

# THE OPTICIANS ACT, 1913.

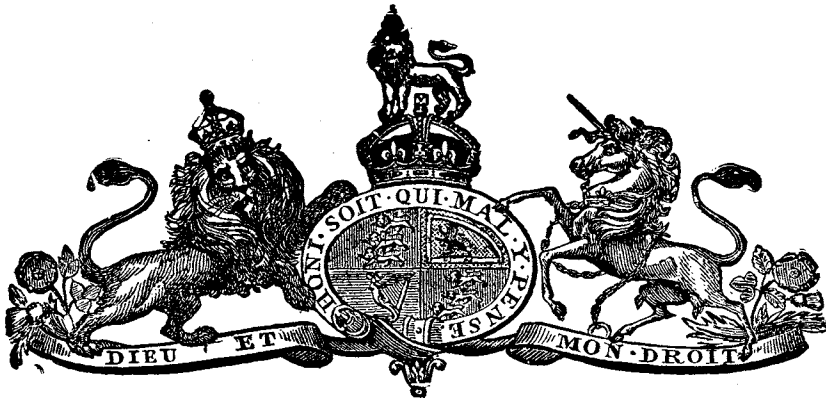
## ANALYSIS.

1. Short title.
2. Interpretation  
"Act."  
"Board"  
"Certified optician."  
"Co-operating State."  
"Optometry" or "The practice of optometry."  
"Registrar."
3. Act not to apply to medical practitioners,
4. Registration not to imply medical qualification, &c.
5. Qualifications for registration.
6. Persons practising Three years before commencement of Act may be licensed.
7. No person to be registered or licensed unless provisions of Act complied with.
8. Reciprcity.
9. Any certified optician may practise. No uncertified person may practise.
10. Persons not to assume title implying registration.
11. Constitution of Board.  
First Board to be appointed by the Governor.
12. Filling vacancy in first Board or in seat of any member appointed by Governor.
13. Constitution of subsequent Boards.
14. Removal of members from Board.
15. Rules for conduct of the Board.
16. Regulations.
17. Board may appoint Registrar and examiners.
18. Powers and duties of Board.
19. Provisions of register.  
Custody of register.  
Persons to be heard by Board before removal of name.
20. Names of deceased persons to be erased from register.
21. Board to issue certificates.  
Evidence.
22. Omission to take out annual certificate for more than Two years.
23. List of certified opticians to be gazetted annually.
24. Penalty for—  
Obtaining registration by false pretences.  
Falsification of register.  
Forging.  
Uttering.  
Falsely advertising, &c.  
Falsely personating, &c.
25. Power to Board to administer oath and examine witness.  
Penalty.
26. Right of appeal.  
Order thereon.  
Judges to make rules.
27. Registration fees.  
Licensing fees.
28. Application of money.
29. Accounts to be kept.
30. Recovery of fees and penalties.  
Procedure.
31. Hawkers may not vend spectacles.
32. Copy of "Gazette" evidence.  
Judicial notice.

1s. 2d.]



TASMANIA.



1913.

ANNO QUARTO

GEORGI V. REGIS.

No. 15.

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AN ACT to secure the Better Training of Opticians, to Regulate their Practice, and for other purposes. A.D. 1913.  
[5 December, 1913.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may for all purposes be cited as "The Opticians Act, Short title. 1913."

2 In this Act—

- "Act" includes regulations thereunder :
- "Board" means the Board of Optical Registration as constituted by this Act :
- "Certified optician" means a person who is the holder of a certificate in force issued under Subsection (1) of Section Twenty-one of this Act entitling him to practise :

Interpretation.

"Act."

"Board."

"Certified optician."

*Opticians.*

A.D. 1913.

"Co-operating State."

"Optometry" or "the practice of optometry."

"Registrar."

"Co-operating State" means and includes the United Kingdom and any State or colony within His Majesty's dominions with which reciprocal arrangements have been made by the Board for the recognition of the status of persons engaged in the practice of optometry :

"Optometry" or "the practice of optometry" means the employment of methods other than the use of drugs for the measurement of the powers of vision and the adaptation of lenses for the aid thereof :

"Registrar" means the person who for the time being holds the office of Registrar by appointment under this Act, and includes an acting-registrar.

Act not to apply to medical practitioners.  
8 Ed. VII. No. 32.

Registration not to imply medical qualification, &c.

