

Zambia

## Accountants Act, 1982

### Chapter 390

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# Zambia

## Accountants Act, 1982

### Chapter 390

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*[28 of 1982; 11 of 1989; 13 of 1994]*

**An Act to provide for the regulation of the education and training of accountants and generally for the advancement of accountancy and allied subjects; to provide for the regulation and control of the practice of accountancy; to provide for the establishment of the Zambia Institute of Certified Accountants; to define the functions and powers of the Institute; and to provide for matters connected with or incidental to the foregoing.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Accountants Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**accountant**" includes auditor, tax consultant and tax adviser and "accountancy" shall be construed accordingly;

"**Chairman**" means the person elected Chairman of the Council under section eleven;

"**constitution**" means the constitution of the Institute referred to in section six;

"**Council**" means the Council of the Institute;

"**Council member**" means a member of the Council;

"**Disciplinary Committee**" means the Disciplinary Committee of the Institute;

"**honorary member**" means a person upon whom honorary membership of the Institute has been conferred in accordance with subsection (2) of section nineteen;

"**Institute**" means the Zambia Institute of Certified Accountants established by section three;

"**member**" means a registered accountant and an honorary member;

"**practising certificate**" means a practising certificate issued in accordance with section twenty-five;

"**professional misconduct**" shall be construed in accordance with section twenty-nine;

"**register**" means a register prepared and maintained in accordance with section twenty;

"**registered accountant**" means a person registered as an accountant in accordance with the provisions of Part IV;

"**Secretary**" means the person appointed Secretary to the Institute under section sixteen;

"Vice-Chairman" means the person elected Vice-Chairman under section eleven.

## Part II – Zambia Institute of Certified Accountants

### 3. Establishment of Institute

There is hereby established the Zambia Institute of Certified Accountants which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

### 4. Seal of Institute

- (1) The seal of the Institute shall be such device as may be determined by the Council and shall be kept by the Secretary.
- (2) The Council may use a wafer or rubber stamp in lieu of the seal.
- (3) The affixing of the seal shall be authenticated by the Chairman or Vice-Chairman, and the Secretary or one other person authorised in that behalf by a resolution of the Council.
- (4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed without seal on behalf of the Institute by the Secretary or any other person generally or specifically authorised in that behalf by the Institute.

### 5. Functions of Institute

- (1) The functions of the Institute shall be to do all such acts and things as are necessary to foster the advancement of the profession of accountancy.
- (2) Without prejudice to the generality of subsection (1), the Institute may—
  - (a) assist in the education and training of persons practising or intending to practise the profession of accountancy;
  - (b) conduct professional examinations in accountancy;
  - (c) maintain and improve the professional standards of accountants;
  - (d) represent, protect and assist accountants in regard to their conditions of practice, remuneration or otherwise;
  - (e) protect and assist the public in all matters relating to the practice of the profession of accountancy;
  - (f) promote the international recognition of qualifications conferred by the Institute.

### 6. Constitution of Institute

- (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 it from time to time.
- (2) The constitution shall, subject to the provisions of this Act or any regulations made under this Act, regulate the conduct of the affairs of the Institute.

- (3) Subject to subsection (2), the constitution may provide for the following matters:
- (a) meetings of the Institute, the Council and committees of the Council, including delivery and sufficiency of notices of such meetings, quorum, voting, adjournments and other matters of procedure or conduct of such meetings;
  - (b) financial matters, including the financial year of the Institute, accounts, statements of accounts and publication thereof, auditing of accounts, remuneration or allowances of Council members, members of committees of the Council, members of the Disciplinary Committee and staff of the Institute;
  - (c) composition, functions, powers and procedures of committees of the Council;
  - (d) establishment, powers and functions of branches of the Institute;
  - (e) classes of registered accountants and honorary members including their rights, privileges and obligations;
  - (f) maintaining of registers of members including details to be included in such registers, place where the registers are to be kept and inspection of such registers;
  - (g) grounds and conditions on which applicants for registration or for practising certificates may be disqualified or rejected;
  - (h) annual or other fees payable by members, fees for application for registration, registration certificates, practising certificates, or copies thereof;
  - (i) powers of the Council or restrictions on such powers or on delegation of such powers;
  - (j) qualifications, recognition of qualifications, examinations, fees and other matters relating to persons intending to become registered accountants.
- (4) The constitution may permit some or any of the foregoing matters to be dealt with in the rules made by the Council.

