

STATES OF JERSEY



DRAFT OPTICIANS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-

**Lodged au Greffe on 7th November 2016
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

DRAFT OPTICIANS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services, the provisions of the Draft Opticians (Registration) (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator A.K.F. Green, M.B.E.**

Minister for Health and Social Services

Dated: 1st November 2016

REPORT

The Opticians (Registration) (Jersey) Law 1962 (“the 1962 Law”) makes provision for the registration of opticians in Jersey. The 1962 Law is based on UK legislation from 1958, updated by the Opticians Act 1989. Registration as an optician in Jersey relies on the individual being registered with the General Optical Council in the UK.

The purpose of the proposed amendment is primarily a public health measure updating the 1962 Law to restrict the supply of cosmetic contact lenses, so that these can only be sold by registered opticians. The proposed amendment also provides an opportunity to make other minor changes in line with the UK Opticians Act 1989, including updating the titles used by opticians, permitting trainees to undertake sight-testing, and removing any obligation to buy optical appliances from an optician following a sight test. This will bring the Jersey Law more into line with the UK legislation.

It should be noted that the amendment is an urgent interim public health measure necessary to protect Islanders from the risk of serious harm that can be caused by cosmetic contact lenses; and that there is an intention to undertake a more comprehensive update of the Law as part of streamlining all legislation relating to professional registration under one unified Law through the legislation reform programme.

Cosmetic lenses

Cosmetic contact lenses, also known as ‘zero-powered’ or ‘plano lenses’, are used to change the colour or appearance of the eyes. Serious health risks are associated with the quality and incorrect fitting of such lenses. Using contact lenses that are unsuitable for the eyes, or using them incorrectly, can cause serious eye problems, including corneal ulcers and infections. Corneal ulcers can progress rapidly if left untreated. Uncontrolled infection can lead to corneal scarring and vision impairment. In extreme cases, blindness and eye loss may result. Other risks associated with the use of these lenses include conjunctivitis, corneal swelling, allergic reactions, corneal abrasion and reduced vision. The risks may be increased if a consumer uses someone else’s lenses. This can spread infection between users, and is dangerous.¹

In Jersey, Trading Standards have raised concerns about fancy dress shops and other unregulated retailers promoting and selling cosmetic lenses.

Titles

The 1962 Law makes reference to “ophthalmic optician” and “dispensing optician”. The term “ophthalmic optician” was replaced in the 1989 UK Law with the term “optometrist”. Optometrists are trained and qualified to carry out sight tests, diagnose and treat visual disorders or diseases that can arise, and provide prescriptions for glasses and contact lenses.

Trainees

Under the 1962 Law only “registered” medical practitioners or “ophthalmic opticians” are permitted to carry out sight testing. The proposed amendment will enable local trainees to undertake sight tests as long as this is under the supervision of a registered medical practitioner or registered optometrist.

¹ General Optical Council Guidance

Sight testing and buying optical appliances

The proposed amendment clarifies that an individual who has his or her sight tested, is under no obligation to buy optical appliances such as glasses or contact lenses from the optometrist carrying out the sight testing.

Consultation

The Jersey Local Optical Council has reviewed the draft amendment and its members are generally content with the proposals.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of the draft Law.

Human Rights

No human rights notes are annexed because the Law Officers' Department has indicated that the draft Law does not give rise to any human rights issues.

Explanatory Note

This draft Law, if passed, would amend the Opticians (Registration) (Jersey) Law 1962 in the following respects:

- (a) references to “ophthalmic optician” would be updated to the current term of “optometrist” (*Article 2*);
- (b) references to the UK Opticians Act 1958 and its provisions would be updated to refer to the Opticians Act 1989 and its equivalent provisions (*Article 3*);
- (c) trainee optometrists would be excluded from the restriction that only doctors and optometrists are permitted to test sight (*Article 4*);
- (d) the restriction on sale of optical appliances by persons other than doctors and optometrists would be extended to cover zero powered contact lenses (*Article 5*);
- (e) a person who has his or her sight tested would not be obliged to buy from any particular person an optical appliance that the test shows is required (*Article 6*).



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Arrangement

Article

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Jersey

DRAFT OPTICIANS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-

A LAW to amend further the Opticians (Registration) (Jersey) Law 1962

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Amendment of the Opticians (Registration) (Jersey) Law 1962

The Opticians (Registration) (Jersey) Law 1962¹ is amended in accordance with the following provisions of this Law.

2 Updated terminology: Articles 1, 2, 4, 6, 9, 12 and 14 amended

- (1) In the following places for the words “ophthalmic optician” there shall be substituted the word “optometrist” –
 - (a) in the definitions of “ophthalmic optician” and “registered optician” in Article 1(1);
 - (b) in Article 2(1) (in both places where occurring);
 - (c) in Article 6(2)(b);
 - (d) in Article 9(5)(b) and (7);
 - (e) in Article 12(1);
 - (f) in Article 14(1)(a) (in both places where occurring) and (2)(a).
- (2) For the definition “registered ophthalmic optician” there shall be substituted the following definition –

“‘registered optometrist’ means an individual registered as an optometrist under this Law (or as an ophthalmic optician under this law up to the commencement of the Opticians (Registration) (Amendment No. 2) (Jersey) Law 201-²);”.

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- (3) In the following places for the words “ophthalmic opticians” there shall be substituted the word “optometrists” –
- (a) in the definitions of “list” and “Register” in Article 1(1);
 - (b) in Article 4;
 - (c) in Article 6(1);
 - (d) in Article 14(2)(a).
- (4) For Article 6(2)(c) there shall be substituted the following subparagraph –
- “(c) if it is registered in the register of bodies corporate carrying on business as an optometrist or a dispensing optician, or both, maintained under section 9 of the Opticians Act.”.
- (5) In Article 9(7) for the word “ophthalmic” (where it first appears) there shall be substituted the word “optometrist”.

3 Updated references to UK Act: Articles 1 and 3 amended

- (1) In the definition of “Opticians Act” for the date “1958” there shall be substituted the date “1989”.
- (2) In Article 3(1)(a)(i) for the words “section 8” there shall be substituted the words “section 11”.
- (3) In Article 8 for the words from “rules made under section 7” to the end of the Article there shall be substituted the words “Part 2A of the Opticians Act”.

4 Exemption from restriction on testing sight by trainee optometrists: Article 12 amended

After Article 12(1) there shall be inserted the following paragraph –

- “(1A) However, an individual is exempt from paragraph (1) if the individual is –
- (a) training as an optometrist; and
 - (b) exempt from section 24(1) of the Opticians Act by virtue of rules made under section 24(3) of that Act.”.

5 Restrictions on sale and supply of zero powered contact lenses: Article 13 amended

- (1) Article 13 is amended as follows.
- (2) In paragraphs (1) and (2) after the words “optical appliance” there shall be inserted the words “or zero powered contact lens”.
- (3) In the heading and in paragraph (2)(b) after the words “optical appliances” there shall be inserted the words “or zero powered contact lenses”.

6 Article 13A inserted

After Article 13 there shall be inserted the following Article –

“13A No obligation to buy optical appliance from any particular person

A patient shall not be required, as a condition of having his or her sight tested, to agree to buy from any particular person any optical appliance that the testing of his or her sight may show that the patient is required to wear or use.”.

7 Citation and commencement

This Law may be cited as the Opticians (Registration) (Amendment No. 2) (Jersey) Law 201- and shall come into force on the 7th day following its registration.

¹ *chapter 20.750*
² *P.120/2016*