



Jersey

# **OPTICIANS (REGISTRATION) (JERSEY) LAW 1962**

## **Official Consolidated Version**

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Jersey

## OPTICIANS (REGISTRATION) (JERSEY) LAW 1962

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Jersey

## OPTICIANS (REGISTRATION) (JERSEY) LAW 1962<sup>1</sup>

A LAW requiring the registration of ophthalmic and dispensing opticians, to provide for the enrolment of bodies corporate carrying on business as opticians, to regulate the practice of opticians and the conduct by such bodies corporate of their business as opticians, and for purposes connected therewith

Commencement [[see endnotes](#)]

### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Commission” means the Health and Social Care Commission established by Article 35 of the [Regulation of Care \(Jersey\) Law 2014](#);

“Court” means the Inferior Number of the Royal Court;

“dispensing optician” means an individual engaged or proposing to engage in the fitting and supply of optical appliances;

“enrolled” means enrolled in either of the lists;

“list” means the list of bodies corporate carrying on business as optometrists or the list of bodies corporate carrying on business as dispensing opticians;

“optical appliance” means an appliance designed to correct, remedy or relieve a defect of sight;

“Opticians Act” means the Opticians Act 1989 of the United Kingdom;

“optometrist” means an individual engaged or proposing to engage in the testing of sight (otherwise than as a registered medical practitioner), whether or not the individual is also engaged or proposing to engage in the fitting and supply of optical appliances;

“prescribed” means prescribed by Order made by the Chief Minister under this Law;

“Register” means either of the registers of optometrists or the register of dispensing opticians kept in pursuance of the Opticians Act;

“registered dispensing optician” means an individual registered as a dispensing optician in pursuance of this Law or of the Law repealed by this Law;

“registered medical practitioner” has the same meaning as in the [Medical Practitioners \(Registration\) \(Jersey\) Law 1960](#);

“registered optician” means a registered optometrist or a registered dispensing optician, and “registration” shall be construed accordingly;

“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 2017);

“test the sight” means test the sight with the object of determining whether there is any and, if so, what defect of sight and of correcting, remedying or relieving any such defect of an anatomical or physiological nature by means of an optical appliance prescribed on the basis of the determination.<sup>2</sup>

- (2) References in this Law to any other enactment (including an enactment of the Parliament of the United Kingdom) shall be construed as references thereto, as amended and as including references thereto as extended, by or under any subsequent enactment.

## **2 Individuals who may be registered**

- (1) No individual shall be registered as an optometrist in pursuance of this Law unless he or she is duly registered as an optometrist in pursuance of the Opticians Act.<sup>3</sup>
- (2) No individual shall be registered as a dispensing optician in pursuance of this Law unless he or she is duly registered as a dispensing optician in pursuance of the Opticians Act.

## **3 Registration**

- (1) An application for registration in pursuance of this Law shall be made to the Court and shall be accompanied by either –
- (a)
- (i) a copy of the last official edition of the Register published in accordance with section 11 of the Opticians Act, and
- (ii) the certificate or certificates of qualification by virtue of which the applicant was registered in the Register; or
- (b) a certificate under the hand of the Registrar of the General Optical Council to the effect that the applicant is registered in the Register and specifying the qualifications by virtue of which he or she was so registered.<sup>4</sup>
- (2) Where the applicant is an alien, the Court may require the applicant to produce a duly authenticated certificate of good character.
- (3) The qualifications by virtue of which an individual is registered in pursuance of this Law shall be set out in the act of the Court ordering the registration.

## **4 Roll of registered opticians to be kept**

The Judicial Greffier shall make and keep posted in the Lobby of the Royal Court House a roll of registered optometrists and a roll of registered dispensing opticians, showing their names and addresses and the qualifications by virtue of which they were registered.<sup>5</sup>

## **5 Penalty for abuse of certificates or fraudulently obtaining registration**

If any individual –

- (a) with intent to deceive, forges, or uses, or lends to or allows to be used by any other individual, a certificate of registration or other certificate issued under the Opticians Act, or a certificate of qualification entitling the individual to be registered in the Register, or makes or has in the individual's possession a document so closely resembling any such certificate as aforesaid as to be calculated to deceive; or
- (b) obtains or attempts to obtain the registration of the individual as an optician in pursuance of this Law by assuming the name or qualifications of another individual,

