



Opticians Act 1989

1989 CHAPTER 44

PART IV

RESTRICTIONS ON TESTING OF SIGHT, FITTING OF CONTACT LENSES, SALE AND SUPPLY OF OPTICAL APPLIANCES AND USE OF TITLES AND DESCRIPTIONS

28 Penalty for pretending to be registered etc.

(1) Any individual—

- (a) who takes or uses the title of [^{F1}optometrist] or the title of optometrist when he is not [^{F2}a registered optometrist]; or
- (b) who takes or uses the title of dispensing optician when he is not [^{F3}a registered dispensing optician]; or
- [^{F4}(c) who takes or uses the title of registered optometrist when he is not [^{F5}a registered optometrist];
- (cc) who holds himself out as being a student registrant when he is not registered in the register of those undertaking training as optometrists or dispensing opticians maintained under section 8A above;
- (ccc) who holds himself out as having a specialty or proficiency which qualifies for entry in the appropriate register in accordance with rules made under section 10(1A) above but for whom no entry is extant;]
- (d) who takes or uses any name, title, addition or description falsely implying that he is registered in any of the registers; or
- (e) who otherwise pretends that he is registered in any of the registers,

shall be liable on summary conviction to a fine of an amount not exceeding [^{F6}level 5] on the standard scale.

(2) On any prosecution for an offence under subsection (1)(d) or (e) above, the taking or use of the title of optician by a person to whom this subsection applies is to be taken to imply that he is registered in one of the registers, but the implication may be rebutted if the defendant proves that he took or, as the case may be, used the title in circumstances where it would have been unreasonable for people to believe, in consequence of his

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taking or, as the case may be, use of it, that he was in fact registered in one of the registers.

(3) Subject to subsection (4) below, subsection (2) above applies to a person who carries on the business—

- (a) of selling optical appliances; or
- (b) of supplying optical appliances in pursuance of arrangements made as mentioned in section 27(4) above.

(4) Subsection (2) above does not apply to a person who sells or supplies [^{F7}only optical appliances or zero powered contact lenses or both] as mentioned in section 27(5)(a) to (e) above.

[^{F8}(5) Any body corporate which—

- (a) takes or uses the title of ophthalmic optician, the title of optometrist, the title of dispensing optician or the title of registered optician when it is not registered;
- (b) takes or uses any name, title, addition or description falsely implying that it is registered;
- (c) otherwise pretends that it is registered,

shall be liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(6) On any prosecution for an offence under subsection (5)(b) or (c) above, the taking or using of the title of optician by a body corporate to which this subsection applies is to be taken to imply that it is registered, but the implication may be rebutted if the body corporate took or, as the case may be, used the title in circumstances where it would have been unreasonable for people to believe, in consequence of its taking or, as the case may be, use of it, that it was in fact registered.]

(7) Subject to subsection (8) below, [^{F9}subsection (6)] above applies to a body corporate which carries on the business—

- (a) of selling optical appliances [^{F10}or zero powered contact lenses]; or
- (b) of supplying optical appliances [^{F10}or zero powered contact lenses] in pursuance of arrangements made as mentioned in section 27(4) above.

(8) [^{F11}Subsection (6)] above does not apply to a body corporate which sells or supplies optical appliances only as mentioned in section 27(5)(a) to (e) above.

(9) It is immaterial for the purposes of this section whether a title was used alone or in combination with any other words.

Textual Amendments

- F1** Words in s. 28(1)(a) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(a)(i)** (with [Sch. 1 para. 3\(2\)](#), [Sch. 2](#))
- F2** Words in s. 28(1)(a) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **185(a)**
- F3** Words in s. 28(1)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **185(b)**
- F4** S. 28(1)(c)-(ccc) substituted for s. 28(1)(c) (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(a)(ii)** (with [Sch. 1 para. 3\(2\)](#), [Sch. 2](#))

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- F5** Words in s. 28(1)(c) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **185(c)**
- F6** Words in s. 28(1) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **art. 21(1)(2)** (with art. 21(4), Sch. 2)
- F7** Words in s. 28(4) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(b)** (with Sch. 1 para. 3(2), Sch. 2)
- F8** S. 28(5)(6) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(c)** (with Sch. 1 para. 3(2), Sch. 2)
- F9** Word in s. 28(7) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(d)(i)** (with Sch. 1 para. 3(2), Sch. 2)
- F10** Words in s. 28(7)(a)(b) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(d)(ii)** (with Sch. 1 para. 3(2), Sch. 2)
- F11** Words in s. 28(8) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 3(1)(e)** (with Sch. 1 para. 3(2), Sch. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13D(2)(h)(i) inserted by [S.I. 2008/1774 Sch. 2 para. 2](#) (This amendment not applied to legislation.gov.uk. It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 13AA inserted by [2008 c. 14 Sch. 7 para. 30](#)
- s. 23I inserted by [2008 c. 14 Sch. 7 para. 46](#)
- s. 23AA inserted by [2008 c. 14 Sch. 7 para. 39](#)
- s. 23CA inserted by [2008 c. 14 Sch. 7 para. 42](#)