## 7. Meetings of Institute

- (1) The Institute shall hold an annual general meeting within six months of each financial year upon giving not less than fourteen days' notice specifying the place, day and time of such meeting and the business to be transacted thereat:
- Provided that the proceedings at any such at any such meeting shall not be invalidated by inadvertent omission to give notice to any member.
- (2) The Institute may call a special general meeting upon giving such notice as may be prescribed in its constitution:
- Provided that if twenty or more registered accountants by notice in writing signed by such accountants call for a special general meeting, such meeting shall be called by the Chairman within such period as may be specified by the constitution.
- (3) There shall preside at any meeting of the Institute—
- (a) the Chairman, or in the absence of the Chairman, the Vice-Chairman; or
  - (b) in the absence of the Chairman and the Vice-Chairman, such member as the members present may elect for the purpose of that meeting.
- (4) Subject to the provisions of this Act, the Institute may regulate its own procedure.
- (5) The validity of any proceedings, act or decision of the Institute shall not be affected by any absence from any meeting of the Institute or by reason that any person not entitled to do so took part in the proceedings.

## 8. Funds of Institute

- (1) The funds of the Institute shall consist of such moneys as may—
  - (a) be paid to the Institute pursuant to this Act;
  - (b) be paid to the Institute by way of grants or donations; and
  - (c) vest in or accrue to the Institute.
- (2) The Institute may, subject to the provisions of its constitution—
  - (a) accept moneys by way of grants or donations from any source in Zambia; and
  - (b) raise by way of loans or otherwise such moneys as it may require for the discharge of its functions:

Provided that the Institute shall not accept any grants or donations or raise any loans or moneys from any source outside Zambia without the approval of the Minister.

- (3) There shall be paid from the funds of the Institute—
  - (a) the salaries, allowances and loans of the staff of the Institute;
  - (b) such reasonable travelling, transport and subsistence allowances of Council members or members of any committee of the Council when engaged on the business of the Institute at such rates as the Institute may determine; and
  - (c) any other expenses incurred by the Institute in the discharge of its functions.
- (4) The Institute may invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.

## 9. Accounts

- (1) The Institute shall cause to be kept proper books of accounts and other records relating to accounts.
- (2) The Institute shall, not later than six months after the end of each financial year, cause annual accounts to be prepared and audited in accordance with its constitution.

## Part III – Administration of Institute

### 10. Council of Institute

For the proper management of the affairs of the Institute, there shall be an executive committee to be called the Council of the Zambia Institute of Certified Accountants which shall consist of the following Council members—

- (a) two registered accountants appointed by the Minister on such terms and conditions as the Minister may determine; and
- (b) ten registered accountants elected by members at an annual general meeting of the Institute:

Provided that the Minister may, at the request of the Council, increase the membership of the Council by statutory instrument, and thereafter the additional Council members shall be elected at a general meeting of the Institute.

### 11. Chairman and Vice-Chairman

- (1) The Council shall at its first meeting in each year elect a Chairman and a Vice-Chairman from amongst its members.

- (2) The Chairman and the Vice-Chairman shall hold office for a period of one year from the date of their respective election, and may be re-elected upon the expiration of their term of office.
- (3) If the office of Chairman is vacant or if the Chairman is unable for any reason to perform the functions of his office, the Vice-chairman shall perform such functions.