he or she shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.<sup>6</sup>

## **6 Lists of bodies corporate carrying on business as opticians**

- (1) The Commission shall continue to maintain a list of bodies corporate carrying on business as optometrists and a list of bodies corporate carrying on business as dispensing opticians, each containing the names, principal places of business and such other particulars as may be prescribed of the bodies which are entitled under the following provisions of this Law to be enrolled therein and which apply in the prescribed manner to be so enrolled.<sup>7</sup>
- (2) A body corporate shall be entitled to be enrolled in the appropriate list –
  - (a) if it satisfies the Commission that a majority of its directors are registered opticians or, in the case of a body corporate having only one director, that the director is a registered optician; or
  - (b) if it satisfies the Commission that the greater part of its business consists of activities other than the testing of sight and the fitting and supply of optical appliances and that so much of its business as consists of the testing of sight is carried on under the management of a registered optometrist and that so much thereof as consists of the fitting and supply of optical appliances is carried on under the management of a registered optician;
  - (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.<sup>8</sup>

## **7 Supplementary provisions as to lists**

- (1) The Chief Minister may by Order make provision with respect to the form and keeping of lists and the making of entries and alterations therein and, in particular –
  - (a) regulating the making of applications for enrolment or for transfer from one list to another, and providing for the evidence to be produced, in support of any such application;
  - (b) providing for the notification to the Commission of any change in the particulars entitling a body corporate to be enrolled;

- (c) prescribing a fee to be charged on the entry of a name in, or the restoration of a name to, the list;
  - (d) prescribing a fee to be charged in respect of the retention in the list of any name in any year subsequent to the year in which that name was first entered in the list;
  - (e) providing that the entry of a name in, or the restoration of a name to, the list may be refused until a fee prescribed for the entry or restoration has been paid, and that the name of a body corporate may be erased from the list if, after the prescribed notices and warnings, the body corporate fails to pay the fee prescribed in respect of the retention of that name in the list;
  - (f) prescribing anything required or authorized to be prescribed by the provisions of this Law relating to the lists.<sup>9</sup>
- (2) An Order under this Article which provides for the erasure of a name from the list on failure to pay a fee shall provide for its restoration thereto on the making of the prescribed application in that behalf and on payment of that fee and any additional fee prescribed in respect of the restoration.
- (3) An Order under this Article prescribing fees may provide for the charging of different fees in different classes of cases.
- (4) <sup>10</sup>

## **8 Procedure where the names of opticians are erased from the register kept by the registrar of the General Optical Council**

The Court shall, on the motion of the Attorney General, order that the registration of any registered optician be cancelled where the name of the optician has been erased from the Register by virtue of Part 2A of the Opticians Act.<sup>11</sup>

## **9 Power of court to cancel registration or to order erasure from list**

- (1) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled where the optician –
- (a) has been convicted in Jersey of a crime or misdemeanour or has been convicted, either in Her Majesty's dominions or elsewhere, of an offence which, if committed in Jersey, would be a crime or misdemeanour; or
  - (b) has been guilty of infamous or disgraceful conduct in a professional respect.
- (2) The Court may, on the motion of the Attorney General, order that the name of any enrolled body corporate be erased from the list where –
- (a) the body corporate has been convicted of an offence under this Law, or of aiding, abetting, counselling or procuring the commission of, or inciting another person to commit, such an offence; or
  - (b) the Court is of opinion that the conditions, or any of the conditions, for the enrolment of the body corporate are no longer satisfied.
- (3) Where a registered optician dies while he or she is either a director of an enrolled body corporate or the manager of that part of the business of an enrolled body corporate which consists of the testing of sight or the fitting and supply of optical appliances, he or she shall be deemed, for the purposes of this paragraph, to have

continued to be a director of that body or a manager of that part of its business, as the case may be, until the expiration of the 3 months beginning with the date of his or her death or until a director or manager is appointed in his or her place, whichever first occurs.

- (4) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court that the optician or body corporate has contravened or failed to comply with the provisions of any Order made under Article 18 and that the contravention or failure is such as to render the optician unfit to be registered or the body corporate unfit to have its name on the list.
- (5) The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court –
  - (a) that the optician or body corporate is engaged in the fitting and supply of optical appliances; and
  - (b) that the arrangements made by the optician or body corporate for carrying on the optician's practice or the optician or body corporate's business are not such as to secure that the fitting and supply of optical appliances in the course of that practice or business are carried out by, or under the supervision of, a registered optometrist engaged or proposing to engage both in the testing of sight and in the fitting and supply of optical appliances, or a registered dispensing optician.<sup>12</sup>
- (6) The Court may, on the motion of the Attorney General, order that the name of any enrolled body corporate be erased from the list where –
  - (a) the registration of a director of the body corporate is cancelled under Article 8 or under paragraph (1) of this Article;
  - (b) a director of the body corporate is convicted of an offence under this Law; or
  - (c) the registration of a registered optician employed by the body corporate is cancelled under Article 8 or under paragraph (1) of this Article and the act or omission constituting the ground on which it was cancelled was instigated or connived at by a director of the body corporate, or, if the act or omission was a continuing act or omission, a director of the body corporate had, or reasonably ought to have had, knowledge of the continuance thereof:

Provided that the Court shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in this paragraph being rendered inapplicable in that case or while any such proceedings are pending.

