day he or she became a former member.

(2) For the purposes of this section, a proceeding is commenced when the investigation committee, pursuant to subsection 29(1), is requested by the board to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence.

2010, c.20, s.42.

**Discipline committee**

**24(1)** The council shall appoint a discipline committee composed of members who are not members of the mediation committee and shall name one of the members so appointed to be chairman of the committee.

(2) Subject to the other provisions of this Act and to the bylaws, the discipline committee may make rules for regulating its practice and procedure.

(3) Where there is a vacancy in the discipline committee, the committee may act with its remaining members or appoint a person to fill the vacancy until the next meeting of the council.

(4) Members of the council who are also members of the discipline committee shall abstain from voting on any motion concerning council’s disposition of a recommendation from the discipline committee.

1984-85-86, c.O-6.1, s.24.

**Mediation committee**

**25(1)** The council shall appoint a mediation committee composed of members who are not members of the discipline committee, and shall name one of the members so appointed to be chairman of the committee.

(2) Subject to the other provisions of this Act and to the bylaws, the mediation committee may make rules for regulating its own practice and procedure.

(3) The mediation committee may, on the written request of any person, investigate any allegation that a member is guilty of professional misconduct, or of a violation of any provision of this Act or the bylaws, or that a member has otherwise provided improper service in the practice of optometry.

(4) The mediation committee may take any steps that it considers necessary for the proper conduct of any investigation and may summon before it any person who is under investigation.

(5) Where, in the opinion of the mediation committee, there are reasonable grounds for believing that a member may have acted in a manner described in subsection (3), it shall lay before the discipline committee a charge stating the grounds for complaint against the member.

(6) Members of the council who are also members of the mediation committee shall abstain from voting on any motion concerning council's disposition of a recommendation from the discipline committee respecting a matter that has been investigated by the mediation committee.

1984-85-86, c.O-6.1, s.25.

#### **Discipline committee inquiry**

**26** The discipline committee:

- (a) may on its own motion, where it has received a complaint in writing from any person that a member has acted in a manner described in subsection 25(3);
- (b) shall, where it is directed to do so by the council; or
- (c) shall, where a charge is laid before it pursuant to subsection 25(5);

inquire into and make a determination respecting the allegation that the member has acted in a manner described in subsection 25(3).

1984-85-86, c.O-6.1, s.26.

#### **Notice**

**27(1)** Notice of an inquiry mentioned in section 26 is to be served on the person whose conduct is the subject of inquiry.

(2) The notice mentioned in subsection (1) is to:

- (a) contain or be accompanied by a copy of the charges made or the subject matter of the inquiry;
- (b) specify the time and place for holding the inquiry; and
- (c) be signed by the chairman or the secretary of the discipline committee.

1984-85-86, c.O-6.1, s.27.

#### **Service**

**28** Service of a notice or document required by the disciplinary provisions of this Act or the bylaws may be effected by registered letter addressed to the last known residence or business of the person to be served and proof that the letter was so addressed and mailed is proof of service.

1984-85-86, c.O-6.1, s.28.

#### **Counsel**

**29** Any person who is being investigated may, at his own expense, be represented by counsel at an inquiry.

1984-85-86, c.O-6.1, s.29.

**Evidence**

**30(1)** The testimony of witnesses is to be taken under oath, which the chairman or acting chairman of the discipline committee is hereby authorized to administer, and there is full right to examine, cross-examine and re-examine all witnesses called and to adduce evidence in defence and reply.

(2) For the purpose of procuring the attendance and evidence of a witness before the discipline committee and the production of books, papers and other documents, the local registrar of the court in any judicial centre shall, at the request of the chairman of the discipline committee or the person whose conduct is the subject of inquiry and on payment of the fees prescribed by The Queen's Bench Rules, issue a writ of *subpoena ad testificandum* or *subpoena duces tecum* and, unless otherwise provided in this Act, the rules of evidence for the inquiry, and the proceedings and penalties in the case of disobedience to the writs, shall be the same as in civil cases in the court.

1984-85-86, c.O-6.1, s.30.

**Failure to appear**

**31** If the person whose conduct is the subject of inquiry fails to attend, the discipline committee may, on proof of service of a notice in accordance with this Act, which proof of service may be by affidavit or statutory declaration, proceed with the inquiry and, without further notice to that person, take any action authorized by this Act.

1984-85-86, c.O-6.1, s.31.