**3** The provisions of this Act shall not apply to any person registered as a legally-qualified medical practitioner under "The Medical Act, 1908," or any Act amending the same.

**4** Registration under this Act shall not confer upon any person any right or title—

- i. To be registered under "The Medical Act, 1908," or any Act amending the same: or
- ii. To assume the title of oculist or any other name, title, or designation implying that he is by law recognised as a medical practitioner, or that he is qualified to practise ophthalmic medicine or surgery: or
- iii. To administer any drug for the purpose of paralysing the accommodation of the eye.

Qualifications for registration.

**5** Subject to the provisions of this Act any person of or over the age of Twenty-one years—

- i. Who, during the full period of Three years next before the commencement of this Act, has been *bona fide* engaged in the practice of optometry in this State, and who passes, to the satisfaction of Two examiners, One of whom shall be a legally qualified medical practitioner practising as an oculist, and the other a person deemed by the Governor to be a competent optician to be appointed by the Governor, an elementary examination in optics deemed sufficiently comprehensive to reasonably safeguard the public against possible injury arising from ignorance or incompetence, shall be entitled to be registered under this Act: Provided that he applies for registration within Six months after the commencement of this Act, and that he produces to the Board such evidence of his title to registration as the Board may reasonably require :
- ii. Who, having complied with this Act and the regulations as to training, examination, and otherwise, has received from the Board's examiners a certificate of competency,

*Opticians.*

and produces the same to the Board, together with evidence satisfactory to the Board that he is of good character, shall be entitled to be registered under this Act: A.D. 1913.

- iii. Who is qualified to practise optometry in any co-operating State, and has otherwise complied with any conditions authorised by this Act, shall be entitled to be registered under this Act:
- iv. Who proves to the satisfaction of the Board that he holds some certificate or other evidence of qualification prescribed by the Board to be sufficient to entitle him to be registered, and that he is of good character, shall be entitled to be registered under this Act.

**6** Subject to the provisions of this Act, any person of or over the age of Twenty-one years who, within Six months after the commencement of this Act, proves to the satisfaction of the Board that, for the full period of Three years next before the commencement of this Act, he has been making up and fitting spherical spectacles for simple refractive defects from a permanently located place of business within this State, or dispensing oculists' prescriptions for glasses, shall, upon payment of the prescribed fee, be entitled to receive a licence from the Board granting him permission to continue such practices without examination. Persons practising Three years before commencement of Act may be licensed.

**7** No person shall be registered or licensed under this Act until he has complied with the regulations to be laid down by the Board from time to time in pursuance of this Act. No person to be registered or licensed unless provisions of Act complied with.

**8** The Board may enter into a reciprocal arrangement with the Board of Optical Registration, or other competent authority of the United Kingdom or of any State or colony within His Majesty's dominions, for the recognition of the status of any person authorised by such board or other authority to practise optometry in such country, State, or colony, and the registration of such person under this Act. Reciprocity.

Any such arrangement may contain a condition that any such person applying to be registered under this Act shall furnish additional satisfactory evidence of character and competency.

**9—(1)** Subject to this Act, any certified optician shall be entitled to practise optometry and to dispense oculists' prescriptions for glasses in any part of this State. Any certified optician may practice.

**(2)** After the expiration of Six months from the commencement of this Act, and subject to Section Six of this Act, no person who is not a certified optician shall practise optometry or dispense oculists' prescriptions for glasses in any part of this State; provided always that this shall not be so construed as to prevent any person from engaging in the actual craft of lens-grinding and spectacle-making. No uncertified person may practice.

*Opticians.*

A.D. 1913.

Persons not to  
assume title  
implying registra-  
tion.

**10** After the expiration of Six months from the commencement of this Act, no person who is not a certified optician under this Act shall—

- i. Take or use the name or title of “optician,” or such other name or title as may be prescribed by the regulations under this Act to designate opticians; or
- ii. Take or use any name, title, designation, addition, or description, whether by means of initials or letters placed after his name, or otherwise implying that he is registered under this Act, or that he is a person qualified to practise optometry.

Penalty: Twenty Pounds.

Constitution of  
Board.

**11**—(1) On the passing of this Act a Board, to be called the “Board of Optical Registration” (in this Act called “the Board”), shall be constituted for the purpose of carrying this Act into effect; and such Board shall consist of Five persons, one of whom shall be Chairman of the Board.

First Board to be  
appointed by the  
Governor.