- (7) Where it appears to the Court that a body corporate which carries on business as an optometrist or dispensing optician at more than one set of premises is liable to have its name erased from the list under this Article and that the events giving rise to the liability were confined, or substantially confined, to a particular set of premises, the Court may, instead of ordering the erasure of the name of the body corporate from the list, order that the body corporate shall not use the title of optometrist, dispensing optician, registered optician or enrolled optician in connection with that set of premises; and if at any time thereafter it appears to the Court that the body corporate has contravened an order in force under this paragraph, the Court may, if it thinks fit, order the erasure of the name of the body corporate from the list.<sup>13</sup>

- (8) No order shall be made under this Article unless the registered optician or body corporate concerned has been given an opportunity of showing cause why the order should not be made.

## **10 Cancellation of registration and erasure from list on grounds of fraud or error**

The Court may, on the motion of the Attorney General, order that the registration of any registered optician be cancelled or that the name of any enrolled body corporate be erased from the list where it appears to the Court that the registration of the optician or the entry of the name in the list has been fraudulently made or that any matter relating to the registration or entry is incorrect.

## **11 Re-registration of individuals and restoration of names erased**

- (1) Where the registration of an individual has been cancelled or the name of a body corporate has been erased from the list in pursuance of an order made under Article 8, 9 or 10, that individual shall not be registered or, as the case may be, the name of that body corporate shall not be entered in either of the lists unless the Court, on an application made in that behalf, has rescinded the order.
- (2) The reference in paragraph (1) of this Article to an order made under Article 9 shall include a reference to an order of the Royal Court made under Article 5 of the Opticians (Registration) (Jersey) Law 1951.

## **12 Restriction on testing of sight**

- (1) An individual who is not a registered medical practitioner or a registered optometrist shall not test the sight of another individual.<sup>14</sup>
- (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.<sup>15</sup>
- (2) Any individual who contravenes the provisions of this Article shall be liable to a fine not exceeding level 3 on the standard scale.<sup>16</sup>

## **13 Restriction on sale of optical appliances or zero powers contact lenses<sup>17</sup>**

- (1) Subject to the following provisions of this Article, a person shall not sell any optical appliance or zero powered contact lens unless the sale is effected by or under the supervision of a registered medical practitioner or of a registered optician.<sup>18</sup>
- (2) Paragraph (1) shall not apply to the sale of an optical appliance or zero powered contact lens –
- (a) to a registered medical practitioner, registered optician or enrolled body corporate for the purposes of his or her practice or of his, her or its business;
  - (b) to a manufacturer of or dealer in optical appliances or zero powered contact lens for the purposes of his or her business;



- (c) to any authority or person carrying on a hospital, clinic, nursing home or other institution providing medical or surgical treatment;
  - (d) to a department of Her Majesty's Government or of the States; or
  - (e) for the purposes of its export.<sup>19</sup>
- (3) Paragraph (1) of this Article shall not apply to a sale for a person not under the age of 16 of spectacles which have two single vision lenses of the same positive spherical power not exceeding 4 dioptries, where the sale is wholly for the purpose of correcting, remedying or relieving the condition known as presbyopia.<sup>20</sup>
- (4) For the purposes of paragraph (3) of this Article, lenses are to be taken to have the same positive spherical power if the difference between them is within the tolerances relating to the power of such lenses specified from time to time in the British Standard Specification.<sup>21</sup>
- (5) On any prosecution for selling an optical appliance in contravention of paragraph (1), it shall be a defence for the defendant to prove that the defendant sold the appliance as an antique article and that the defendant did not know, and had no reason to believe, that the appliance was bought for the purpose of being used for correcting, remedying or relieving a defect of sight.
- (6) Any person who contravenes the provisions of this Article shall be liable to a fine not exceeding level 3 on the standard scale.<sup>22</sup>

### **13A No obligation to buy optical appliance from any particular person<sup>23</sup>**

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.