**No examination for discovery**

**32** No examination for discovery is to be held with respect to any proceeding of the discipline committee.

1984-85-86, c.O-6.1, s.32.

**Majority decision**

**33** The decision of a majority of the members of the discipline committee present at an inquiry is the decision of the committee.

1984-85-86, c.O-6.1, s.33.

**Report of decision**

**34** The discipline committee shall prepare a report of its findings and any recommendations that it considers advisable and send the report, signed by the concurring members, to the council.

1984-85-86, c.O-6.1, s.34.

**Assessor**

**35(1)** For the purpose of advising the discipline committee on questions of law arising in proceedings before it, the council may appoint an assessor to the committee.

(2) An assessor mentioned in subsection (1) shall be a person who has been a member of the Law Society of Saskatchewan for a least five years.

- (3) The council may make rules respecting the functions and term of office of an assessor.
- (4) An assessor may be appointed generally or for any particular proceeding or class of proceedings.
- (5) The council may determine the remuneration and reimbursement for expenses to be paid to an assessor.

1984-85-86, c.O-6.1, s.35.

#### **Orders of council**

**36** In the case of a member found to be guilty of professional misconduct by the discipline committee, or to have violated any of the provisions of this Act or the bylaws, the council may, on receipt of a report from the discipline committee, without further investigation, by order:

- (a) reprimand the member;
- (b) restrict, limit or impose conditions on the member's practice;
- (c) suspend the licence of the member;
- (d) cause the name of the member to be removed from the register and his licence to be revoked; or
- (e) impose on the member a fine payable to the association of not more than \$5,000.

1984-85-86, c.O-6.1, s.36.

#### **Competence committee**

**37(1)** In this section, "**committee**" means a competence committee appointed by the council pursuant to subsection (2).

(2) Where the council receives information that leads it to believe that a member may not be competent, it may appoint one or more members to constitute a competence committee for the purpose of investigating whether or not that person is competent.

(3) The committee shall make any inquiries that it considers appropriate and may require the member to undergo, in any manner that it considers advisable:

- (a) a physical or mental examination by a physician qualified as a specialist in an area designated by the committee;
- (b) an examination of his professional competence by the committee; or
- (c) a demonstration of his technical skills before the committee.

(4) In arriving at any decision or recommendations pursuant to this section involving the suspension of a person from practice or the imposition of conditions to be met by him, the ability to practice according to accepted standards takes priority over the rehabilitation and treatment of the person.

- (5) Where a member, having been given reasonable notice, refuses or fails to appear before the committee, or refuses to submit to any examination or demonstration that the committee may require, the council may suspend that member from practice until he complies, or for any period that it considers appropriate.
- (6) Where the council or the committee is of the opinion that, on the basis of the nature of the case, a person who is under investigation should be suspended pending the outcome of the investigation, the council may temporarily suspend that person from practice for a maximum period of 30 days.
- (7) The committee shall report its findings to the council and deliver a copy of its report and a copy of any medical report obtained pursuant to subsection (3) to the member about whom the report is made.
- (8) The council shall give the person who is under investigation notice of the inquiry to be held pursuant to subsection (3) in the manner set out in subsection 27(2).
- (9) On conclusion of an inquiry held pursuant to subsection (2), the council may:
- (a) make a finding as to whether or not the member is competent; and
  - (b) where the member is found to not be competent, by order:
    - (i) reprimand the member;
    - (ii) restrict, limit, or impose conditions on the member's practice;
    - (iii) suspend the licence of the member;
    - (iv) require the member to submit to any further training that it considers necessary.
- (10) Any professional report purporting to be signed by a duly qualified medical practitioner, licensed to practice in any part of Canada, is admissible in evidence in any proceeding pursuant to this Act, without proof of his signature, qualifications or licence.
- (11) A member aggrieved by a decision of the council pursuant to subsection (9) may appeal that decision to the court in accordance with section 40.

1984-85-86, c.O-6.1, s.37; 1988-89, c.16, s.13.

#### Costs

**38** Where a member has been found guilty of professional misconduct by the discipline committee or an inquiry is held pursuant to section 37 and the member is found to be not competent, the council may direct that the costs of and incidental to the inquiry, including fees payable to an assessor, solicitors and witnesses, or any part of those costs, shall be paid by that member and shall be a debt due to the association.

1984-85-86, c.O-6.1, s.38.

