

Optometrists and Opticians (Investigation of Complaints) Regulations

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OPTOMETRISTS AND OPTICIANS ACT (CHAPTER 213A, SECTION 37)

OPTOMETRISTS AND OPTICIANS (INVESTIGATION OF COMPLAINTS) REGULATIONS

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PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Optometrists and Opticians (Investigation of Complaints) Regulations.

Definitions

2. In these Regulations, unless the context otherwise requires —

“advocate and solicitor” has the same meaning as in the Legal Profession Act

(Cap. 161);

“appointed counsel” means an advocate and solicitor or a public officer appointed by the Board under regulation 6;

“Inquiry Committee” means an Inquiry Committee appointed under regulation 5.

PART II

COMPLAINTS AGAINST REGISTERED PERSONS

Complaint or information to be dealt with under these Regulations

3.—(1) Any complaint against or information concerning a registered person in connection with any of the matters specified in section 20(3) of the Act shall be submitted to the Board in writing and supported by such statutory declaration as the Board may require, except that no statutory declaration shall be required if the complaint is made, or information is provided, by a public officer or a member of the Board.

(2) Where any complaint is made, or any information is provided, by a member of the Board under paragraph (1), that member —

- (a) shall be disqualified from taking part in any deliberation of the Board relating to his complaint or information; and
- (b) shall not be appointed as a member of an Inquiry Committee conducting an inquiry into his complaint or information.

Board to consider complaint

4.—(1) Where, upon considering any complaint or information submitted under regulation 3(1), the Board is satisfied that the complaint or information does not disclose a prima facie case for inquiry, the Board shall direct that the complaint or information be dismissed.

(2) Where, upon considering any complaint or information submitted under regulation 3(1), the Board is satisfied that the complaint or information discloses a prima facie case for inquiry, the Board shall direct the Registrar to serve on the registered person —

- (a) a copy of the complaint or information, and any statutory declaration furnished under that regulation; and
- (b) a notice inviting the registered person to submit to the Board, within such period (not being less than 14 days) as may be specified in the notice, such

explanation in writing as he may wish to offer on the complaint or information.

(3) Upon considering any explanation submitted by the registered person under paragraph (2)(b), the Board may —

- (a) direct that the complaint or information be dismissed;
- (b) direct that an Inquiry Committee be appointed to inquire into the complaint or information and report its findings to the Board; or
- (c) subject to paragraph (5), direct that the registration of the registered person be cancelled or, where applicable, that such other measure specified in section 20(4) of the Act be taken against him.

(4) For the purposes of paragraph (3), where the complaint or information is based on the conviction of the registered person of an offence specified in section 20(3)(g) or (h) of the Act, the Board may have regard to the record of the proceedings in court relating to that offence.

(5) The Board shall, before exercising its power under section 20(3) or (4) of the Act —

- (a) give notice of at least 21 days to the registered person of its intention to exercise the power; and
- (b) give the registered person a reasonable opportunity to be heard either personally or by counsel.

PART III

CONDUCT OF INQUIRIES

Inquiry Committees

5.—(1) For the purpose of section 20 of the Act, the Board may appoint one or more committees, to be known as Inquiry Committees, and delegate to such committees the power to inquire into any complaint or information in respect of which the Board may take action against registered persons under that section.

(2) An Inquiry Committee shall comprise such number of members as the Board may determine, and the members may include members of the Board.

(3) The Board may at any time remove any member of, or fill any vacancy in, an Inquiry Committee.

(4) A member of the Board who is a member of an Inquiry Committee inquiring into any complaint or information against a registered person —

- (a) shall not take part in any deliberation of the Board under section 20 of the Act in respect of that complaint or matter; and
- (b) shall not be included for the purpose of constituting a quorum of the Board for such deliberation.

(5) An Inquiry Committee shall, within 3 months from the date any complaint or information is referred to the Committee or such further period as the Board may grant, complete its inquiry into the complaint or information and report its findings to the Board.

Appointment of advocate and solicitor

6.—(1) The Board may appoint an advocate and solicitor or a public officer to assist the Inquiry Committee in conducting an inquiry.

(2) An advocate and solicitor appointed under paragraph (1) may be paid such fees as the Board may approve.

Notice of inquiry

7.—(1) Where any complaint or information is referred to an Inquiry Committee, the Board shall direct the Registrar to serve on the registered person a notice which shall —

- (a) specify the complaint or information which the Committee will inquire into;
- (b) state the date, time and place at which the inquiry will be held; and
- (c) be accompanied by a copy of the report of any expert witness whom the appointed counsel intends to call at the inquiry.

(2) The inquiry shall not be held earlier than 28 days after the date of the notice, except with the agreement of the registered person.

Postponement of inquiry

8.—(1) The Inquiry Committee may, of its own motion or upon the application of any party, postpone the commencement of the inquiry to such date as the Committee may determine.

(2) Any application for postponement of the commencement of an inquiry shall be —

- (a) made to the Inquiry Committee through the Secretariat of the Board;