(2) The members of the first Board shall, as soon as is practicable after the commencement of this Act be appointed by the Governor, and shall consist of Three persons deemed by the Governor to be competent opticians and of Two legally-qualified medical practitioners.

(3) The Governor shall appoint one of such persons to be Chairman of the Board.

(4) Such appointments shall be for a period of Three years, or until their successors are elected and appointed.

Filling vacancy in  
first Board, or in  
seat of any  
member appointed  
by Governor.

**12** If any vacancy occurs in the Board during the period for which the first members of the Board shall have been appointed, or if afterwards the seat of any member appointed by the Governor to any Board under this Act becomes vacant, the Governor may appoint some person to fill such vacancy; and the person so appointed shall hold office for the unexpired period of office of the person in whose place he was appointed, and no longer.

Constitution of  
subsequent  
Boards.

**13**—(1) On the expiration of the period for which the members of the first Board shall have been appointed, another Board shall be constituted in the manner following:—

- i. Three certified opticians shall be elected members by certified opticians: and
- ii. Two legally-qualified medical practitioners shall be appointed members by the Governor:
- iii. The persons so elected and appointed shall elect one of their number to be Chairman of the Board:
- iv. Such persons, whether elected or appointed, shall hold office for Three years, or until their successors are elected and appointed:
- v. If any member of the Board—
  - (a) Dies; or

*Opticians.*

- (b) Resigns; or  
 (c) Ceases to reside in the State; or  
 (d) Becomes bankrupt or insolvent; or files his petition for liquidation of his affairs by arrangement with his creditors; or  
 (e) Becomes insane; or  
 (f) Absents himself from Three consecutive meetings of the Board without leave obtained from the Board in that behalf; or  
 (g) Is removed from the Board by the Governor; or  
 (h) Being an elected member, ceases to be registered under this Act, or is suspended from practising optometry—

A.D. 191

his seat shall become vacant.

(2) At the expiration of the said period of Three years, and after each successive period of Three years, another Board shall be constituted of persons elected and appointed in like manner as is hereinbefore in this section provided, and the retiring members shall, if still qualified, be eligible for re-election or reappointment respectively.

(3) All elections under this section, and all vacancies in the seats of elected members occurring in the Board, shall be conducted and filled respectively in accordance with the regulations made under this Act.

**14** The Governor may remove any member of any Board (including the First Board) for neglect of duty, incompetency, dishonourable conduct, or other cause deemed sufficient by the Governor.

Removal of members from Board.

**15** The rules set forth in the Schedule (1) to this Act shall apply to the business, conduct, and proceedings of the Board, and shall be observed, but may be revoked or altered wholly or in part by regulations.

Rules for conduct of the Board. Schedule (1).

**16**—(1) The Board, with the approval of the Governor, may from time to time make regulations—

Regulations.

- i. Regulating the meetings and proceedings of the Board and the conduct of the business thereof :
- ii. Regulating the manner in which the members to be elected are to be elected to the Board under Section Thirteen :
- iii. Regulating the manner of keeping and controlling the register :
- iv. Regulating the granting and issue of certificates and the conditions of admission to the register :
- v. Prescribing what certificates of examinations will be recognised by the Board as a substitute for the examinations of the Board :
- vi. Prescribing what certificates, diplomas, membership, degrees, licences, letters testimonial, or other titles, status, or documents will be recognised by the Board as qualifying persons holding them or any of them to be registered

*Opticians*

A.D. 1913.

- under this Act, whether immediately or after further examination or training or both :
- vii. Regulating the admission to the register of persons already engaged in practising optometry at the commencement of this Act :
  - viii. Regulating, supervising, and restricting within due limits the practice of persons registered under this Act :
  - ix. Deciding the conditions under which names may be removed from the register by the Board :
  - x. Prescribing and regulating the course of training for persons desiring to practise optometry :
  - xi. Prescribing and regulating the method, subjects, and scope of examinations and the remuneration of examiners :
  - xii. Prescribing a scale of fees to be charged and paid in respect of any application, examination, registration, certificate, inspection, or any other proceeding, act, or thing provided or required under this Act, in cases not provided for by this Act :
  - xiii. Prescribing forms to be used for any of the purposes of this Act :
  - xiv. Generally providing for anything which by this Act is expressed to be prescribed, or which the Governor considers necessary, in order to carry out the purposes of this Act.

