

THE ACCOUNTANTS BILL, 2022

M E M O R A N D U M

The objects of this Bill are to –

- (a) regulate the members and accounting firms registered under this Act;
- (b) continue the existence of the Zambia Institute of Chartered Accountants and re-define its functions;
- (c) provide for registration of members and accounting firms registered under this Act;
- (d) establish the Benevolent Fund, Educational Fund and management of such funds;
- (e) repeal and replace the Accountants Act, 2008; and
- (f) provide for matters connected with or incidental to the foregoing.

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Attorney-General

THE ACCOUNTANTS BILL, 2022

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**A BILL
ENTITLED**

An Act to regulate the members and accounting firms registered under this Act; continue the existence of the Zambia Institute of Chartered Accountants and re-define its functions; provide for registration of members and accounting firms registered under this Act; provide for a disciplinary procedure for members and accounting firms under this Act; establish the Benevolent Fund, Educational Fund and management of such funds; to repeal and replace the Accountants Act, 2008; and to provide for matters connected with or incidental to the foregoing.

Enactment

ENACTED by the Parliament of Zambia

**PART I
PRELIMINARY PROVISIONS**

Short title

1. This Act may be cited as the Accountants Act, 2022.

Interpretation

2. In this Act, unless the context otherwise requires –
“accountancy” means the theory and practice of the science of accounting;
“accountancy profession” means the practice of accountancy;
“accountant” means a person qualified in the theory and practice of accountancy, and includes a tax consultant and a tax adviser;
“Accountant-General” has the meaning assigned to the words in the Public Finance Act, 2004;

Act No. 15 of 2004

“accounting document” includes any –

- (a) record, financial statement or report, or other document made or required for any accounting, auditing or financing purpose; or
- (b) register, financial report or financial record specified or provided for in the Companies Act, 2017, the Banking and Financial Services Act, 2017, the Securities Act, 2016, the Insurance Act, 2021, the Pension Scheme Regulation Act, the National Payment Systems Act, the Income Tax Act, the Public Audit Act, 2016 or the Public Finance Management Act, 2018;

Act No. 10 of 2017
Act No. 7 of 2017
Act No. 41 of 2016
Act No. 38 of 2021
Cap. 323
Act No. 29 of 2016
Act No. 15 of 2004

“accounting firm” means a firm registered by the Institute under section 39;

“accounting pronouncements” means the accountancy standards, practice, statements, guidelines and circulars developed, adopted or issued by the Institute under section 9;

“audit” means the independent examination of evidence from which the financial statements of an enterprise, public body or institution are derived to ensure the validity and legality of financial records and which reflect or express the correctness and fairness of the state of affairs of the enterprise, public body or institution, but does not include book-keeping, cost accounting and business or cost systems, and the word “auditing” shall be construed accordingly;

“audit engagement partner” means a chartered accountant who is engaged to provide public practice services to a client;

“auditing pronouncements” means the auditing standards, practice, statements, guidelines and circulars developed, adopted or issued by the Institute under section 9;

- “auditor” means a chartered accountant who holds a practising certificate or an accounting firm appointed to perform auditing functions;
- Act No. 1 of 2018 “Auditor-General” has the meaning assigned to the words in the Public Finance Management Act, 2018;
- “business and commerce sector” means any sector of the economy, excluding the public sector;
- “certificate of registration” means a certificate of registration under section 18;
- “Chairperson” means a person appointed as Chairperson of the Disciplinary Committee under section 51;
- “chapter” means a branch of the Institute established under section **7**;
- “chartered accountant” means a Fellow or Associate member of the Institute;
- “Chief Executive Officer” means a person appointed as Chief Executive Officer and Secretary of the Institute under section 14;
- “class of membership” means the classification of members under section 16;
- “client” means a person for whom a member, practitioner, an accounting firm is providing or has provided accountancy or public practice services to, as the case may be;
- “Code of Ethics” means the code of professional ethics developed and adopted by the Council under section 48;
- “committee” means a committee of the Institute or Council constituted under section 15 or section 12;
- Act No. 1 of 2018 “Controller of Internal Audit” has the meaning assigned to the words in the Public Finance Management Act, 2018;
- “constitution” means the constitution of the Institute adopted under section 6;

Act No. 3 of 2012

“corrupt” has the meaning assigned to the word in the Anti-Corruption Act, 2012 and the word “corruption” shall be construed accordingly;

“Council” means the Council of the Institute constituted under section 12;

“Council member” means a person elected as a Council member under section xx;

“Disciplinary Committee” means the Disciplinary Committee of the Institute constituted under section 51;

“Education and Examinations Board” means the Education and Examinations Board of the Institute constituted under section 10;

Act No. 4 of 2021

“electronic” has the meaning assigned to the word in the Electronic Communications and Transactions Act, 2021;

“enterprise” includes a business, partnership or proprietorship;

“false accounting” means any accounting practice or action, that is meant to conceal, facilitate or disguise corruption;

“financial audit” includes a financial systems audit, compliance audit and internal controls audit;

“foreign accounting firm” means a firm or partnership established outside the Republic as an accounting firm;

Act No. 18 of 2010

“immigration officer” has the meaning assigned to the words in the Immigration and Deportation Act, 2010;

“Institute” means the Zambia Institute of Chartered Accountants re-established under section 3;

“International Accounting Education Standards Board” means the International Accounting Education Standards Board established to function as an

independent standard-setting body by the International Federation of Accountants;

“International Federation of Accountants” means the global organisation for the accountancy profession representing accountants in public practice, education, government service, industry, and commerce;

“investigating authority” means a regulatory or investigative agency mandated to undertake an investigation under a relevant Act, which include the:

- | | |
|--------------------|--|
| Cap. 1 | (a) Constitution; |
| Act No. 15 of 2016 | (b) Public Protector Act, 2016; |
| Act No. 15 of 2004 | (c) Public Finance Act, 2004; |
| Act No. 29 of 2016 | (d) Public Audit Act, 2016; |
| Cap. 107 | (e) Zambia Police Act; |
| Act No. 46 of 2010 | (f) Financial Intelligence Centre Act, 2010; |
| Act No. 25 of 2021 | (g) Narcotics, Drugs and Psychotropic Substances Act, 2021; |
| Act No. 3 of 2012 | (h) Anti-Corruption Act, 2012; |
| Act No. of 2022 | (i) Accountants Act; |
| Act No. 41 of 2016 | (j) Securities Act, 2016; |
| Act No. 7 of 2017 | (k) Banking and Financial Services Act, 2017; |
| Act No. 38 of 2021 | (l) Insurance Act, 2021; |
| Act No. | (m) Pensions Scheme Regulation Act; |
| Act No. 1 of 2007 | (n) National Payment Systems Act, 2007; |
| Act No. 10 of 2017 | (o) Companies Act, 2017; |
| Act No. 4 of 2010 | (p) Public Interest Disclosure (Protection of Whistle Blowers) Act, 2010; |
| Act No. 21 of 2009 | (q) Electronic Communications and Transactions Act, 2009 ; or |
| | (r) any other Act that applies to accountants, reporting transactions or the submission of accounting documents; |

Cap. 30

“legal practitioner” has the meaning assigned to the words
in the Legal Practitioners Act;

Act No. 2 of 2019

“local authority” has the meaning assigned to the words in
the Local Government Act, 2019;

“member” means a person registered as a member of the
Institute under the constitution and “membership”
shall be construed accordingly;

“non-audit function” means an accountancy function
performed by an accountant where a statutory audit
opinion is not issued, but for which the accountant
receives payment for the services rendered and which
payment does not qualify to be treated as audit fees;

“non-audit practicing certificate” means a certificate
granted to a member who is in public practise but
does not offer audit services;

“practical experience” means experience that enables
trainees to integrate knowledge gained through
formal education with experience in real workplaces
and this leads to a deeper understanding of the
capabilities and competence required of a
professional accountant than could be gained
through formal education alone. Practical experience
includes academic work experience.

