



## CHAPTER 60

An Act to amend the charter of The Association of Optometrists and Opticians of the Province of Quebec

*[Assented to, the 14th of June, 1940]*

**WHEREAS** The Association of Optometrists and Opticians of the Province of Quebec, incorporated by various acts of the Legislature of the Province of Quebec which were consolidated by the act 1 George VI, chapter 122, has represented:

*Preamble.*

That the science of mechanical optics is an art requiring special knowledge, and that, in the interest of the profession and of all who need to have recourse to it, it is necessary and in the public interest that it be better organized;

That it is important, from a public health standpoint, that the retail sale and the fitting of ophthalmic glasses, the purpose whereof is chiefly the correction and amelioration of vision, be not done by persons who have not the necessary knowledge;

That it is in the interest of the proper administration of The Association of Optometrists and Opticians of the Province of Quebec and in the public interest that certain additional powers inherent to the functioning of the said Association be granted to it;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** Section 2 of the Optometrists' and Opticians' Act (1 George VI, chapter 122) is amended:

1 Geo. VI,  
c. 122, s. 2,  
am.

a. By replacing paragraphs 1 and 2 thereof by the following:

"The Association"; 1. "The Association" means "The College of Optometrists and Opticians of the Province of Quebec";

"Council"; 2. "Council" means "Council of the College of Optometrists and Opticians of the Province of Quebec";

b. By adding thereto the following paragraphs:

"Practice of optometry"; "6. "Practice of optometry" means the act of practising optometry as defined in section 17 of this act;

"Dispensing optician"; 7. "Dispensing optician" means a member of the Corporation of Dispensing Opticians;

"Profession". 8. "Profession" means the art of the person entitled to practise optometry."

1 Geo. VI.  
c. 122, s. 3,  
am.

**2.** Section 3 of the said act is amended by adding thereto, at the end of the first paragraph thereof, the following words: "under the name of "The College of Optometrists and Opticians of the Province of Quebec." This change of name shall not affect the rights and responsibilities of the Association. And every action or proceeding that could be taken against the Association or by it under its former name may be taken or continued against it or by it under its new name."

Id., s. 18a,  
added.

**3.** The said act is amended by inserting therein, after section 18 thereof, the following section:

Who may  
sell, etc.,  
ophthalmic  
glasses.

"**18a.** In the Province of Quebec, the following persons only may sell, supply, adjust or replace, at retail, mounted or unmounted ophthalmic glasses:

a. Any optometrist within the meaning of this act;

b. Any physician within the meaning of chapter 213 of the Revised Statutes of Quebec, 1925, and amendments;

c. Any dispensing optician, on the prescription of a physician or of an optometrist;

d. Hospital dispensaries and university or municipal clinics acting upon an optometrist's or physician's prescription or order;

e. A retailer operating an optical and optometrical department in accordance with the second paragraph of section 22 of this act.

Restriction.

The provisions of this section shall not apply in any municipality as long as there shall not be, within

its limits, a member of the Association or of the Corporation of Dispensing Opticians.”.

**4.** Section 19 of the said act is replaced by the following: <sup>1</sup> Geo. VI, c. 122, s. 19, replaced.

“**19.** Nothing in this act or in any by-law of the Association shall prohibit freedom in carrying on commerce in artificial eyes, field-glasses, protective spectacles for industrial purposes or in green or other coloured spectacles, without ophthalmic lenses, or in magnifying glasses neither manufactured nor sold to relieve or correct defects of vision. Rights safeguarded.”

Nothing in this act shall authorize the Association to regulate or control the prices of spectacles or other ophthalmic glasses, or the conditions of payment of such prices.”. Restriction upon powers of Assoc.

**5.** The said act is amended by adding thereto, after section 21 thereof, the following section: <sup>1</sup> Geo. VI, c. 122, s. 21a, added.

“**21a.** The establishment or office mentioned in section 21 must be an office open at fixed hours and having a permanent character.”. Office to have permanent character, etc.

**6.** Section 22 of the said act is amended by adding thereto the following paragraph: <sup>1</sup> Geo. VI, c. 122, s. 22, am.

“Nothing shall prevent a retailer from operating an optical and optometrical department entrusted to one or more optometrists. The Association shall not forbid such a practice to its members.”. Operation of optical department by retailer.

**7.** The said act is amended by adding thereto, after section 23 thereof, the following section: <sup>1</sup> Geo. VI, c. 122, s. 23a, added.

“**23a.** It is, however, permissible to practise optometry under a firm name which is that of one or more of all the optometrists who are partners. The use of a pseudonym is prohibited.”. Firm name authorized.

**8.** Section 24 of the said act is replaced by the following: <sup>1</sup> Geo. VI, c. 122, s. 24, replaced.

“**24.** No person authorized in virtue of section 18a to sell, supply, adjust or replace ophthalmic glasses, at retail, in the Province of Quebec, shall, directly or indirectly: Certain advertising prohibited.”

1. Advertise expressly or allow to be implied by his advertisements, that he:

- a. examines eyesight gratuitously;
  - b. gives free consultations;
  - c. gives free services;
  - d. grants premiums;
  - e. grants rebates, discounts, or reductions;
  - f. grants free trial or so many days' trial;
  - g. promises return or reimbursement of money.
2. Publish cases of cures or of treatment.

Separate  
infringe-  
ment.  
Institutions  
excepted.

Each act mentioned in this section shall constitute a separate infringement of this statute.

The provisions of this section shall not apply to the institutions mentioned in paragraph *d* of section 18a.”.

1 Geo. VI,  
c. 122, s. 26,  
replaced.

**9.** Section 26 of the said act is replaced by the following:

Prohibition  
as to certain  
advertising.