(2) A regulation may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches ; but no such penalty shall exceed Ten Pounds.

(3) All such regulations upon being approved by the Governor shall be published in the "Gazette," and shall thereupon have the force of law, and shall be judicially noticed.

(4) Any such regulation may be rescinded at any time by the Governor by notification in the "Gazette."

Board may  
appoint Registrar  
and examiners.

**17** The Board—

- i. May from time to time appoint a Registrar (who shall also act as secretary to the Board), and such examiners as it thinks necessary for giving effect to this Act : and
- ii. May out of the funds at its disposal pay to the Registrar such salary as it thinks fit, and to such examiners such fees as may be prescribed.

All such persons shall hold office during the pleasure of the Board.

No member of the Board shall receive payment for his services in the capacity of such member.

Nothing in this Act shall be construed to prevent the Board from—

- i. Appointing One or more of its members to be an examiner or examiners : or
- ii. Paying any member so appointed for his services as examiner.

Powers and duties  
of Board.

**18** The Board from time to time—

- i. May temporarily suspend any person from practice in any



*Opticians.*

case where such suspension appears to the Board to be necessary : A.D. 1913.

- ii. May decide upon the removal from the register of the name of any person for disobeying the regulations from time to time laid down under this Act by the Board or for other misconduct, and the cancelling of the annual certificate of any person whose name is so removed, and may also decide upon the restoration to the register of the name of any person so removed :
  - iii. Shall as necessity arises hold examinations for the convenience of persons desiring to qualify for registration under this Act, and shall fix the places where, and the times when, examinations shall be held :
  - iv. May issue and cancel certificates :
  - v. May decide as to the proper title or titles to designate fitly the practice of optometry—
- and generally may do any other act or duty which may be necessary or expedient for the due and proper carrying out of the provisions of this Act.

**19**—(1) A register shall be kept as accurately as possible by the Registrar, in accordance with regulations to be laid down from time to time by the Board, to be styled the "Register of Opticians," which shall contain a list of the names of all persons registered and licensed under this Act, in alphabetical order according to the surnames, and shall state the full names and addresses of registered and licensed persons, and subject to the provisions of this Act shall contain such particulars and be in such form as the Board may from time to time direct. Provisions of register.

(2) The register shall be deemed to be in proper custody when in the custody of the Registrar, and shall be of such a public nature as to be admissible as evidence of all matters therein on its mere production from that custody. Custody of register.

(3) No person shall have his name removed from the register without having been previously given an opportunity of being personally heard by the Board. Persons to be heard by Board before removal of name.

**20** The Board shall from time to time cause to be erased from the register— Names of deceased persons to be erased from register, &c.

- i. The names of persons who have died :
- ii. Any entry in the register which is proved to the satisfaction of the Board to have been fraudulently or incorrectly made.

**21**—(1) The Board shall upon registration, and thereafter annually upon payment therefor of the prescribed fees, issue to every person entitled to practise optometry, and applying for the same, a certificate in the form in Schedule (2) to this Act. Board to issue certificates.

(2) The Board shall upon the issue of a licence under Section Six of this Act, and thereafter annually upon payment therefor of the prescribed fees, issue to every person thus licensed and applying for the same, a certificate in the form in Schedule (3) of this Act. Schedule (2).  
Schedule (3).

*Opticians.*

A.D. 1913.

Evidence.

(3) Such certificates shall be in force until and inclusive of the Thirty-first day of December next after the issue thereof.

(4) Any certificate if it purports to be signed by the Chairman and Registrar, shall be evidence of the matters stated therein, without proof of the signatures or of the official character of the persons appearing to have signed the same.

Omission to take out annual certificate for more than Two years.

**22** Every person who for a period exceeding Two years ceases to hold an annual certificate in force under the immediately preceding section of this Act, and afterwards applies for such certificate, shall not be entitled to receive one unless he first satisfies the Board as to the circumstances under which he omitted or ceased to take out his certificate, or to practise, and as to his conduct and employment in the meantime.

List of certified opticians to be gazetted annually.

**23**—(1) The Registrar shall in the month of January in each year cause to be published in the "Gazette" a list of persons who have taken out certificates under Section Twenty-one for the then current year.

(2) A copy of the "Gazette" purporting to contain any such list, or a document purporting to be signed by the Registrar and to be a copy of any such list, shall be *prima facie* evidence that the persons named in such copy of the "Gazette" or in such document are registered or licensed under this Act for the year therein referred to, and the absence of the name of any person from such copy or document, as the case may be, shall be *prima facie* evidence that he is not registered or licensed under this Act.