“practice” means –

- (a) providing public practice services; or
- (b) signing or producing a report or certificate on
an accounting document in circumstances
where there is reliance by a third party, or
doing any other thing which may lead the third
party to believe, that the public practice
services have been undertaken by a chartered
accountant;

“practice review” means a study, investigation, appraisal or
review carried out under a practice review

programme, of one or more aspects of the public practice services undertaken or performed by a practitioner;

“Practice Review Committee” means the Practice Review Committee of the Institute constituted under section 11;

“practice review programme” means a programme designed to ascertain whether a practitioner has complied with the prescribed accounting pronouncements, auditing pronouncements, methods, procedures and other requirements when performing public practice services;

“practising certificate” means a practising certificate issued to a practitioner under section 31;

“practice standard” means an accounting, auditing or ethical standard;

“practitioner” means a Fellow or Associate member who provides public practice service and holds a practicing certificate;

“President” means a person elected as President of the Institute under section 12;

“professional indemnity insurance” includes insurance indemnifying a practitioner, accounting firm, partner, director or employee against liability to compensate a third party who has sustained financial loss or any other damage or injury due to a breach of professional duty, professional negligence, fraud or dishonesty, on the part of the practitioner, accounting firm, partner, director or an employee;

“professional misconduct” means the conduct referred to under section 49;

“public practice” means the practice of a practitioner who places accountancy services at the disposal of the public for reward and includes auditing, accounting,

	non-auditing services and doing of such other acts that are required to be done by a practitioner under this Act and any other written law;
Cap. 1	“public officer” has the meaning assigned to the words in the Constitution;
	“public sector” means the national and local government but does not include any parastatal organisation and other statutory bodies;
	“Register” means a register of the Institute referred to under section 45;
Act No. 13 of 2008	“repealed Act” means the Accountants Act, 2008;
	“Standards and Regulatory Board” means the Standards and Regulatory Board of the Institute constituted under section 9;
	“Standing Board” means a Standing Board of the Institute constituted under section 9;
	“Vice-Chairperson” means a person appointed Vice-Chairperson of the Disciplinary Committee under section 51; and
	“Vice-President” means a person elected Vice-President of the Institute under section 12.

PART II

THE ZAMBIA INSTITUTE OF CHARTERED ACCOUNTANTS

Continuation of
Zambia Institute
of Chartered
Accountants

3. (1) The Zambia Institute of Chartered Accountants established under the repealed Act is continued as if established under this Act and is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.

(2) The First Schedule applies to the Institute.

Functions of
Institute

4. (1) The functions of the Institute are to-
- (a) advance the accountancy profession and promote its interest;
 - (b) register, regulate and govern the conduct of its Members;
 - (c) set and enforce professional standards of members;
 - (d) develop, promote and enforce internationally comparable accountancy and auditing standards in the Republic;
 - (e) provide continuous professional development for members;
 - (f) maintain appropriate practice standards among members that are consistent with the principle of self-regulation and the public interest;
 - (g) regulate professional and ethical conduct and other standards for the members;
 - (h) develop and provide training and continuous professional education to the members;
 - (i) regulate qualifications, requirements and other conditions for registration of *persons* of the Institute;
 - (j) regulate accountancy, auditing and other standards of accounting that comply with national, regional and international standards including scale of fees and charges;
 - (k) represent the members on matters relating to the profession of accountancy and auditing to the Government and to

any national, regional or international body or organisation;

- (l) develop, adopt, promote, maintain and improve standards of qualification in the accountancy profession;
- (m) award certificates to members;
- (n) issue practicing certificate or non-audit practicing certificates to practitioners;
- (o) promote the integrity and enhance the status of the accountancy profession in the Republic;
- (p) facilitate training and education of members as accountants under this Act;
- (q) participate in the activities of bodies whose main purpose is the development and setting of practice standards;
- (r) encourage and promote research into matters affecting the Institute;
- (s) protect and assist the public in matters relating to, or impacting on their interest, when dealing with practitioners or members;
- (t) advise the Government on matters relating to accountability, financial management and economic development;
- (u) investigate cases of professional misconduct under this Act;
- (v) publish a journal of the Institute, and collect, collate and publish other information of service and interest to the Institute;
- (w) promote public awareness in matters relating to the accountancy profession;

- (x) promote awareness among practitioners in matters relating to accountancy education, practice and regulation;
- (y) collaborate with higher education institutions, Government departments and other institutions to improve the quality of accountancy; and
- (z) perform any other function that the Institute may perform under this Act.

(2) For the purposes of carrying out its functions under subsection (2), the Institute may -

- (a) charge fees for registration renewal and application of practising certificate, and any other fees that the Institute considers necessary;
- (b) receive money or other assets donated to the Institute by any foreign Government, international body, regional body or any other person whether corporate or unincorporate body from another country;
- (c) borrow money, by way of bank overdraft or **otherwise** within the limits set by the Council for the attainment of the functions of the Institute; and
- (d) receive donations, grants, subsidies bequests, gift subscriptions, rents, interest or royalties from Government or other persons.

(3) Without limiting any of the Institute's functions, the Institute shall work in conjunction with any university or any other higher education institution approved by the Council to-

- (a) provide training, education and examination of persons who may wish to be registered under this Act; and
- (b) prepare the syllabus of work for examination.

Delegation of functions

5. The Institute may, subject to any conditions imposed and guidelines issued by the Institute delegate to the Chief Executive Officer any of the Institute's functions under this Act.

Constitution of Institute

6. (1) The Institute shall, by a vote of at least two-thirds of the members voting at a general meeting of the Institute, adopt a constitution of the Institute and may in like manner amend the constitution.

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Institute.

(3) The constitution may provide for the -

- (a) meetings of the Institute, including the delivery of notices of the meetings, the quorum, voting, adjournments and other matters of procedure or conduct of the meetings;
- (b) election and qualifications of the office of President, Vice-President and other office bearers of the Council;
- (c) composition, functions, powers and procedures of the committees of the Institute;
- (d) classes of membership and the member's rights, privileges and obligations; and
- (e) any other matter that the membership may determine.

Meetings of
Institute

7. (1) Subject to this Act, the Institute may regulate its own procedure.

(2) The meetings of the Institute shall be conducted under the provisions of the constitution.

Constitution,
prerequisites and
procedures of
standing boards
of Institute

8. (1) The Institute shall for the purpose of performing its functions, constitute the Standards and Regulatory Board and the Education and Examinations Board.

(2) A Standing Board shall perform the functions specified in this Act.

(3) A Standing Board shall be independent in the performance of its functions and shall not be subject to the control or direction of the Council, a member, person or authority.

(4) Subject to this Act, a member of a Standing Board, shall hold office for a term of three years and shall, on the expiration of the term, be eligible for re-appointment for a further and final term of three years.

(5) Where there is a vacancy in the membership of a Standing Board, the Institute shall appoint another member to fill the vacancy but that member shall hold office for the remainder of that term.

(6) The members of a Standing Board shall elect a Chairperson and Vice-Chairperson from amongst themselves.

(7) There shall preside at a meeting of the Standing Board -

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of both the Chairperson and Vice-Chairperson, another member that the members present shall elect for

the purpose of that meeting.

(8) A decision of the Standing Board on any question shall be by a majority of the members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(9) The validity of any proceeding, act or decision of a Standing Board shall not be affected by any vacancy on the Standing Board, a person's absence from a meeting of the Standing Board or by reason that a person not entitled to do so took part in the proceedings.

(10) A Standing Board may invite a person whose presence is in the Standing Board's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.

(11) Four members of a Standing Board shall form a quorum.

(12) Subject to the provisions of this Act, the Standing Board shall regulate its own procedure.

Standards and
Regulatory
Board

9. (1) There is constituted the Standards and Regulatory Board consisting of seven part-time members with expertise in accounting from the following institutions:

- (a) Ministry of Finance and National Planning;
- (b) Pensions and Insurance Authority;
- (c) Bank of Zambia;
- (d) Competition and Consumer Protection Commission;
- (e) Zambia Revenue Authority;
- (f) Securities and Exchange Commission;
- and
- (g) Law Association of Zambia.

(2) Subject to this Act, the functions of the Standards and Regulatory Board shall be to promote and maintain the integrity of the accountancy profession by overseeing compliance with the relevant standards and regulations governing the accountancy profession.