**Appeal**

**39** A person against whom an order has been made pursuant to section 36 may appeal that order to the court in accordance with section 40.

1988-89, c.16, s.14.

**Procedures on appeal**

**40(1)** Any person who makes an appeal to the court pursuant to this Act shall:

- (a) file a notice of appeal with the registrar of the court within 60 days of the date of the decision; and
  - (b) at the time of filing a notice of appeal pursuant to clause (a), serve a copy of the notice of appeal on the registrar.
- (2) On hearing the appeal, the court may:
- (a) confirm the decision of the council;
  - (b) vary the decision of the council;
  - (c) substitute its own decision for that of the council; or
  - (d) quash the decision of the council;

and may make any order as to costs that it considers appropriate.

(3) Where the court quashes the decision of the council, it may direct a new hearing or further inquiry by the discipline committee.

(4) A notice of appeal required pursuant to subsection (1) shall set out the grounds of appeal.

(5) As soon as possible after being served a copy of the notice of appeal, the registrar shall transmit a transcript of the evidence before the discipline committee and the record of the discipline committee and the council to the registrar of the court.

(6) The registrar shall keep in his custody the record of a disciplinary proceeding and no one is entitled to remove that record from his custody except for the purpose of an appeal pursuant to this Part or on the order of a court of competent jurisdiction.

(7) With leave of the Court of Appeal, the council or a person who makes an appeal pursuant to this Act may appeal a decision of the court on a point of law to the Court of Appeal.

(8) Where a person has commenced an appeal to the court pursuant to this section with respect to a decision or order, that person may apply to a judge of the court for an order staying the decision or order being appealed from until the appeal is determined.

(9) An application pursuant to subsection (8) shall be by motion, notice of which shall be served on the registrar at least 10 days before the day on which the motion is returnable.

1988-89, c.16, s.15.

**Suspension**

**41(1)** The council or the discipline committee may temporarily suspend a member against whom a complaint has been made, where the council or discipline committee believes, on the basis of the complaint or the nature of the case, that the member should be suspended pending the outcome of the inquiry.

(2) A member aggrieved by a decision of the council pursuant to subsection (1) may appeal that decision to the court in accordance with section 40.

1984-85-86, c.O-6.1, s.41; 1988-89, c.16, s.16.

**Conviction**

**42** Where a person who is registered pursuant to this Act is, before or after he is so registered, convicted:

- (a) in Canada of an indictable offence; or
- (b) outside Canada of an offence that would be an indictable offence if it were committed in Canada;

the council may, on production to the council by the registrar of a duly certified copy of the conviction and proof satisfactory to the council that the person registered is the person who was convicted, impose one or more of the penalties set out in section 36.

1984-85-86, c.O-6.1, s.42.

**No liability**

**43** No action lies against the association, the registrar, any employee of the council, the council, any committee appointed by the council or any member of the council or of any committee appointed by the council, for any act done or omitted to be done or for any proceeding taken or judgment given or enforced in good faith pursuant to any of the provisions of this Act or of the rules, bylaws, orders or proceedings of the council pursuant to this Act.

1984-85-86, c.O-6.1, s.43.

**44 Repealed.** 1988-89, c.16, s.17.

**Frivolous complaints**

**45** Where, on inquiry, the council finds a complaint to be frivolous and vexatious, it may order any costs that it considers fair to be paid out of the funds at its disposal to the person whose conduct is the subject of inquiry.

1984-85-86, c.O-6.1, s.45.

**Disposition of complaint**

**46** Where a complaint has been lodged against a member, the complainant shall be informed of the disposition of the complaint.

1984-85-86, c.O-6.1, s.46.

**Use of title without certificate**

**47(1)** No person shall use the title “optometrist” or the title “optician” or any prefix or suffix or abbreviation or initials indicating such a title unless that person is the holder of a professional certificate to engage in the practice of optometry as provided by this Act.

(2) Every person who violates this section is guilty of an offence and liable on summary conviction, for a first offence, to a fine of not less than \$600 and not more than \$1,200, and for each subsequent offence to a fine of not less than \$1,200 and not more than \$1,800.

1984-85-86, c.O-6.1, s.47.

**Practising without licence**

**48(1)** No person shall engage in the practice of optometry unless he is the holder of a valid and subsisting licence.

(2) The use of test lenses or other appliances for testing the vision of the human eye is deemed to be prima facie evidence of engaging in the practice of optometry.

