

PRACTICE GUIDANCE NOTE 2014/3

CERTIFICATION OF LEGAL PRACTITIONERS ACCOUNTS

1. Background

The *Legal Practitioners Act*, chapter 30 of the laws of Zambia herein referred to as the Act, under Part VIII, provides that the Legal Practitioner is required to maintain “practitioner’s books and accounts” necessary to show and distinguish between the practices’ moneys and those held for the client. In respect to the client money, the legal practitioner is required to maintain/hold a savings or current account with a financial institution in which clients moneys are to be held, separate from the practices’.

Legal Practitioners (Accountants Certification) Regulation requires that every practice year a practitioner delivers to LAZ a certificate (“Accountant Certificate”) which certifies that the legal practitioner had complied with the provisions Part VIII of the *Legal Practitioners Act*. With regards to the qualification of the accountant, regulation 7 the *Legal Practitioners (Accountants Certification) Regulation* provides that any unrestricted member of the Zambia Association of Accountants (assumed now ZICA), The Institute of Chartered Accountants in England and Wales, The Institute of Chartered Accountants in Ireland, The Institute of Chartered Accountants of Scotland or The Association of Certified Accountants of England and Wales is duly qualified to provide “Accountant Certificate”.

Given that the peculiar nature of the service involved, eligibility of members who can provide the certification and concerns issued by several members of ZICA, the Institute (ZICA) has seen the need to provide guidance on the Accountants Certification.

2. Issues in certification

- a) **Nature of report:** The Schedule to the *Legal Practitioners (Accountants Certification) Regulation* provides a standard report format for the “Accountant Certificate” (see appendix 1). The nature of the report assumes a subject matter and the existence of a third party to whom an assurance is being provided. Therefore, “Accountant Certificate” bring about an assurance service. The accountant therefore does well to consider International Standards on Assurance Engagements such as *International Standard on Assurance Engagements- Assurance Engagement other than Audit or Review of Historical Financial information- ISAE 3000*. Furthermore, International Standards on Auditing (ISA’s) can be used to aid the engagement performance.

b) **Qualification of Accountant:** The *Legal Practitioners (Accountants Certification) Regulation* presents that any member of a professional (local or international) body qualifies to provide an “*Accountants Certification*”. Nonetheless, the Accountants Act, No. 13 of 2008 which repealed the 1982 Act which regulates accountants in Zambia, restricts the provision of service to the public, especially assurance service only to registered and licensed members of ZICA. Therefore the Accountants Act under section 19 provides that:

(1) A chartered accountant shall apply for a practising certificate or a non-audit practising certificate in the prescribed manner and form upon payment of the prescribed fee.

(2) The Institute shall, where an applicant—

(a) has been certified by a professional body or a body recognised under section thirteen to have complied with the education and training requirements; and

(b) has passed the competence practice examination set by the Institute and has obtained competence to practice and a period of more than seven years has elapsed between the date of complying with the education and training requirements and the date of the application; issue the applicant with a practising certificate or a non-audit practising certificate in the prescribed form.

(3) The Institute shall, where it issues a practising certificate or a non-audit practising certificate, enter the name of the chartered accountant in the Register.

and

20 (1) A person shall not set up in practice as a chartered accountant or be a partner in any such practice, unless that person holds a practising certificate or a non-audit practising certificate issued by the Institute under this Act.

3. Guidance

a) **Nature of report:** The reporting is guided by the *Legal Practitioners (Accountants Certification) Regulation*. The Accountant will be in conformity by implementing the standard as provided by *ISAE 3000, Para. 30, 67-78 and A158-192 when drafting*. *ISAE 3000* provides for the whole process from the engagement stage to reporting stage. Hence being appropriate for such a service.

b) **Qualification of Accountant:** Only registered and licensed ZICA members can and are allowed to provide the certification prescribed by the *Legal Practitioners (Accountants Certification) Regulation*. Any member without a valid practicing license providing this service may be contravening with provision of the Accountant’s Act as provided under section 18 and 21 (1) as the case may be.

4. Effective Date

The Institute wishes to notify the general public and the members of the accountancy profession that with immediate effect, any member issuing Accountants Certification without a practicing license or registered under the Accountants Act will be disciplined and reported to relevant authority for action and/or prosecution.

LAZ and ZICA are discussing sharing of names of accountants and firms signing the “Accountants Certificates”. Kindly note that the Institute (ZICA) has provided LAZ with a list of fully paid up practicing Accountants and their firm who are eligible to provide such a service.

See the attached discussion context for a detailed discussion on the subject matter.

You may contact the undersigned to clarify any matter related to the foregoing.