## 12. Tenure of office of Council members

- (1) A Council member shall, unless he vacates his office earlier, hold office for a period of three years from the date of his election:  

Provided that three of the ten members of the first Council elected in accordance with this Part shall retire by agreement or by lot, at the end of the first year, a further three shall retire in like manner at the end of the second year and the remainder shall retire at the end of the third year.
- (2) Upon retirement at the expiration of his term of office, a Council member may be re-elected.
- (3) Any vacancy on the Council may be filled by the Council appointing another member who shall serve as Council member till the date of the next annual general meeting of the Institute.
- (4) A Council member shall cease to hold office—
  - (a) if he ceases to be a registered accountant;
  - (b) if he is lawfully detained or his freedom of movement is restricted under any law in force in Zambia;
  - (c) if he is absent from three consecutive meetings of the Council without reasonable cause;
  - (d) upon the expiry of not less than one month's notice in writing of his intention to resign given by him to the Chairman, and, in the case of a Council member appointed by the Minister, copied to the Minister.
- (5) A Council member appointed by the Minister may be removed at any time by the Minister.

## 13. Proceedings of Council

- (1) Subject to the provisions of this Act, and the provisions of the constitution, the Council may regulate its own procedure.
- (2) For the transaction of its business, the Council shall meet at such times, being not less than once every three months, and at such places as the Chairman may determine.
- (3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairman and shall be called if not less than five Council members so request in writing:  

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving shorter notice.
- (4) At any meeting of the Council, one-half of the Council members holding office at that time shall form a quorum.
- (5) 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 his deliberative vote.
- (6) The Council may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.
- (7) The validity of any proceedings, act or decision of the Council or any committee of the Council shall not be affected by any vacancy in the membership of the Council or committee of the Council, as the case may be, or by any defect in the election or appointment of any Council member or

members of such committee or by reason that any person not entitled to do so took part in the proceedings.

- (8) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of every meeting of any committee of the Council.

#### **14. Committees of Council**

- (1) The Council may, subject to the provisions of the constitution, establish any number of committees to assist the Council in the performance of its functions.
- (2) The Council may delegate to any committee established in accordance with this section, such of its functions as the Council may think fit.
- (3) Subject to the provisions of the constitution and any specific or general directions of the Council, a committee established in accordance with this section may regulate its own procedure.

#### **15. Remuneration and allowances of Council members, etc.**

- (1) A council member, or a member of any committee of the Council, other than a public officer or an employee of a parastatal body, shall be paid such remuneration or allowance as may be approved from time to time in accordance with the constitution.
- (2) For the purposes of this section, "parastatal body" means a statutory corporation or body, or a company in which the Government has a majority or controlling interest, and includes a local authority.

#### **16. Secretary and other staff**

- (1) There shall be a Secretary to the Institute who shall be appointed by the Council on such terms and conditions as the Council may determine.
- (2) The Secretary shall act as registrar for the Institute and shall be responsible for the administration of the day-to-day affairs of the Institute under the general supervision of the Council.
- (3) The Secretary shall act as secretary to the Council.
- (4) The Council may, on such terms and conditions as it may determine, appoint such other staff as it considers necessary for the performance of the functions of the Institute.

#### **17. Disclosure of interest**

- (1) If a person is present at a meeting of the Council or any committee of the Council at which any matter is the subject of consideration, in which matter such person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Council or the committee, as the case may be, otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

#### **18. Immunity of Council members**

No action or other proceedings shall lie or be instituted against any Council member or any member of a committee of the Council for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

## Part IV – Membership of Institute

### 19. Classes of members

- (1) There shall be such classes of registered accountants and other members as may be provided for in the constitution.
- (2) Subject to the provisions of the constitution, the Council may confer an honorary membership of the Institute on any person who, in the opinion of the Council, has rendered exemplary service to the profession of accountancy:

Provided that an honorary member shall not be entitled to be registered as an accountant by virtue of such honorary membership.

- (3) Each class of member shall have such rights, privileges and obligations as may be prescribed in the constitution.

### 20. Register of members

- (1) The Institute shall maintain a separate register for details of each member as may be prescribed by the constitution.
- (2) The registers referred to in subsection (1) shall be kept at such place and shall be open to inspection on such conditions (including the payment of fees) as may be prescribed in the constitution.