(3) Despite subsection (2), the Standards and Regulatory Board shall—

- (a) develop relevant standards and regulations governing the accountancy profession and recommend the standards and regulations to the Institute to be prescribed;
- (b) ensure that professional ethics and conduct are upheld in the accountancy profession;
- (c) receive and consider reports from the Practice Review Committee;
- (d) issue auditing pronouncements and accounting pronouncements by –
 - (i) considering the needs of users of accounting documents;
 - (ii) liaising with any Standing Board or committee of the Institute for purposes of setting accounting and auditing standards and to receive feedback on areas where auditing pronouncements and accounting pronouncements need review;
 - (iii) implementing appropriate international practice standards; and
 - (iv) consulting with professional bodies on the direction and

appropriateness of auditing pronouncements and accounting pronouncements; and

- (e) do all such things as are incidental or conducive to the attainment and maintenance of ethics and conduct in the accountancy profession.

Education and
Examinations
Board

10. (1) There is constituted the Education and Examinations Board consisting of seven part-time members appointed by the Institute from the following institutions:

- (a) a representative of a public university;
- (b) a representative of a private university;
- (c) a representative of the Examinations Council of Zambia;
- (d) a representative of the Accountant General;
- (e) a representative of the Zambia Institute of Human Resource Management; and
- (f) two accredited examiners from the Institute.

(2) The functions of the Education and Examinations Board are to –

- (a) approve examination results under this Act;
- (b) facilitate the training and education of accountants;
- (c) facilitate programmes of training for the Institute, including the acquiring of acceptable practical experience for students and graduates in accountancy;
- (d) conduct and monitor compulsory practical training of graduate trainees in accountancy;

- (e) conduct national and international examinations relating to the Institute's training programmes;
- (f) ensure that the curriculum for training in accountancy and examinations set by the Institute are in compliance with the education standards prescribed by the International Accounting Education Standards Board and any other written laws;
- (g) charge and collect fees in respect of examinations and approval of accountancy training institutions; and
- (h) perform any other functions under this Act.

Practice Review
Committee

11. (1) There is constituted the Practice Review Committee consisting of the following seven part-time chartered accountants appointed by the Institute:

- (a) a member representing:
 - (i) an accounting firm; and
 - (ii) business and commerce;
- (b) a representative of the Securities and Exchange Commission;
- (c) a representative of the Patents and Companies Registration Agency;
- (d) a representative of the Bankers Association of Zambia;
- (e) a representative of Zambia Revenue Authority; and
- (f) representative of the Zambia Chamber of Commerce and Industry.

(3) The functions of the Practice Review Committee shall be to ensure that audit and non-audit services and

non-audit functions carried out by members are of high standard and are in compliance with auditing pronouncements, accounting pronouncements and Code of Ethics.

(4) Despite the generality of subsection (3), the Practice Review Committee shall -

- (a) where necessary, and as specified in the Act, oversee practice reviews;
- (b) determine the nature of auditing where a practice review is being undertaken;
- (c) determine the criteria for each practice review cycle;
- (d) determine the appropriateness of documentation used by the Practice Review Committee;
- (e) assess the quality and consistency of practice review reports;
- (f) monitor the progress of practice review cycles;
- (g) monitor compliance with auditing pronouncements and accounting pronouncements; and
- (h) protect and assist the public in matters relating to, or impacting on their interest, when dealing with practitioners or other members.

(5) The Practice Review Committee shall report to the annual general meeting on its activities for the preceding year.

Council of
Institute

12. (1) There is constituted the Council of the Institute which shall consist of the following thirteen part-time Council members elected at an annual general meeting:

- (a) the President who shall be a Fellow Member;
- (b) the Vice-President who shall be a Fellow Member;
- (c) three Fellow Members or Associate Members from the business and commerce sector, elected at the annual general meeting by chartered accountants;
- (d) three practitioners elected by chartered accountants; and
- (e) three Fellow Members or Associate Members from the public sector elected at the annual general meeting by chartered accountants.

(2) The Controller of Internal Audit, Accountant-General and the Auditor-General shall be ex-officio Council members.

(3) The election of the President and Vice-President shall be under the constitution.

(4) A chartered accountant shall not be qualified to be elected as a Council member if the chartered accountant –

- (a) has been found guilty of professional misconduct within a period of five years preceding the election;
- (b) is in lawful custody or the member's freedom of movement is restricted in accordance with any law in force in or outside the Republic on the date of the election;
- (c) has not been on the Register of members for at least three years preceding the election; or

(d) is an employee of the Institute.

(5) The provisions of the First Schedule applies to the Council.

Functions of Council

13. (1) The functions of the Council are to –
- (a) approve the policies and strategies of the Institute;
 - (b) approve the annual budget estimates and financial statements of the Institute;
 - (c) monitor and evaluate the performance of the Institute against budgets;
 - (d) advise the Minister on matters relating to accountancy;
 - (e) perform the functions and exercise the powers of the Institute as specified in this Act;
 - (f) promote an understanding of, and ensure the upholding and observance of, professional ethics and conduct by members;
 - (g) promote regional and international collaboration in the field of accountancy;
 - (h) participate in the development of international practice standard setting;
 - (i) make recommendations affecting or relating to the accountancy profession, to the general meeting of the Institute;
 - (j) register and regulate persons studying accountancy; and
 - (k) perform any other functions that the Council may perform under this Act.

Chief Executive Officer and other staff

14. (1) The Council shall appoint a Chief Executive Officer who shall be responsible for the day-to-day administration of the institute.

(2) The Chief Executive Officer shall attend meetings of the Council or a committee of the Council and may address those meetings but shall have no vote.

(3) The Council shall appoint other staff of the Institute that the Council considers necessary for the performance of the functions of the Institute.

(4) The Council shall determine the conditions of service and emoluments of the Chief Executive Officer and other staff of the Institute.

(5) Despite subsection (1), the Chief Executive Officer may appoint such other employees for the effective performance of the functions of the Institute.

Special Purpose Vehicles

15. The Institute may set up special purpose vehicles for the effective carrying out of its activities.

PART III

MEMBERSHIP OF INSTITUTE

Classes of membership

16. (1) The Institute shall have classes of membership as provided for in the constitution.

(2) Each class of membership shall have such rights, privileges and obligations as provided for in the constitution.

(3) A person may apply to the Institute for registration as a Member in accordance with the provisions of the constitution.

Application for registration as accountant

17. (1) A person who intends to be employed or to practice as an accountant in the Republic shall apply to the Institute for registration in the prescribed manner and form on payment of a prescribed fee.

(2) The Institute may, within thirty days of receipt of an application under subsection (1), approve or reject the application.

(3) The Institute shall, where it rejects an application under subsection (3), inform the applicant and give reasons for the decision.

(4) The Institute may determine different fees for different classes of accountants.

Registration of accountants

18. (1) The Institute shall within fourteen days of the approval of an application under section 17, issue the applicant with a certificate of registration in a prescribed form —

- (a) meets the requirements for membership as provided in the constitution;
- (b) holds a qualification approved by the Zambia Qualifications Authority;
- (c) possesses knowledge, training and experience as may be prescribed;
- (d) the applicant has passed an examination prepared by the Institute;
- (e) with a foreign qualification, undertakes such number of courses as the Institute may determine and has passed the courses;
- (f) is of good character; and
- (g) meets other requirements that the Minister may, on the recommendation of the Institute, prescribe by statutory instrument.

(2) A certificate of registration shall remain the property of the Institute and shall be valid for a period of one year from 1st January to 3rd December in each year and

may be renewed by the council on payment of a prescribed fee.

Other
accountancy
programmes

19. A student studying an accountancy programme other than a programme offered by the Institute shall be required to register as a member of the Institute as provided by the constitution.

Disqualification
from registration

20. (1) A person shall not qualify for registration as a member if that person is -

- (a) convicted of an offence involving fraud or dishonesty under this Act or any other written law in the preceding five years prior to the registration;
- (b) legally disqualified;
- (c) an undischarged bankrupt;
- (d) found guilty of professional misconduct by the Disciplinary Committee and the Disciplinary Committee orders the cancellation of the certificate of registration of that member; or
- (e) convicted of an offence under the Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

Title for
registered
member

21. A registered member shall use the title or designation as provided for in the constitution.

Membership
fees

22. The members of the Institute shall pay such fees and subscription as the Council may from time to time as determined.