## **14 Restriction on use of optician's titles**

- (1) Any individual –
- (a) who takes or uses any of the following titles (either alone or in combination with any other words) in the circumstances mentioned in relation thereto, that is to say, the title of optometrist when the individual is not a registered optometrist, or the title of dispensing optician, registered optician or enrolled optician when the individual is not a registered optician; or
  - (b) who takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that the individual is a registered optician,
- shall be liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.<sup>24</sup>
- (2) Any body corporate –
- (a) which takes or uses any of the following titles (either alone or in combination with any other words) in the circumstances mentioned in relation thereto, that is to say, the title of optometrist when it is not enrolled in the list of bodies corporate carrying on business as optometrists or the title of dispensing optician when it is not enrolled in the list of bodies corporate carrying on business as dispensing opticians, or which takes or uses the title

of registered optician or enrolled optician, when it is not enrolled in either of the lists; or

- (b) which takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that it is enrolled in either of the lists,

shall be liable to imprisonment for a term of 12 months and to a fine of level 3 on the standard scale.<sup>25</sup>

## **15 Provision as to death or bankruptcy of registered optician**

- (1) Where a registered optician dies at a time when he or she is carrying on business or is in practice as an optician, then during the 3 years beginning with his or her death or such longer period as the Commission may in any particular case allow, Article 14 shall not operate to prevent the registered optician's personal representatives, widow or any of his or her children on behalf of the widow or any of his or her children from taking or using in relation to that business or practice, but in conjunction with the name in which he or she carried it on, any title which he or she was entitled to take or use immediately before his or her death.<sup>26</sup>
- (2) Where a registered optician becomes bankrupt at a time when he or she is carrying on business or is in practice as an optician, then, during the 3 years beginning with the bankruptcy, Article 14 shall not operate to prevent the person entrusted with the administration of the registered optician's property from taking or using in relation to that business or practice, but in conjunction with the name in which the registered optician carried it on, any title which the registered optician was entitled to take or use immediately before the bankruptcy.
- (3) Where, by virtue of the foregoing provisions of this Article, any title in relation to the business or practice of a deceased optician or an optician who has become bankrupt is taken or used, and an offence under Article 12 or 13 is committed in the course of that business or practice, the Commission may, if it thinks fit, direct that the said paragraph (1) or, as the case may be, the said paragraph (2) shall cease to apply in relation to that business or practice.<sup>27</sup>

## **16 Offences by bodies corporate**

Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any individual purporting to act in any such capacity, he or she, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## **17 Consultation with registered opticians**

- (1) The Commission shall nominate not less than 2 and not more than 4 registered opticians, with whom it shall consult before making any Order under Article 18, and from whom the Commission may seek advice on the discharge of its functions generally under this Law.<sup>28</sup>
- (2) Any such nomination may be terminated at any time by the Commission should it so think fit.<sup>29</sup>

**18 Miscellaneous matters with respect to which Orders may be made**

- (1) Subject to the provisions of Article 17 and paragraph (2) of this Article, the Chief Minister may by Order prohibit or regulate –
  - (a) the use by registered opticians and enrolled bodies corporate of any means of giving publicity, whether by advertisements or not, to their practice or business of ophthalmic or dispensing opticians;
  - (b) the carrying on of practice or business by registered opticians and enrolled bodies corporate under names other than those under which they are registered or enrolled;
  - (c) the administration of drugs by registered opticians, enrolled bodies corporate and their employees in the course of their practice or business of ophthalmic or dispensing opticians;
  - (d) the practice of orthoptics by registered opticians, enrolled bodies corporate and their employees;
  - (e) the prescription, supply and fitting by registered opticians, enrolled bodies corporate and their employees of contact lenses.<sup>30</sup>
- (2) The power of the Chief Minister to make Orders by virtue of paragraph (1)(a) shall not include power to prohibit the display, for the purposes of the practice or business of a registered optician or enrolled body corporate, of optical appliances or parts of optical appliances on premises where the fitting and supply of optical appliances is being carried on as part of that business or practice or in any building comprising those premises.<sup>31</sup>
- (3) Subject to the provisions of Article 17, the Chief Minister may by Order provide that where it appears to a registered optician that an individual consulting him or her is suffering from an injury or disease of the eye, the optician shall, except in an emergency or where that individual is consulting him or her for the purpose of being given treatment in accordance with any Order made under paragraph (1)(d) or any such other cases as may be prescribed by the Order, being cases in which it is, owing to special circumstances, impracticable or inexpedient so to do, take the prescribed steps to refer that individual to a registered medical practitioner for advice and treatment.<sup>32</sup>
- (4) Any Order made under this Article may make different provision for different classes of cases.

**19 General provision as to orders**

The [Subordinate Legislation \(Jersey\) Law 1960](#), shall apply to Orders made under this Law.