“**26.** No person authorized in virtue of section 18a to sell, supply, adjust or replace ophthalmic glasses, at retail, in this Province, may, directly or indirectly:

a. By radio, advertise or cause himself to be advertised in such capacity, or advertise his optical products or cause them to be advertised;

b. By radio or written publicity, advertise or cause himself to be advertised in such capacity or cause his optical products to be so advertised by a business house;

c. Advertise or cause himself to be advertised in such capacity, advertise or cause his optical products to be advertised, anonymously or under a firm name or so as to evade the law;

d. Publish or cause to be published in any newspaper, review, periodical, circular or other printed matter, or cause to be distributed advertisements containing anything other than his name, his professional titles, his address, his speciality, his office hours and telephone number; such advertisement not to exceed a space (text and margin) of sixteen square inches;

e. Advertise, in any manner, prices or conditions of payment for ophthalmic glasses, mounted or unmounted, or for mountings alone.

Separate in-  
fringement.

Each act mentioned in this section shall constitute a separate infringement of this statute.

Institutions  
excepted.

The provisions of this section shall not apply to the institutions mentioned in paragraph *d* of section 18a.”.

**10.** Section 27 of the said act is replaced by the following section: 1 Geo. VI, c. 122, s. 27, replaced.

**"27.** Any person violating the provisions of sections 21, 21a, 22, 23, 23a, 24 and 26 of this act shall be liable to a fine of not less than one hundred dollars for the first offence, and of not less than two hundred dollars for each subsequent offence, with costs."  
Offence and penalty.

**11.** Section 28 of the said act is replaced by the following section: 1 Geo. VI, c. 122, s. 28, replaced.

**"28.** Any person who practises optometry without a license from the Association or who violates the provisions of sections 18a and 25, shall be liable to a penalty of not less than two hundred dollars for the first offence, and of not less than four hundred dollars for any subsequent offence, with costs."  
Offence and penalty.

**12.** Section 29 of the said act is replaced by the following: 1 Geo. VI, c. 122, s. 29, replaced.

**"29.** Every person, who, in an advertisement, assumes a title, name or description calculated to lead to the belief that he is duly registered or qualified to practise optometry, unless he be duly authorized and registered in this Province under this act, shall in each case be liable to a fine of not less than one hundred dollars for the first offence, and of not less than two hundred dollars for each subsequent offence, with costs."  
Offence and penalty.

**13.** Section 32 of the said act is replaced by the following section: 1 Geo. VI, c. 122, s. 32, replaced.

**"32.** All sums of money, subscriptions and fees, due and payable to the Association, shall be recoverable, with costs, before any competent court of civil jurisdiction in accordance with the Seventh Part of the Code of Civil Procedure."  
Recovery of monies due to Assoc.

**14.** The said act is amended by inserting therein, after section 32 thereof, the following sections: 1 Geo. VI, c. 122, ss. 32a, 32b, added.

**"32a.** All fines or penalties imposed by this act and payable to the Association shall be recoverable, with costs of suit, before any competent court of civil jurisdiction in accordance with the Seventh Part of the Code of Civil Procedure, or by prosecution before  
How penalties, etc., recovered.

a justice of the peace in accordance with the provisions of Part XV of the Criminal Code, with costs and the fees of the Association's attorney.

Fees of  
attorney.

**32b.** In the case of a prosecution under Part XV of the Criminal Code, the fee of the attorney for the Association shall be half of the penalty imposed by the final judgment, such fee in no case to exceed seventy-five dollars."

1 Geo. VI,  
c. 122, s. 34,  
replaced.

**15.** Section 34 of the said act is replaced by the following section:

Liability to  
imprison-  
ment in  
certain event.

**34.** In default of the immediate payment of the fine, fees and costs imposed by this act, the defendant shall be liable to imprisonment for a term of not more than fifteen days for the first offence, and of one month for any subsequent offence, in the common jail of the district in which sentence was pronounced."

1 Geo VI,  
c. 122, s. 41,  
replaced.

**16.** Section 41 of the said act is replaced by the following section:

Acts declared  
derogatory to  
professional  
honour.

**41.** The following acts are declared to be derogatory to professional honour:

1. The fact of being found guilty of any criminal offence before a court of competent jurisdiction;
2. The habitual abuse of alcoholic liquor, cocaine, or any other drug or narcotic preparation;
3. The violating of the provisions of sections 21, 21a, 22, 23, 23a, 24, 25 and 26;
4. Revealing a professional secret;
5. Joining with or having consultations with charlatans."

1 Geo. VI,  
c. 122, ss. 42a,  
42b and 42c,  
added.

**17.** The said act is amended by inserting therein, after sections 42 thereof, the following sections:

Suspension or  
dismissal.

**42a.** If, by the final judgment of a court which is non-appealable, it is found that a member of the Association has committed a serious violation of his professional duties or has committed an act derogatory to professional honour, the council may suspend or dismiss such member from the Association, without investigation, on the production of a certified copy of such judgment.

**42b.** Penalties, other than the depriving of the right to practise the profession of optometrist, are imposed separately or simultaneously.

Penalties imposed separately or simultaneously.

The depriving of the right to practise the profession of optometrist can only be exercised in the cases contemplated in paragraphs 1 and 2 of section 41 and in the cases contemplated in section 42a.

Depriving of right to practise.

**42c.** The Association shall furnish the Corporation of Dispensing Opticians, yearly, with a complete list of its members, and shall also communicate to it any changes in such list as they occur."

List of members furnished to Corporation of Dispensing Opticians.

**18.** This act shall come into force on the day of its sanction.

Coming into force.