Suspension and
cancellation of
registration

23. (1) Subject to this Act, the Council may suspend or cancel a registration of a member where-

- (a) the Council has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of a material fact;
- (b) the member is found guilty of professional misconduct under this Act or the Code of Ethics and the Disciplinary Committee orders the suspension or cancellation of the certificate of registration;
- (c) the member is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine; or
- (d) since the registration, circumstances have arisen disqualifying the member from registration.

(2) The Council shall, before suspending or cancelling the registration under subsection (1), give the member an opportunity to be heard.

(3) The Council may, before cancelling the registration of a member suspend the member for a specified term and on terms and conditions that the Council may determine.

(4) Where the Council cancels the registration of a member under this section, the name of the member shall be removed from the register and shall not be restored except on conditions that may be determined by the Council.

Re- registration

24. Where a certificate of registration is cancelled under section **25**, the holder of the certificate of registration may, subject to the terms and conditions that the Institute may determine, apply for re-registration.

Loss or destruction of certificate of registration

25. Where the Council is satisfied that a certificate of registration is lost or destroyed, the Council may, on payment of a reasonable fee, determined by the Council, cause a duplicate of the certificate of registration to be sealed and issued to the member.

PART V

INSPECTORATE

Inspectors

26. (1) The Council shall appoint suitably qualified persons as inspectors to ensure compliance with this Act.

(2) The Council shall provide an inspector with an identification card which shall be prima facie evidence of the inspector's appointment as inspector.

(3) An inspector shall, in performing a function under this Act-

(a) be in possession of the identification card referred to under subsection (2); and

(b) show the identification card to a person who requests to see the identification card or is the subject of an investigation under this Act.

Power of entry, search and inspection

27. (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and-

- (a) search the premises;
- (b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;
- (c) take extracts from, or make copies of, any book, document or record that is on the premises and that has a bearing on an inspection or investigation;
- (d) demand the production of, and inspect, relevant certificates; and
- (e) make inquiries that may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based, have been complied with.

(2) A court may issue a warrant on application by an inspector if it appears from written information given by that inspector, on oath or affirmation, that there are reasonable grounds to believe that this Act has been or is likely to be contravened.

(3) An inspector who removes anything from any premises shall -

- (a) issue a receipt for anything removed to the owner or the person in control of the premises; and
- (b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

- (4) A person commits an offence if that person-
- (a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;
 - (b) refuses to give an inspector reasonable assistance as the inspector may require for the purpose of performing the inspector's functions;
 - (c) impersonates an inspector or presents oneself to be an inspector; or
 - (d) wilfully gives an inspector false or misleading information in answer to an inquiry made by the inspector.

(5) A person who contravenes subsection (4) is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART V
PRACTICING CERTIFICATE AND NON-AUDIT PRACTICING
CERTIFICATE

Establishment of
practice without
practicing
certificate or non-
audit practicing
certificate

Cap. 1

28. (1) An accountant, or any other person, shall not set up practice, or be a partner or director in a practice or accounting firm unless that person holds a practicing certificate or a non-audit practicing certificate, issued in accordance with this Part and in line with the Constitution.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Prohibition of practice without approval

29. (1) A person shall not employ an accountant or an auditor who is not a member of the Institute.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Application for practising certificate or non-audit practising certificate

30. A chartered accountant who intends to provide audit or non-audit services shall, on passing the Competence Practice Examinations approved by the Standards Regulatory Board, apply to the Institute for a practising certificate or a non-audit practising certificate, in the prescribed manner and form on payment of a prescribed fee.

Grant of practising certificate and non-audit practising certificate

31. The Institute shall, on receipt of an application, made under section 30, and on payment of a prescribed fee, grant to-

- (a) a chartered accountant who is to provide public practice services as a practitioner, a practising certificate, in the prescribed manner and form; and
- (b) a chartered accountant who is not providing audit services, a non-audit practising certificate, in the prescribed manner and form.

Refusal to grant practising certificate or non-audit practising certificate

32. The Institute may refuse to grant a practising certificate or a non-audit practising certificate under this Act, if a –

- (a) chartered accountant is undergoing disciplinary proceedings;

- (b) person is not a chartered accountant; or
- (c) chartered accountant has been suspended.

Renewal of practising certificate or non-audit practising certificate

33. (1) A practicing certificate or a non-audit practicing certificate shall be renewed annually in the prescribed manner and form and on the payment of a prescribed fee.

(2) A chartered accountant shall lodge an application for renewal of a practicing certificate or non-audit practicing certificate with the Institute, one month before the expiration of the certificate.

(3) The Institute shall, where an application meets the requirements, approve the application and issue the applicant with a practising certificate or a non-audit practising certificate.

(4) A practicing certificate or a non-audit practicing certificate that is not renewed, under subsection (1), is invalid.

Display of certificate

34. The holder of a practising certificate or a non-audit practising certificate, shall display the certificate in a conspicuous place at the place of practice.

Cancellation of practicing certificate and non-audit practicing certificate

35. The Institute shall cancel a practicing certificate or non-audit practicing certificate, if the holder of the certificate –

- (a) ceases to be a member; or
- (b) obtained the certificate through fraud, misrepresentation or concealment of a material fact.

Holding out

36. (1) A person who does not hold a practicing certificate or non-audit practicing certificate or who is not a chartered accountant, shall not -

- (a) practice, be employed or offer public practice services as, or represent to be, a practitioner;
- (b) adopt, use or exhibit the terms “practitioner”, “auditor”, “tax consultant” or “tax advisor”;
- (c) claim to be or represent oneself to be an accountant, auditor, tax consultant or tax advisor; or
- (d) do anything likely to lead a person to believe that the person is a practitioner.

(2) Nothing in subsection (1) shall prevent a legal practitioner from setting up in practice as a tax advisor or tax consultant, or being a partner in a tax practice.

(3) A person shall not employ or engage an accountant or an auditor who is not a member of the Institute.

(4) An organisation located in the Republic shall not transfer accounting roles in that organisation to be executed by a person resident outside the Republic.

(5) A person who contravenes subsection (1), (3) or (4) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Practice review

37. (1) The Institute shall conduct practice review within such period as the Institute may determine, for practitioners and the firm of practitioners.

(2) The Institute may recover the costs of the review or inspection of a practitioner or a firm of practitioners under this section.

(3) A practitioner or a firm of practitioners shall, at the request of the Institute, produce a book, document, record or thing and shall not, subject to the provisions of any other written law, refuse to produce the book, document, record or thing, even though a practitioner or a firm of practitioners is of the opinion that the book, document, record or thing contains confidential information of a client.

(4) A practitioner or a firm of practitioners who produces a book, document, record or thing for purposes of an inspection or review under this Act shall not be held liable, criminally or under civil law, as a result of the production of the book, document, record or thing.

(5) A person performing or involved in the performance of any functions under this section shall not disclose any information obtained in the performance of the functions except —

- (a) for the purpose of a disciplinary hearing or an investigation of a protected disclosure under this Act;
- (b) to a person authorised by the Institute and who of necessity requires the information for the performance of functions under this Act;
- (c) where required to do so by order of a court of law; or
- (d) at the written request of, and to, a competent authority established by law which requires the information for the institution, or an investigation with a

view to the institution, of any criminal prosecution.

(6) A person who contravenes subsection (3) or (5) or obstructs or hinders a person in the performance of functions under this section, commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

PART VI

ACCOUNTING FIRMS

Application and
registration of
accounting firm
Cap. 389

38. (1) A chartered accountant who intends to open a firm shall apply to the Institute for a firm certificate of registration certificate in the prescribed manner and form, and on payment of a prescribed fee.

(2) The Institute shall, within thirty days of receipt of an application referred to under subsection (1), approve or reject the application.

(3) The Institute shall, where it rejects an application under subsection (2), inform the applicant and give reasons for the rejection.

Issuance of firm
registration
certificate

39. (1) The Institute shall, where the Institute approves an application under section **40**, issue a chartered accountant with a firm certificate of registration in a prescribed manner and form.

(2) A firm certificate of registration shall remain a property of the Institute and shall be valid for a period of one year from 1st January to 31st December in each year.