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DISCUSSION CONTEXT

Question	Reasoned Response	Source
<p><i>Should the requirement of Legal Practitioners Act be considered as an agreed upon engagement?</i></p>	<p>Considering the format and wording of the certification contained in the Regulation, the accountant here is providing an assurance on the subject matter and reporting to a third party.</p> <p>The report specifically states “<i>I.....having examined the books, accounts and documents of the above-named practitioner or relating to the above practice(s) produced to me and I hereby certify that.... regulation 8 of the said Regulations, and from the explanations and information given to me, I am satisfied that-</i>“</p> <p>Para 5. ISRS 4400- indicates that although the work performed in an agreed upon engagement is of audit nature (Para 4), the engagement in an agreed upon engagement is not an assurance engagement and therefore not applicable to the “Accountants Certification”</p>	<p>Section 90- <i>The Legal Practitioners (Accountants Certification) Regulation</i> (the schedule).</p> <p><i>Refer to International Framework for Assurance Engagements Para. 7-14 and Para. 20.</i></p> <p><i>International Standard on Related Services 4400-Engagement to Perform Agreed –Upon Procedures Regarding Financial Information (ISRS 4400).</i></p>

Question	Reasoned Response	Source
<p><i>If the Certification is an Assurance, should the accountant use International Standards on Auditing (ISA)?</i></p>	<p>ISA are part of the IAASB engagement standard for assurance services, however the focus of ISA audit is on (full set of) financial statements. Therefore not applicable to the Accountant Certification. However, ISA's are helpful for other assurance services, such as this.</p> <p>The Certification is neither a limited assurance and nor financial statement audit. Therefore, the use of ISAE is encouraged. Specifically ISAE 3000 provides guidance in this regards.</p>	<p><i>Para 11. of the preface on International Quality Control , Audit, Review and Other Assurance and Related Services.</i></p> <p><i>International Standard on Assurance Engagements- Assurance Engagement other than Audit or Review of Historical Financial information- ISAE 3000 and International framework for Assurance Engagements Para. 3and 7</i></p>
<p><i>The Lawyers' Act allows chartered accountants to provide an accountants certificate. Does that mean that any chartered Accountant without a practicing license (to practice in Zambia) can provide this service?</i></p>	<p>The <i>Legal Practitioners (Accountants Certification) Regulation-</i> Regulation 8 qualifies members of any professional body for the purpose of the Certification. However, as the certification is an assurance service (as discuss above) and a service to the public there is a need to call on the requirement of the Accountants Act.</p> <p>The Accountants Act Section 24, Criminalizes the provision of services to the public unless one is a registered accountant (<i>referred to as holding out</i>). In addition to being a registered Accountant Section 25 requires that for a registered member to practice or provide services to the public (including assurance services) that the registered member needs to have a practicing license issued by ZICA.</p> <p>Therefore, only registered members of ZICA with valid practicing licenses can provide the Certification required by the <i>Legal Practitioners (Accountants Certification) Regulation</i>.</p> <p>Any accountant without the requisite registration and license commits a criminal wrong in provide an "<i>Accountants Certificate</i>".</p>	<p><i>Accountants Act-Section 24 and 25</i></p>

Appendix 1

FORM OF ACCOUNTANT'S CERTIFICATE

(Regulation 9)

NOTE.-In the case of a firm with a number of partners, carbon copies of the certificate may be delivered provided section 1 below is completed on each certificate with the name of the individual practitioner.

1. Practitioner's full name
2. Firm(s) name(s) and address(es)

NOTE.-All addresses at which the practitioner(s) practice(s) must be covered by an accountant's certificate or certificates.

3. State whether practicing alone or in partnership
4. Accounting period(s)

NOTE.-The period(s) must comply with the Legal Practitioners (Accountant's Certificate) Regulations.

In compliance with the Legal Practitioners (Accountant's Certificate) Regulations, I, _____, have examined the books, accounts and documents of the above-named practitioner or relating to the above practice(s) produced to me and I hereby certify that from my examination pursuant to regulation 8 of the said Regulations, and from the explanations and information given to me, I am satisfied that-

*(1) during the above-mentioned period(s) he has complied with the provisions of Part VIII of the Legal Practitioners Act except so far as concerns-

(a) certain trivial breaches due to clerical errors or mistake(s) in book-keeping, all of which were rectified on discovery; I am satisfied that none of such breaches resulted in any loss to any client;

(b) the matters set out on the back hereof;

*(2) having retired from active practice as a practitioner the said ceased to hold client's money on the

Particulars of the Accountant:

Full name

Qualifications

Firm name

Address

Signature

Date

To the Secretary

The Law Association of Zambia

P.O. Box 34271

Lusaka

*Delete clause not applicable