**20 Citation**

This Law may be cited as the Opticians (Registration) (Jersey) Law 1962.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	°Projet No (where applicable)
Opticians (Registration) (Jersey) Law 1962	<a href="#">L.23/1962</a>	Articles 1, 6, 7, 17, 18, 19, 21 in force 1 December 1962, remainder in force 1 March 1963 ( <a href="#">R&amp;O.4392</a> )	
Opticians (Registration) (Amendment) (Jersey) Law 2003	<a href="#">L.38/2003</a>	14 November 2003	<a href="#">P.61/2003</a>
States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005	<a href="#">R&amp;O.45/2005</a>	9 December 2005	<a href="#">P.59/2005</a>
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	<a href="#">R&amp;O.126/2005</a>	9 December 2005	<a href="#">P.203/2005</a>
<a href="#">Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016</a>	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )	<a href="#">P.87/2015</a>
Opticians (Registration) (Amendment No. 2) (Jersey) Law 2017	<a href="#">L.13/2017</a>	19 May 2017	<a href="#">P.120/2016</a>
<a href="#">Regulation of Care (Transfer of Functions) (Jersey) Regulations 2018</a>	<a href="#">R&amp;O.120/2018</a>	1 January 2019	<a href="#">P.128/2018</a>
<a href="#">States of Jersey (Transfer of Functions – Regulation of Care) (Jersey) Order 2018</a>	<a href="#">R&amp;O.141/2018</a>	1 January 2019	

°Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
9(3)	9(4)
(4)	(5)
(5)	(6)
(6)	(7)
(7)	(8)
13 (2A)	13 (3)
(2B)	(4)
(3)	(5)
(4)	(6)
20	spent, omitted from this revised edition
21	20

## Table of Endnote References

<sup>1</sup>	<i>This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
<sup>2</sup> Article 1(1)	<i>amended by L.13/2017, R&amp;O.120/2018, R&amp;O.141/2018</i>
<sup>3</sup> Article 2(1)	<i>amended by L.13/2017</i>
<sup>4</sup> Article 3(1)	<i>amended by L.13/2017</i>
<sup>5</sup> Article 4	<i>amended by L.13/2017</i>
<sup>6</sup> Article 5	<i>amended by L.38/2003</i>
<sup>7</sup> Article 6(1)	<i>amended by L.13/2017, R&amp;O.120/2018</i>
<sup>8</sup> Article 6(2)	<i>amended by L.13/2017, R&amp;O.120/2018</i>
<sup>9</sup> Article 7(1)	<i>amended by R&amp;O.120/2018, R&amp;O.141/2018</i>
<sup>10</sup> Article 7(4)	<i>repealed by R&amp;O.126/2005</i>
<sup>11</sup> Article 8	<i>amended by L.13/2017</i>
<sup>12</sup> Article 9(5)	<i>amended by L.13/2017</i>
<sup>13</sup> Article 9(7)	<i>amended by L.13/2017</i>
<sup>14</sup> Article 12(1)	<i>amended by L.13/2017</i>
<sup>15</sup> Article 12(1A)	<i>inserted by L.13/2017</i>
<sup>16</sup> Article 12(2)	<i>substituted by L.38/2003</i>
<sup>17</sup> Article 13	<i>heading amended by L.13/2017</i>
<sup>18</sup> Article 13(1)	<i>amended by L.13/2017</i>
<sup>19</sup> Article 13(2)	<i>amended by L.13/2017</i>
<sup>20</sup> Article 13(3)	<i>inserted by L.38/2003</i>
<sup>21</sup> Article 13(4)	<i>inserted by L.38/2003</i>
<sup>22</sup> Article 13(6)	<i>substituted by L.38/2003</i>
<sup>23</sup> Article 13A	<i>inserted by L.13/2017</i>
<sup>24</sup> Article 14(1)	<i>amended by L.38/2003, L.1/2016, L.13/2017</i>
<sup>25</sup> Article 14(2)	<i>amended by L.38/2003, L.1/2016, L.13/2017</i>
<sup>26</sup> Article 15(1)	<i>amended by R&amp;O.120/2018</i>
<sup>27</sup> Article 15(3)	<i>amended by R&amp;O.120/2018</i>
<sup>28</sup> Article 17(1)	<i>amended by R&amp;O.120/2018</i>
<sup>29</sup> Article 17(2)	<i>amended by R&amp;O.120/2018</i>
<sup>30</sup> Article 18(1)	<i>amended by R&amp;O.141/2018</i>
<sup>31</sup> Article 18(2)	<i>amended by R&amp;O.141/2018</i>
<sup>32</sup> Article 18(3)	<i>amended by R&amp;O.141/2018</i>