(3) A firm certificate of registration shall be reviewed annually in a prescribed manner and form on payment of a prescribed fee.

(4) A firm certificate of registration that is not renewed in accordance with subsection (2) is void.

Disqualification
from
registration

40. A chartered accountant shall not be issued with a firm certificate of registration if a chartered accountant is –

- (a) convicted of an offence involving fraud or dishonesty under this Act or any other written law in the preceding five years prior to the registration;
- (b) legally disqualified;
- (c) an undischarged bankrupt;
- (d) found guilty of professional misconduct by the Disciplinary Committee and the Disciplinary Committee orders the cancellation of the practicing certificate or non-audit practicing certificate; or
- (e) convicted of an offence under the Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

Cancellation of
firm registration
certificate

41. The Institute shall cancel a firm certificate of registration where –

- (a) the Institute has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of a material fact;
- (b) a chartered accountant is found guilty of professional misconduct under this Act or the Code of Ethics and the Disciplinary Committee orders the suspension or cancellation of a chartered accountant's certificate of registration;
- (c) a chartered accountant is convicted of an offence under this Act or any other

written law and sentenced to imprisonment for a term exceeding six months without the option of a fine; or

- (d) the registration, circumstances have arisen disqualifying the practitioner from registration.

Application for re-registration of accounting firm

42. The Institute may re-register an accounting firm that has been de-registered, under section **42**, if the accounting firm complies with the application procedure for registration, on payment of the prescribed fee.

Professional indemnity insurance for accounting firm

43. An accounting firm shall not operate without obtaining a professional indemnity insurance.

Joint ventures

44. (1) A foreign accounting firm shall not provide public practice services unless the foreign accounting firm is registered with the Institute or enters into a joint venture with an accounting firm, which is partnered or owned by practitioners.

(2) A director, partner or manager of foreign accounting firm that fails to comply with subsection (1) commits an offence and is liable, on conviction to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term of five years, or to both.

Registers to be established and maintained

45. (1) The Institute shall keep and maintain registers of -

- (a) members;
- (b) accounting firms;
- (c) students of accounting;
- (d) the holders of practicing certificates or non-audit practicing certificates and

persons whose practicing certificates have been cancelled;

(e) the applications rejected and reasons for the rejection; and

(f) any other information that the Institute may determine.

(2) The registers referred to under subsection (1) shall contain particulars that may be prescribed.

(3) The registers shall be kept in the custody of the Chief Executive Officer at the office of the Institute and shall be open for inspection to members of the public during normal office hours on payment of a fee that the Institute may determine.

Publication of
copies of
registers

46. (1) The Chief Executive Officer shall, on the direction of the Council, cause copies of any of the registers, including alterations of, or additions to those registers, to be printed and published in a manner and form that the Council may direct.

(2) Subject to this Act, a copy of the last published and printed register shall be prima facie evidence in legal proceedings of what is contained in that register and the absence of the name of a practitioner, member or student from that copy, is prima facie evidence that the person is not registered as a practitioner, member or student.

Offences relating
to registration
and certificates

47. (1) A person shall not –

(a) make or cause to be made, an unauthorised entry, alteration or erasure in a register, certificate of registration, practicing certificate, non-audit practicing certificate and firm certificate of registration;

- (b) procure or attempt to procure registration under this Act by fraud, misrepresentation or concealment of any material fact;
- (c) impersonate as a registered practitioner or use the title or designation of a registered practitioner while not registered as a practitioner under this Act; or
- (d) forge a certificate of registration, practicing certificate or non-audit practicing certificate or other documents issued under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

PART VII

DISCIPLINARY MATTERS

Code of Ethics 48. The Council shall develop, adopt and publish a code of ethics for members which shall bind members regulated under this Act.

Professional misconduct 49. A member commits professional misconduct if the member -

- (a) contravenes a provision of this Act;
- (b) unlawfully discloses or uses to the member's advantage any information acquired in the practice of the member;
- (c) engages in conduct that is dishonest, fraudulent or deceitful;

- (d) breaches the Code of Ethics or encourages another member to breach or disregard the Code of Ethics; or
- (e) commits an offence under any written law.

Initiation of disciplinary action

50. (1) A person may lodge a complaint with the Institute against a member where that person alleges that the member has contravened the Code of Ethics or any provision of this Act.

(2) The Institute may initiate disciplinary action under this section where the Institute has reasonable grounds to believe that a member has contravened the Code of Ethics or any provision of this Act.

(3) A complaint or allegation shall be made to the Chief Executive Officer.

Disciplinary Committee

51. (1) There shall be a Disciplinary Committee of the Institute consisting of the following six part-time members:

- (a) a Chairperson;
- (b) a Vice-Chairperson; and
- (c) four chartered accountants, of not less than ten years in practice, elected by the members at the annual general meeting from the following sectors:
 - (i) one from public practice;
 - (ii) two from business and commerce; and
 - (iii) one from public sector.

(2) The Chairperson and Vice-Chairperson shall be legal practitioners qualified to hold high judicial office.

(3) A person shall not be appointed as a member of the Disciplinary Committee if that person -

- (a) is found guilty of professional misconduct under this Act;
- (b) is an undischarged bankrupt;
- (c) is legally disqualified;
- (d) in the case of a member under subsection (1)(c), has not been on the register of members for at least five years preceding the appointment;
- (e) is convicted of an offence under this Act;
or
- (f) is convicted of an offence under any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(4) A member of the Disciplinary Committee shall hold office for a term of three years and may be re-appointed for a further and final term of three years.

(5) A member shall, on expiration of the term for which a member is appointed continue to hold office until another member is appointed but in no case shall an extension of the period exceed three months.

(6) The office of a member becomes vacant if a member -

- (a) dies;
- (b) is adjudged bankrupt under any written law;
- (c) is absent from three consecutive meetings of the Disciplinary Committee of which the member has notice, without the prior approval of the Disciplinary Committee;
- (d) resigns by notice, in writing, to the Institute;

- (e) is legally disqualified from performing the duties of a member of the Disciplinary Committee;
- (f) is found guilty of professional misconduct;
- (g) ceases to be a member under this Act or any other written law;
- (h) is convicted of an offence under this Act; or
- (i) is convicted of an offence under any other written law and sentenced to imprisonment for a period exceeding six months without the option of a fine.

(7) The Institute shall, where there is a vacancy in the membership of the Disciplinary Committee before the expiry of the term of office, appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

(8) The Chief Executive Officer shall be the Secretary to the Disciplinary Committee but shall not vote on any matter before the Disciplinary Committee.

Functions of
Disciplinary
Committee

52. (1) The functions of the Disciplinary Committee are to hear and determine -

- (a) any complaint referred to the Disciplinary Committee against a member; or
- (b) a disciplinary action initiated against a member under section **34**.

(2) The Disciplinary Committee may publicise as the Disciplinary Committee considers appropriate, the facts relating to a member who is found guilty of, and punished for, professional misconduct.

53. (1) Subject to the other provisions of this Act, the Disciplinary Committee may regulate its own procedure.

(2) Four members of the Disciplinary Committee shall form a quorum at a meeting or sitting of the Disciplinary Committee.

(3) The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson shall preside at a meeting or sitting of the Disciplinary Committee.

(4) A question at a meeting or sitting of the Disciplinary Committee shall be decided by a majority of the members present at the meeting or sitting of the Disciplinary Committee and in the event of an equality of votes, the person presiding at the meeting or sitting shall have a casting vote in addition to that person's deliberative vote.

(5) The proceedings of the Disciplinary Committee be in camera.

(6) A party to a hearing of the Disciplinary Committee may appear in person or be represented by a legal practitioner.

(7) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy of the judgment shall be supplied to each party to the proceedings and to every person affected by the decision.

(8) If a person is present at a meeting or sitting of the Disciplinary Committee at which a matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting or sitting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any

consideration or discussion of, or vote on, any question relating to that matter.

(9) A disclosure of interest made under this section shall be recorded in the minutes of the meeting or sitting at which it is made.

(10) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(11) Where a person whose conduct is the subject of investigation fails to appear either in person or by a legal practitioner at the time and place stated in the notice served on a person, the investigation may proceed to be heard in that person's absence.