(3) Every person who, without a licence issued pursuant to this Act, engages in the practice of optometry in Saskatchewan for gain or hope of reward or holds himself out to the public as licensed or legally qualified to engage in the practice of optometry in Saskatchewan is guilty of an offence and liable on summary conviction for a first offence to a fine of not less than \$1,000 and not more than \$2,000 and, for each subsequent offence, to a fine of not less than \$2,000 and not more than \$3,000.

1984-85-86, c.O-6.1, s.48.

**Persons practising under supervision**

**49** Section 48 does not apply to a person engaged in the practice of optometry under the supervision of a practising optometrist for the purposes of clause 16(b) and in accordance with the bylaws of the association made pursuant to clause 11(2)(j).

1984-85-86, c.O-6.1, s.49.

**50 Repealed.** 2004, c.L-16.1, s.64.

**Fees and fines property of association**

**51** All fees and fines receivable or recoverable pursuant to this Act are the property of the association.

1984-85-86, c.O-6.1, s.51.

**Saving**

**52** Nothing in this Act prevents:

- (a) any person from practising any profession, trade or calling that he is licensed to practise pursuant to any other Act; or
- (b) the sale of complete ready-to-wear glasses as merchandise from a permanent place of business.

1984-85-86, c.O-6.1, s.52.

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**Evidence of bylaw**

**53** A copy of a bylaw certified by the registrar to be a true copy, is admissible in evidence in all prosecutions, inquiries, hearings or other proceedings pursuant to this Act, without proof of the appointment or signature of the registrar.

1984-85-86, c.O-6.1, s.53.

**Filing of bylaws and amendments**

**54(1)** Where the minister has approved a bylaw pursuant to subsection 11(3) or an amendment to such a bylaw, he shall, within 30 days from the date of his approval, file with the Director of Corporations two copies, certified by him to be true copies, of the bylaw or amendment.

(2) Where an amendment to a bylaw is filed pursuant to subsection (1), two copies of the bylaw are to be filed with the amendment.

1984-85-86, c.O-6.1, s.54; 1991, c.T-1.1, s.33;  
2010, c.B-12, s.48.

**Failure to file**

**55** Failure to file any bylaw or amendment as required by section 54 renders the bylaw or amendment ineffective as from the expiration of the time allowed for filing it and it is deemed to have been revoked.

1984-85-86, c.O-6.1, s.55.

**Review by Assembly**

**56(1)** One copy of each bylaw and amendment filed pursuant to section 54 is to be laid before the Assembly by the minister responsible for the administration of *The Business Corporations Act* in accordance with *The Tabling of Documents Act, 1991*.

(2) Where a bylaw or amendment laid before the Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, the bylaw or amendment ceases to have effect and is deemed to have been revoked.

1991, c.T-1.1, s.33; 2010, c.B-12, s.48.

**Record of revocation of bylaw or amendment**

**57(1)** Where it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Assembly shall immediately send two copies of those Votes and Proceedings to the Director of Corporations and advise him that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Director of Corporations shall file one copy with the bylaw or amendment to which it relates and immediately send the other copy to the association and advise the association that the copy is forwarded pursuant to this subsection.

1984-85-86, c.O-6.1, s.57; 1991, c.T-1.1, s.33;  
2010, c.B-12, s.48.

**Lists of members etc. to be filed**

**58** The association shall, before February 1 in each year, file with the Director of Corporations, lists, certified by the secretary to be correct, stating:

- (a) the names and addresses of all members in good standing as at December 31 in the preceding year;
- (b) the names of all persons whose names were removed from the register or who were suspended or otherwise ceased to be members in good standing during the preceding year;
- (c) the names of all persons whose names were reinstated to the register during the preceding year.

1984-85-86, c.O-6.1, s.58; 1991, c.T-1.1, s.33;  
2010, c.B-12, s.48.

**R.S.S. 1978, c.O-6 repealed; transitional**

**59(1)** *The Optometry Act* is repealed.

(2) A licence issued pursuant to *The Optometry Act* and in force on the day before the day on which this section comes into force continues in force for the balance of the period for which it was issued, unless suspended or revoked sooner in accordance with this Act.

(3) The bylaws, rules and regulations made pursuant to *The Optometry Act* and in force on the day before the day on which this section comes into force continue in force until they are repealed or others made in their place pursuant to this Act.

1984-85-86, c.O-6.1, s.59.

## APPENDIX

**Repealed.** 1988-89, c.16, s.18.

