

1. Is the Act achieving its purpose? Please explain.

No! The purpose of the Act is to act in the best interests of population by improving the access, availability and quality of health services. However, the net result was in particular to give the Optometrists and Dispensing Opticians Board the ability to act with impunity to set draconian measures to limit the immigration of UK optometrists into New Zealand.

NB: All my comments are directed at the Opticians and Dispensing Opticians Board (ODO Board)

2 What evidence supports your answer?

Numerous submissions both individually and by three organisations representing the main employers of optometrists in NZ who collectively in turn account for recruitment for some 80% of practices in NZ. Submissions have been made to the Board itself, to professional bodies who until recently effectively controlled who was placed on the Board, to the Minister of Health, to the Commerce Commission, The Ombudsman and the Health and Disability Commission. The Government bodies referred to all say they have no jurisdiction and can only suggest an approach to the Minister of Health who when asked to comment merely intimated complete faith in the Board and referred the complaint back to the Board.

3 What, if any, comments do you have on the adequacy of evidence available about the success of the Act and any changes needed – including, for example, any reporting requirements that might ensure more open access to evidence that the Act is being effective.

See above. There should be a means of arbitration, not simply a referral back to the Board in question.

4 Are the provisions in section 7 of the Act operating in a way that ensures that non-qualified persons do not claim or imply to be qualified practitioners and what, if any, changes do you recommend (note that issues around enforcing breaches are dealt with in the section titled 'Enforcement of the Act' which is set out below)?

Yes

5. Are the provisions in section 8 operating effectively and what, if any, changes would you recommend?

6 Are the provisions in section 9 and the current list of restricted activities operating effectively and what, if any, changes, amendments or additions would you recommend?

Yes

7. Is the Ministry approach to enforcement of the Act in keeping with the purpose of the Act and what, if any, changes would you recommend?

No! See foregoing with regard to complaint to Minister

8. Are scopes of practice achieving their intent? Please explain.

With regard to the ODO Board there is total dictatorial control in the setting of scopes of practice

9. What, if any, comments do you have on the operation of the powers that registration authorities hold to allow conditions or authorisations on individuals' scopes of practice?

The ODO Board is able to abuse the powers invested in it and has done so.

10. Is the process for developing scopes of practice operating well (eg, are there suitable mechanisms for ensuring scopes of practice reflect service need) and what, if any, changes would you recommend?

There are no suitable mechanisms and what mechanisms there are do not reflect the public's availability to optometry service in the provinces and have effectively placed a restraint of trade on the practitioners

11. Do prescribed qualifications reflect scopes of practice? Please explain with reference to particular scopes of practice and considering whether a) the levels of qualification are too low or too high when considering their purpose of assuring public safety, and b) whether they meet the requirements of section 13.

Yes

12. With regard to their purpose of assuring the competence of registered professionals, how well are the current recertification regimes working (where possible refer to particular professions)?

They work very well for the purpose of the ODO Board.

13. What changes, if any, are needed to improve the evidence available to answer the previous question?

The facility to make submissions to an arbitrary body.

14. Where recertification arrangements are in place, what issues arise and what changes, if any, would you suggest (eg, in respect of the nature of the programmes, the level of compliance, monitoring practitioners' compliance, the costs and other impacts on practitioners employers etc)?

The current system is acceptable with regard to the ODO Board

15. Where recertification programmes have not been introduced how do the authorities assure competence, and are there ways that these processes could be improved?

N/A

16. What would be the gains or problems associated with requiring all authorities to institute recertification programmes?

Recertification is necessary as long as the demands are reasonable.

17. Registration authorities have to judge when a practitioner 'may pose a risk of harm to the public' and trigger notification: is this working effectively and what, if any, suggestions do you have to improve effectiveness?

Current system is OK

18. Is it appropriate that authorities must notify a particular set of agencies: what changes, if any, are needed?

Not able to comment

19. At what times, if any, other than when there is a concern of a risk of harm to the public, should a registration authority exercise its power to review the competence of a health practitioner?

None. The given power should only be exercised appropriately and only where there is risk to the public.

20. Is voluntary reporting by practitioners of possibly unfit practitioners working, on what do you base this opinion, and, in the light of experience, what are your views on making it a requirement to report concerns about a possibly unfit practitioner?

This should certainly be a requirement.

21. Is compulsory reporting by employers of possibly unfit practitioners working, on what do you base this opinion?
Yes - personal experience.
22. Are the interests of the public and of practitioners being balanced when dealing with the risk of harm from practitioners who are deemed to fail to meet required standards of competence? Please explain.
Personal experience in handling a complaint about an employed optometrist in my practice.
23. In practice, do competence and recertification programmes differ, are both sets of provisions needed or should changes be made?
24. Should any other parties be obliged to inform the registrar of a practitioner's inability to perform their required functions because of a mental or physical condition?
Yes, any other health professional dealing with said practitioner
25. Are the interests of the public and of practitioners being balanced when dealing with fitness to practise issues? Please explain.
No, see previous comments with regard to accessibility and restraint of trade. Not only is access denied but practices where there is a shortfall of employed optometrist still carry the same overheads and are forced to offer salaries which escalate further compromising profitability and cause increased cost to clients.
26. Are protected QAAs operating in areas you are familiar with: are they valuable, are there any problems, are the reporting requirements appropriate, should there be any changes to the QAA arrangements, should QAAs continue? Please explain.
27. Are PCCs being used by the registration authorities you are familiar with, how often and for what reasons?
28. To what extent is the suspension of an annual practising certificate and referral of a practitioner to the HPDT effective in protecting the public?
29. What, if any, additional steps should be taken into account when determining to suspend an annual practising certificate?

30. What, if any, benefits or problems have arisen from having a single tribunal for all regulated professions and what, if any, changes would you recommend?
31. Is the current membership structure of the HPDT operating and are there any changes you would recommend (for example, the mix, the selection and appointment processes, training of members)?
32. Is there a need for the HPDT to have the capacity to deal with multi-practitioner/ team-based disciplinary matters and, if so, how should this be organised?
33. Are the current arrangements for financing and supporting the HPDT, appropriate and what, if any, changes would you recommend (including the costs of taking cases to the tribunal and sustaining the operation of the tribunal)?
34. Are the appeal provisions operating well and what, if any, changes would you recommend?
35. How do you think the current number and mix of professions and authorities is operating and what, if any, changes do you think should be made?
36. Are the provisions for adding new professions or health services working and what, if any, changes would you make?
37. Are the current membership and appointment provisions working (eg, is the size and mix right, are people with the best skills being appointed, should the power to hold elections be retained and/or used, are lay and professional members appropriately trained and supported) and what changes, if any, would you recommend?
38. What deletions, amendments or additions, if any, do you recommend to the list of functions – and why?

39. How well are authorities carrying out their functions and what changes, if any, do you recommend?
40. Are there any specific legislative requirements that regulatory authorities are currently subject to that they should not be? Please explain.
41. Are there any specific legislative requirements that regulatory authorities should be subject to that they are currently not? Please explain.
42. To what extent are the current powers of the Minister of Health appropriate to the purpose and effectiveness of the Act and what changes, if any, do you recommend?
43. What changes, if any, do you recommend to matters covered by the provisions of Part 7 of the Act?
44. What changes, if any, do you recommend to specific wording in the Act in order to clarify or address technical issues not otherwise covered already?
45. What, if any, other matters are you aware of in respect of the operation of the Act and what changes do you recommend?