Hearing of
Disciplinary
Committee

54. (1) The Disciplinary Committee may, for the purposes of a hearing, hear and receive evidence and may—

- (a) under the hand of the Chairperson or the Chief Executive Officer, summon witnesses and require the production of a book, record, document, electronic record or anything required for the purposes of the proceeding; and
- (b) through the Chairperson or Vice-Chairperson, administer an oath to a witness.

(2) A person summoned to attend before the Disciplinary Committee shall not —

- (a) refuse or fail to attend at the time and place specified in the summons or, having attended, leave without the permission of the Disciplinary Committee;
- (b) having attended, refuse to be sworn or to affirm;

- (c) refuse, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, a question lawfully put to that person; or
- (d) refuse to produce a book, record, document or thing which that person has been required by summons to produce.

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, for that refusal or failure, to a fine not exceeding two hundred thousand penalty units.

(4) Despite subsection (2), a person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

Cap. 87

(5) A hearing before the Disciplinary Committee shall, for the purposes of Chapter XI of the Penal Code, be considered to be a judicial proceeding.

(6) A finding of fact which is shown to have been made by a court in the Republic shall, in any hearing before the Disciplinary Committee, be conclusive evidence of the fact so found.

Act No. 6 of 2019

(7) The Disciplinary Committee shall, where the Disciplinary Committee has reasonable cause to believe that a member is legally disqualified, refer the matter for determination in accordance with the Mental Health Act, 2019.

Act No. 6 of 2019

(8) The Disciplinary Committee shall, suspend a member where a determination is made in accordance with the Mental Health Act, 2019, that the member is legally disqualified.

(9) The Disciplinary Committee shall, where the Disciplinary Committee finds, after due inquiry, that a

member is not guilty of professional misconduct, record a finding that the member is not guilty of the conduct to which the charge relates and dismiss the charge.

(10) The Disciplinary Committee may, for the purpose of any proceedings, use assessors or experts as the Disciplinary Committee considers necessary.

Sanctions by
Disciplinary
Committee

55. (1) The Disciplinary Committee shall, where the Disciplinary Committee finds a member guilty of professional misconduct, after due inquiry, impose one or more of the following penalties:

- (a) order the cancellation of a member's certificate of registration, practicing certificate, non-audit practicing certificate, removal of a member from the register of students or cancel a member's qualification issued by the Institute;
- (b) order the suspension of the member's certificate of registration, practicing certificate or non-audit practicing certificate or removal of a member from the register of students, for a specified period and on conditions as determined by the Disciplinary Committee;
- (c) censure the member;
- (d) reprimand the member;
- (e) impose an administrative penalty, not exceeding one hundred thousand penalty units, to be paid to the Institute;
- (f) order that the member be re-trained;
- (g) order the member to pay to the Institute or to a party to the hearing the costs of, or incidental to, the proceedings; or

- (h) order the member to pay any party to the hearing or any other person, as restitution, the amount of loss caused by that person's negligence.

(2) Where the Disciplinary Committee makes a recommendation under subsection (1), the Council shall within seven days of receipt of the Order or recommendation inform the member the order or recommendation of the Disciplinary Committee.

Reports by
Disciplinary
Committee

56. The Disciplinary Committee shall, within sixty days of receipt of a complaint hear and render its decision and submit to the Institute a report of the proceedings together with a copy of the record.

Rules relating
to disciplinary
proceedings

57. (1) The Chief Justice may, by statutory instrument, and on the recommendation of the Institute, make Rules relating to the -

- (a) manner and form for lodging of complaints under this Part;
- (b) mode of summoning persons before the Disciplinary Committee;
- (c) manner and form of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of a book, record, document or thing;
- (d) procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and
- (e) functions of assessors and experts to the Disciplinary Committee.

- (2) Rules made under subsection (1) may provide-
 - (a) that before a matter is referred to the Disciplinary Committee, it shall be investigated by the Institute;
 - (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
 - (c) for securing that a party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

(3) Where no rules have been made under subsection (1), the provisions of the Subordinate Court Act shall apply to the Disciplinary Committee.

PART VIII

FUNDS AND PRUDENTIAL MANAGEMENT OF FUNDS

Benevolent
Fund

58. (1) There is established a Benevolent Fund which shall be administered and managed by the Institute.

(2) The money from the Benevolent Fund may be used for the following purposes:

- (a) making donations on the demise of a member to a members' bereaved families;
- (b) philanthropy; and
- (c) ascertain challenges faced by the accountants with a view of addressing the challenges.

Property and
Investment
Fund

59. (1) There is established a Property and Investment Fund which shall be administered and managed by the Institute.

(2) The money from the Property and Investment Fund may be used for the following purposes:

- (a) for the development and construction of real estate for the Institute;
- (b) to maintain the income base of the Institute;
- (c) to enhance the sustainability of the Institute in the long term;
- (d) to grow contributions for investors; and
- (e) to support the development and growth of the accountancy profession.

(3) The Institute shall be responsible for providing oversight to the Fund Manager in respect of the prudential management and administration and approval of the disbursement of money from.

Monies paid into Funds

60. There shall be paid into a Fund –

- (a) such monies as the Institute may set aside for the purposes of the Fund;
- (b) a percentage of the money collected as membership subscription fees, as may be determined by the Institute, in consultation with the members;
- (c) monies received from members for investment purposes; and
- (c) money received by way of loans, donations or grants for the purposes of a Fund.

Monies paid out of Funds

61. There shall be paid out of a Fund such monies as may be required to -

- (a) defray any expenditure incurred by the Fund; and
- (b) meet costs incurred by the Fund relating to the administration and management of the Fund.

Prudential
management
of Funds

62. The Institute shall establish prudential controls and management procedures for the Funds of the Institute relating to –

- (a) fiscal and accounting procedures for the governance of the Funds;
- (b) reporting procedures for matters relating to the Funds; and
- (c) procedures and criteria for the investment of the monies of the Fund.

General functions
of standing
committees
relating to Funds

63. (1) A standing committee which has oversight functions of a Fund established under this Part shall, in consultation with the Fund Manager, be responsible for–

- (a) receiving applications made to the Institute for accessing money from the Funds;
- (b) assessing applications received, as provided in paragraph (a), to ensure that such applications are in accordance with the purposes of the Fund and meet the set criteria and requirements prescribed by the Institute;
- (c) making recommendations to the Institute, after an assessment of applicants, as provided in paragraph (b), of proposed recipients of the Fund;
- (d) advising the Institute on other disbursements from the Funds; and
- (e) making recommendations to the Institute on the investment of the monies of the Funds.

(2) A Committee having oversight functions of a Fund shall cause to be kept minutes of the proceedings of every meeting of the Committee.

Guidelines
for Funds

64. The Institute shall develop and issue guidelines for the management and administration of the Funds and disbursements from the Funds.

Fund Manager

65. The Institute shall appoint a Fund Manager for the Property and Investment Fund on such terms and conditions as the Institute may determine.

PART IX

GENERAL PROVISIONS

Chapters of
Institute

66. (1) There shall be chapters of the Institute as the Institute may determine, and each chapter shall be composed of members whose major interests lie in the particular discipline of accountancy with which the chapter is concerned.

(2) The management and control of each chapter shall vest in a committee of members elected annually by that chapter.

(3) A committee of a chapter shall be responsible for all matters affecting the chapter including the receipt and expenditure of money relating to its activities, other than membership fees.

(4) Subject to the general directions of the Institute, a chapter may regulate its own procedures.

(5) A chapter may be dissolved –

(a) only after obtaining the prior approval of the Institute; or

(b) by the Institute, if the Institute considers the dissolution of the chapter is in the

best interest of the Institute.

Powers of
Institute to deal
with property of
practitioner

67. (1) Where a practitioner's practicing certificate or non-audit practicing certificate is cancelled or suspended, the practitioner shall, within twenty-one days of the suspension or cancellation, make suitable arrangements for the transfer of the practitioner's clients, property or documents to another practitioner.

(2) Where a practitioner fails to make suitable arrangements required under subsection (1), the Institute may take possession or control of property of a practitioner.