Penalty for—  
Obtaining registration by false pretences.

**24** No person shall—

i. Procure or attempt to procure registration, or a certificate of registration; or any other certificate, under this Act by making or producing, or causing to be made or produced, any false and fraudulent declaration, certificate, or representation, either in writing or otherwise:

Falsification of register.

ii. Wilfully make or cause to be made any falsification in any manner relating to the register: or

Forging.  
Uttering.

iii. Forge, alter, or counterfeit any certificate:

iv. Utter or use any forged, altered, or counterfeited certificate, knowing the same to have been forged, altered, or counterfeited: or

Falsely advertising, &c.

v. Falsely advertise or publish himself as having obtained registration or a certificate under this Act: or

Falsely personating, &c.

vi. Falsely personate a certified optician of a like or different name, nor buy, sell, or fraudulently obtain a certificate under this Act issued to another.

Penalty: One hundred Pounds or Twelve months' imprisonment.

Power to Board to administer oath and examine witness.

**25**—(1) The Board may by summons require the attendance of any person as a witness, and may examine any person upon oath or affirmation, or take a solemn declaration from any person for the purposes of this Act.

*Opticians.*

(2) Every summons issued by the Board requiring the attendance of any person or the production of any documents shall have the same effect as a subpoena issued by the Supreme Court in a civil action ; and the obedience thereto or non-observance thereof may be enforced and punished by a judge of the said court sitting in chambers in the same manner as in the case of the disobedience or non-observance of a subpoena issued by the said court. A.D. 1913.

(3) Whosoever wilfully—

- i. Makes any false statement upon such examination or in such declaration : or
- ii. Utters or attempts to utter or put off as true before the Board any false, forged, or counterfeit certificate, diploma, licence, letter, testimonial, or other title, document, or writing—

shall be guilty of an offence against this section.

Penalty: One hundred Pounds or Twelve months' imprisonment. Penalty.

**26**—(1) Any person who thinks himself aggrieved by any decision, ruling, order, or direction of the Board or Registrar may appeal by summons to a judge of the Supreme Court. Right of appeal.

No such appeal shall be entertained unless it is made within Two months next after the notification to him of the decision, ruling, order, or direction, nor unless Ten days' notice in writing of such appeal, stating the nature and grounds thereof, is given to the party whose decision, ruling, order, or direction is appealed against.

(2) The judge may make such order as he thinks just (including any order as to costs), and such order shall be final and without appeal, and shall be observed by the Board or Registrar and by every person concerned. Order thereon.

(3) The judges of the Supreme Court may from time to time make, alter, suspend, and rescind rules or orders to regulate the practice and procedure, and until such rules or orders are made and, so far as any such rules or orders when made do not apply, the provisions of "The Appeals Regulation Act," as to appeals from justices, shall with the necessary alterations apply to appeals under this Act. Judges to make rules.  
19 Vict. No. 10.

**27**—(1) There shall be payable to the Board in respect of the registration of any person who applies to be registered under this Act a registration fee of Three Pounds. Registration fees.

(2) There shall be payable to the Board in respect of the licensing of any person who applies to be licensed under Section Six of this Act, a licensing fee of Three Pounds. Licensing fees.

(3) There shall be payable to the Board by every person registered or licensed under this Act on or before the First day of January in each year following the year in which he is registered or licensed a fee of One Pound, and in default of payment he shall be liable to have his name removed from the register

*Opticians.*

A.D. 1913.

Application of  
money.

**28**—(1) Any sum or sums of money arising from conviction and recovery of penalties as aforesaid shall be paid to the Board.

(2) All moneys received by the Board arising from fees to be paid on registration and from annual payments by persons on the register, from the sale of copies of the register, from penalties, or otherwise, shall be applied in accordance with such regulations as may be made from time to time by the Board in defraying the expenses of registration and other expenses of the execution of this Act.

Accounts to be  
kept.

**29** The Board shall enter or cause to be entered in books to be kept for that purpose a true account of all sums of money by it received and paid under this Act; and such accounts shall be certified as correct by an experienced accountant, and a statement of such accounts shall be annually laid before the Chief Secretary.

Recovery of fees  
and penalties.Procedure.  
19 Vict. No. 8.