(3) Where an accounting firm is operated by one practitioner, and that practitioner dies, becomes bankrupt, is legally disqualified or abandons practice, the Institute may assume responsibility over the accounting firm and make suitable arrangements, if the Institute is satisfied that clients are likely to be prejudiced.

(4) The Institute may for purposes of this section, apply to the High Court for an order that all sums of money held by or on behalf of a practitioner or accounting firm which is considered to be a client's money, and the right to recover or receive such sums, shall vest in the Institute.

(5) Where any sums of money vest in the Institute by virtue of subsection (4), the Institute shall-

- (a) maintain a separate account for such sums;
- (b) hold such sums for the persons beneficially entitled; and
- (c) deal with such sums in accordance with the guidelines issued by the Institute.

Auditing
standards

68. A practitioner shall perform an audit in accordance with the auditing pronouncements issued by the Institute and such agreed procedures as the client

contract may specify and such fact shall be disclosed in the audit report.

Accountant not to incur liability on certain opinions

69. (1) A practitioner may not incur any liability by reason of -

- (a) an opinion expressed by a practitioner in good faith on an item appearing in the financial statement of an entity in connection with which the audit was carried out; or
- (b) a practitioner having declined to express an opinion in respect of the financial statement of an entity;

if the Institute is satisfied that, having regard to the nature of the item or other circumstances, the practitioner could not reasonably have been expected to express an authoritative opinion.

(2) A practitioner shall not, in respect of an opinion expressed or report or statement made by a practitioner in the ordinary course of duties—

- (a) incur any liability to a client of the practitioner or any third party, unless it is proved that the opinion was expressed, or the report or statement made, intentionally or pursuant to a negligent performance of duties; and
- (b) where it is proved that the opinion was expressed or the report or statement was made pursuant to a negligent performance of duties, incur any liability to a third party who has relied on the opinion, report or statement, for financial loss suffered as a result of having relied thereon, unless it is proved

that a practitioner knew or could in the particular circumstances reasonably have been expected to know at the time when the negligence occurred in the performance of the duties pursuant to which the opinion was expressed or the report or statement was made—

- (i) that the opinion, report or statement would be used by a client to induce the third party to act or refrain from acting in some way or to enter into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person;
- (ii) that the third party would rely on the opinion, report or statement for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person;
or
- (iii) in any way represented, at any time after the opinion was expressed or the report or statement was made to the third party that the opinion, report or statement was correct, while at that time a practitioner knew or could in the particular

circumstances reasonably have been expected to know that the third party would rely on the representation for the purpose of acting or refraining from acting in some way or of entering into the specific transaction into which the third party entered, or any other transaction of a similar nature, with the client or any other person.

(3) Nothing in this section confers on a person a right of action against a practitioner which, but for the provisions of this section, the person would not have had.

(4) For the purpose of paragraph (b) of subsection (2), the fact that a practitioner performed the functions of an auditor is not in itself proof that a practitioner could reasonably have been expected to know that—

- (a) a client would act as contemplated in subsection (2)(i)(b); or
- (b) the third party would act as contemplated in subsection (2)(i) or (ii)(b).

(5) Subsection (2)(b) shall not affect-

- (a) any liability of a practitioner arising from
 -
 - (i) a contract between a third party and a practitioner; or
 - (ii) any statutory provision; or
- (b) any disclaimer of liability by a practitioner or a person referred to in that subsection.

Frivolous,
vexatious, etc.
disclosures

70. (1) An investigating authority may decline to act on a disclosure received by it where the investigating authority considers that—

- (a) the disclosure is frivolous or vexatious;
- (b) the disclosure is misconceived or lacking in substance;
- (c) the disclosure is trivial;
- (d) there is a more appropriate method of dealing with the disclosure reasonably available; or
- (e) the disclosure has already been dealt with adequately.

(2) An investigating authority shall, where an issue raised in a disclosure has been determined by a court or tribunal authorised to determine the issue at law, after consideration of the matters raised by the disclosure, decline to act on the disclosure to the extent that the disclosure attempts to re-open the issue.

Appeals

71. (1) A person aggrieved with a decision of the Institute may, within thirty days of receipt of the decision, appeal to the Minister.

(2) A person aggrieved with a decision of the Minister may appeal to the High Court.

(3) A person aggrieved with a decision of the Disciplinary Committee may appeal to the High Court.

(4) A decision of the Disciplinary Committee shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution.

(5) The proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in

those proceedings if that irregularity did not occasion a substantial miscarriage of justice.

Jurisdiction

72. (1) A court of competent jurisdiction shall have jurisdiction over a member or practitioner for an act committed outside the Republic which, if it had been committed in the Republic, would have been an offence or professional misconduct under this Act.

(2) Any proceedings against a member or practitioner under this section which would be a bar to subsequent proceedings against a member or practitioner, for the same offence, if the offence had been committed in the Republic, shall be a bar to further proceedings against a member or practitioner under any written law relating to the extradition of persons, in respect of the same offence outside the Republic.

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(3) The Mutual Legal Assistance in Criminal Matters Act shall apply to proceedings under this Act.

Administrative penalties

73. (1) The Institute may impose an administrative penalty on a member or practitioner for a failure to comply with a provision of this Act which is not an offence.

(2) An administrative penalty shall not exceed the amount prescribed by the Minister by statutory instrument for each day during which the failure continues.

(3) An administrative penalty shall be paid to the Institute within the period prescribed by the Minister.

(4) The Institute may, where a member or practitioner fails to pay an administrative penalty within the stipulated time under subsection (3), by way of civil action in a competent court, recover the amount of the administrative penalty from that member or practitioner as an amount due and owing to the Institute.

Offences relating
to practitioner

74. (1) A practitioner shall not –
- (a) except with the approval of the Institute, employ a member or practitioner–
 - (i) who is suspended from practice;
 - (ii) who is not registered as a member or whose name has been removed from the Register of Members or who is disqualified from registration by virtue of a conviction for professional misconduct; or
 - (iii) whose application for registration as a member was rejected by the Council;
 - (b) practice under an accounting firm unless on every letterhead bearing the name or title of the accounting firm there appears a clear indication of every partner who is a practitioner;
 - (c) sign an account, statement, report, financial statement submitted for tax purposes or document which purports to represent work performed by the practitioner, unless the work was performed by the practitioner, or under the personal supervision or direction of the practitioner, or by or under the personal supervision or direction of one or more of the partners or directors of the accounting firm;
 - (d) engage in practice during any period in which the practitioner is suspended from practice;

- (e) practice without carrying professional indemnity insurance; or
- (f) present a forged certificate to a prospective employer or an institution of learning with intent to gain employment or admission.

(2) Subsection (1)(d) shall not apply to work performed –

- (a) on behalf of a practitioner by another practitioner;
- (b) by another practitioner in a partially completed assignment which the previous practitioner was unable to complete as a result of death, disability or other cause not under the control of the previous practitioner, and which assignment the successor practitioner is engaged to complete; or
- (c) by a member of a professional body outside the Republic whose qualifications and experience, in the opinion of the Institute, is equal to that demanded by the Institute.

(3) A person who contravenes or fails to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

Offences by body
corporate or
unincorporate
body

75. Where an offence under this Act is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or an

unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to a penalty specified for that offence under this Act.

Prohibition of publication or disclosure of information to unauthorised persons

76. (1) A person shall not, without the consent in writing given by, or on behalf of, the Institute, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication or information which relates to, or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction to a fine not exceeding two hundred thousand penalty units, or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

False or misleading information or disclosure

77. (1) A person shall not knowingly or recklessly make a false or misleading statement, orally or in writing, to the Institute or Disciplinary Committee with the intention that it be acted on by the Institute or Disciplinary Committee.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not

exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Examination
offences

78. (1) A person shall not –
- (a) gain access to examination material and disclose it to an unauthorised person or candidate;
 - (b) receive examination materials which is not at that material time authorised to receive;
 - (c) wilfully or maliciously damage examination materials;
 - (d) takes part or attempts to take part in an examination for which the person is not registered;
 - (e) impersonate, take the place or attempt to take the place of an enrolled candidate; and
 - (f) introduce unauthorised materials or other devices prohibited by the Institute, into the examination room.

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Immunity

79. No action or other proceeding shall lie or be instituted against the Institute, a Council member, a member of a committee or Standing Board or staff of the Institute, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of a function imposed or conferred under this Act.

Guidelines

80. (1) The Institute may, in the exercise of its functions under this Act, develop and issue guidelines as are necessary for the better carrying out of the provisions of this Act.

(2) The Institute shall publish the guidelines issued under this Act in a daily newspaper of general circulation in the Republic and in the Gazette, and the guidelines shall take effect on the date of publication.

(3) The guidelines issued by the Institute under this Act shall bind the persons regulated under this Act.

Regulations

81. (1) The Minister may, on the recommendation of the Institute, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Despite the generality of subsection (1), Regulations may make provision for the -

- (a) auditing and accounting pronouncements;
- (b) manner and form for applications under this Act;
- (c) form of and particulars to be entered on the registers;
- (d) form of the certificate of registration and the conditions under which the certificate of registration is issued;
- (e) qualifications for registration of a practitioner;
- (f) form of the practising certificate and the conditions under which the practising certificate is issued;
- (g) Code of Ethics to which practitioners shall subscribe;

- (h) continuous professional development for practitioners;
- (i) fees payable for professional services and any other fees which are required to be prescribed;
- (j) requirement for an organisation to recruit a practitioner and the circumstances on which the practitioner shall be recruited;
- (k) holding out; and
- (l) any other matters which requires to be prescribed under this Act.

Repeal of Act No.
13 of 2008

82. (1) The Accountants Act, 2008 is repealed.
- (2) Despite subsection (1), the provisions of the Second Schedule shall apply in respect of the matters specified therein.

FIRST SCHEDULE

(Sections 5(2) and 17(5))

PART I

ADMINISTRATION

Seal of Institute

1. (1) The seal of the Institute shall be such device as may be determined by the Council and shall be kept by the Chief Executive Officer.

(2) The affixing of the seal shall be authenticated by the President or Vice-President and the Chief Executive Officer, or any other person the Council may authorise for that purpose.

(3) A contract or instrument which, if entered into or executed by a person, is not required to be under seal, may be entered into or executed without seal on behalf of the Institute by the Chief Executive Officer or any other person authorised by the Council for that purpose.

(4) A document purporting to be a document under the seal of the Institute or issued on behalf of the Institute shall be received in evidence and shall be considered to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of office of Council members

2. (1) A council member shall, subject to the other provisions of this Act, hold office for a term of three years and maybe re-nominated or re-elected for a further and final term of three years.

(2) A Council member shall, on the expiration of the term for which the member is elected or nominated, continue to hold office until another member is elected or nominated, but in no case shall the extension of the term exceed three months.

(3) The office of a Council member becomes vacant if the council member –

- (a) dies;
- (b) is adjudged bankrupt under any written law;
- (c) resigns by notice, in writing, to the Institute;
- (d) is legally disqualified from performing the functions of a council member;

- (e) is disqualified from performing the functions of a Council member;
- (f) in the case of a Council member under section ~~xx~~(2)(a), (b), (c), (d) and (g), the practising certificate is cancelled under this Act;
- (g) in the case of a council member under section 8(2)(e) and (f), ceases to be a representative of the office that nominated the council member;
- (h) is found guilty of professional misconduct;
- (i) is absent, from three consecutive meetings of the Council of which the council member had notice without the prior approval of the Council; or
- (j) is convicted of an offence under this act or any other written law and sentenced to imprisonment for a term of six months without the option of a fine.

Proceedings of
Council

3. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet at least once in every three months for the transaction of business at a place and time as the President may determine.

(3) The President may call a meeting of the Council on giving notice of not less than fourteen days or where one third of the council members so request, in writing, except that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called on giving a shorter notice.

(4) Five council members shall form a quorum at a meeting of the Council.

- (5) There shall preside at a meeting of the Council-
- (a) the President;
 - (b) in the absence of the President, the Vice-President; or

(c) in the absence of both the President and Vice-President, another Council member that the Council members present shall elect for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the Council members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(7) The Council may invite a person whose presence is in the Council's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote.

(8) The validity of any proceedings, acts or decisions of the Council shall not be affected by a vacancy in the membership of the Council or any defect in the appointment of a Council member or by reason that a person not entitled to do so took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of any committee established by the Council.

Committees of Council

4. (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as it considers necessary.

(2) The Council may appoint as members of a committee persons who are or are not Council members except that at least one Council member shall be a member of a committee.

(3) A member of a committee shall hold office for a term as the Council may determine.

(4) Subject to any specific or general direction of the Council, a committee may regulate its own procedure.

Allowances

5. The Council shall pay to a council member, a member of a committee of the Council, a member of a Professional Conduct Committee and a member of the

Disciplinary Committee an allowance as the Council may determine.

Disclosure of interest

6. (1) A person who is present at a meeting of the Council or a committee of the Council at which any matter is the subject of consideration, and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Council or the committee of the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

PART II

FINANCIAL PROVISIONS

Funds of Institute

7. (1) The funds of the Institute consists of monies that may -

- (a) be proceeds of any investments by the Institute;
- (b) be paid to the Institute by way of fees, grants or donations; and
- (c) otherwise vest in, or accrue to, the Institute.

(2) The Institute may -

- (a) accept monies by way of grants or donations from any source in the Republic and subject to the approval of the Minister, from any source outside the Republic;
- (b) raise by way of loans or otherwise, monies as it may require for the performance of its functions; and
- (c) charge and collect fees in respect of programmes and seminars conducted by the Institute.

- (3) There shall be paid from the funds of the Institute-
- (a) the salaries, allowances and loans of the staff of the Institute;
 - (b) reasonable travelling, transport and subsistence allowances for Council members or members of a committee of the Council when engaged in the business of the Institute at the rates approved by the Council; and
 - (c) any other expenses incurred by the Institute in the performance of its functions under this Act.

(4) The Institute may, invest in a manner the Council considers appropriate, funds of the Council that the Council does not immediately require for the performance of the Council's functions.

Financial year

8. The financial year of the Institute shall be a period of twelve months ending on 31st December in each year.

Accounts and audit

9. (1) The Institute shall cause to be kept proper books of account and other records relating to its accounts.

(2) The accounts of the Institute shall be audited annually by an independent auditor appointed by the Council.

(3) The fees of the independent auditor shall be paid by the Institute.

SECOND SCHEDULE

(Section 60 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule, “former Institute” means the Zambia Institute of Chartered Accountants established under the repealed Act.

Registration and appointment under repealed Act

2. (1) A member or a practitioner registered under the repealed Act shall continue to be registered as if registered under this Act.

(2) The registration under subparagraph (1) shall be modified in accordance with this Act where necessary.

(3) After the commencement of this Act, the former Institute shall continue to perform the function of the Council of the Institute under this Act until a new Council is constituted in accordance with this Act.

(4) A register maintained under the repealed Act and subsisting immediately before the commencement of this Act shall, until replaced, be considered to be a register maintained under this Act.

Staff of Institute

3. (1) For the avoidance of doubt, a person who, before the commencement of this Act was an officer or employee of the former Institute shall continue to be an officer or employee of the Institute, as if appointed or employed under this Act.

(2) The service of persons under subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of a person employed or appointed by the former Institute before the commencement of this Act.

Transfer of assets and liabilities

4. (1) On the commencement of this Act, there shall be transferred to, vest in and subsist against the Institute by virtue of this Act and without further assurance, the assets, rights, liabilities and obligations which immediately before the

commencement of this Act were the assets, rights, liabilities and obligations of the former Institute.

(2) Subject to subparagraph (1), every deed, bond or agreement, other than an agreement for personnel service, to which the former Institute was a party immediately before the commencement of this Act, whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if -

- (a) the Institute had been party to it;
- (b) for any reference to the former Institute there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Institute; or
- (c) for any reference to any officer of the former Institute, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to that officer of the Institute, as the Institute shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Institute are considered to be transferred to the Institute, in respect of which transfer a written law provides for registration, the Institute shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(4) The registration authority, under subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal
proceedings

5. (1) Any legal proceedings or application of the former Institute pending immediately before the commencement of this Act by or against the former Institute may be continued by or against the Institute.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Institute may be instituted by or against the Institute.