**30**—(1) All fees under this Act may be recovered as ordinary debts due to the Board.

(2) All informations for offences against the provisions of this Act, and all penalties, fines, and forfeitures imposed by or under the provisions of this Act, may be heard, determined, recovered, and enforced in a summary way by and before a police magistrate or any Two or more justices in the mode prescribed by "The Magistrates Summary Procedure Act," the provisions of which Act shall apply.

(3) A prosecution under this Act may be instituted by the Board in the name of—

- i. The Registrar: or
- ii. Any person thereunto authorised in writing under the hand of the Chairman—

but shall not be instituted by a private person without the consent in writing of the Board.

The Board may bring and defend all actions or institute any proceedings in the name of—

- i. The Registrar: or
- ii. Any person thereunto authorised in writing under the hand of the Chairman.

Hawkers may  
not vend  
spectacles.

**31** After the passing of this Act it shall not be lawful for any hawker or other travelling vendor, who is not registered or licensed under this Act, to peddle, barter, sell or offer for sale, exhibit samples of, accept orders or commissions for, or carry stocks of, spectacles or eyeglasses.

Penalty: Twenty Pounds.

Copy of "Gaz-  
ette" evidence.

**32**—(1) The production of a copy of the "Gazette" purporting to contain any notification relating to any appointment, register, registration, erasure, suspension, reinstatement, regulations, or any other matter under or for the purposes of this Act shall be received in all courts and in all proceedings whatsoever as *prima facie* evidence of the facts therein published.

*Opticians.*

- (2) Every court shall take judicial notice of the signatures of the Chairman and of the Registrar of the Board. A.D. 1913.  
Judicial notice.
- (3) In any proceeding by or on behalf of the Board, it shall not be necessary to prove the appointment of the members, Chairman, or Registrar.

## SCHEDULES.

## (1)

## RULES FOR THE CONDUCT OF THE BUSINESS OF THE BOARD.

1. The Chairman shall be the executive officer of the Board. Executive officer.
2. Every appointment and every order, notice, certificate, or other document of the Board relating to the execution of this Act shall, except where otherwise provided by this Act, be sufficiently authenticated if signed by the Chairman or Registrar or any Two members of the Board. Authentication of documents.
3. No business shall be transacted at any meeting of the Board unless at least Three of the members are present when such business is transacted. Meetings. Quorum.
4. The Chairman shall preside at all meetings at which he is present. In the absence of the Chairman, the members present shall elect from their number a chairman for the day. Chairman.
- The Chairman, or in his absence the chairman for the day, shall have a vote, and, when there is an equal division of votes upon any question, it shall pass in the negative.
5. All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting. Voting.
- At all meetings, save as herein otherwise provided, all members present shall vote.
- If a member refuses to vote, his vote shall be counted for the negative.
6. The members present at a meeting may, from time to time, adjourn the meeting. Adjournment.
- If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or any one member if only one is present, or the Registrar if no member is present, may adjourn such meeting to any time not later than Seven days from the date of such adjournment.
- Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.
7. All notices of any meeting shall be in writing, and shall be delivered personally or sent by post or otherwise to the address of each of the members at least Seven days previous to the meeting. Notices.
8. If any member refuses or neglects to act or to attend any duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board. Proceeding validated.
9. No proceedings of the Board shall be invalidated by reason of any defect in any appointment or election, or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below Three. Vacancies.

*Opticians.*

A.D. 1913.

(2)

"THE OPTICIANS ACT, 1913."

Section 21.

We do hereby certify that  
 residing at \_\_\_\_\_ is registered  
 under "The Opticians Act, 1913," as a certified optician, and is entitled to practise  
 optometry until and inclusive of the Thirty-first day of December next.

Dated at Hobart, this \_\_\_\_\_ day of \_\_\_\_\_ 19

A.B., Chairman } of the Board of Optical  
 C.D., Registrar } Registration.

(3)

"THE OPTICIANS ACT, 1913."

We do hereby certify that  
 residing at \_\_\_\_\_ is licensed under Section 6 of "The Opticians  
 Act, 1913," and is entitled to make up and fit spherical spectacles for simple refractive  
 defects, and to dispense oculists' prescriptions for glasses until and inclusive of the  
 Thirty-first day of December next.

Dated at Hobart, this \_\_\_\_\_ day of \_\_\_\_\_ 19

A.B., Chairman } of the Board of Optical  
 C.D., Registrar } Registration.