### 21. Qualification for registration

- (1) A person shall be eligible to apply to be registered as an accountant if—
  - (a) he has passed the final examination of the Institute and has had relevant experience for a period of three years, at least one such year being after passing such final examination; or
  - (b) he is a member of any of the professional bodies approved by the Minister by regulations made under section thirty-eight; or
  - (c) he holds any of the qualifications prescribed by the Minister in regulations made under section thirty-eight and has had the relevant experience as prescribed therein;and is able to satisfy the Institute that he is of good character.
- (2) The Institute may require any applicant for registration to produce such evidence in support of his application as the Institute may consider necessary.
- (3) The registration of any applicant shall be at the discretion of the Institute to be exercised in accordance with its constitution.
- (4) Every applicant for registration shall pay such fees as may be prescribed by the constitution.

### 22. Disqualification from registration

- (1) No person shall qualify for registration if—
  - (a) he has been convicted of an offence involving dishonesty;
  - (b) he has been adjudged or otherwise declared to be of unsound mind under any law in force in Zambia;
  - (c) he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him;

- (d) it is a company registered under the Companies Act.

*[Cap. 388]*

- (2) The Institute may prescribe in its constitution other grounds on which a person may, in the discretion of the Institute, be disqualified from registration.

### **23. Certificate of registration and membership fees**

- (1) Every registered accountant shall be issued with a certificate of registration showing his class of membership.
- (2) Every certificate of registration shall remain the property of the Institute.
- (3) The Institute may charge such fees for a certificate of registration, or copies thereof, as may be prescribed by the constitution.
- (4) The Institute may charge such fees for its membership as may be prescribed by the constitution, and different fees may be prescribed for different classes of membership.

### **24. Holding out**

- (1) No person shall, unless he is a registered accountant—
  - (a) practice as, offer his services as, or hold himself out to be, a qualified accountant, auditor, tax consultant or tax adviser;
  - (b) adopt, use or exhibit the terms "public accountant", "public auditor", "public tax consultant", "public tax adviser" or any other term of like description; or
  - (c) do anything likely to lead persons to infer that he is a registered accountant:

Provided that nothing in this subsection shall operate to prevent a legal practitioner from carrying on the work of a tax consultant or tax advisor, or any other person from carrying on for his employer work connected with accounts, audit or taxation, if the employer does not through such employee offer services to the public which are normally carried out by a qualified accountant, auditor, tax consultant or tax advisor.

- (2) Any person who acts in contravention of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- (3) Where an offence under this section is committed by a body corporate, every director and manager of the body corporate shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or consent.
- (4) Where a firm does any act which if done by an individual would be an offence under this section, every partner in that firm shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or consent.

*[As amended by Act No. 11 of 1989 and Act No. 13 of 1994]*

### **25. Practising certificate**

- (1) No person shall set up in practice as an accountant, auditor, tax adviser, or tax consultant or be a partner in any such practice, unless he is a registered accountant and holds a practising certificate issued by the Institute in accordance with the provisions of its constitution:

Provided that nothing in this subsection shall operate to prevent a legal practitioner from setting up in practice as a tax adviser or tax consultant, or being a partner in such practice.

- (2) No practising certificate shall be issued to any registered accountant who is not resident in Zambia or who is not a partner of a holder of a practising certificate practising in Zambia.
- (3) A practising certificate shall be renewed annually upon the payment of such fees as may be prescribed by the constitution and shall be displayed prominently at the place of practice.
- (4) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to the punishments set out in subsections (2), (3) and (4) of section twenty-four.

## 26. Cancellation of practising certificate or registration

- (1) The Institute may cancel a practising certificate if it has not been renewed within fourteen days of its expiry and has remained unrenewed thirty days after a written notice has been sent to the holder of the practising certificate notifying him of his failure to renew.
- (2) The Institute may cancel the registration of any member if it is satisfied that—
  - (a) such registration was obtained through fraud, misrepresentation or concealment of any material fact; or
  - (b) since such registration, circumstances have arisen disqualifying the member from registration:

Provided that before cancelling any registration under this subsection, the Institute shall give such member an opportunity to present his case, if any, against such cancellation.

- (3) The Institute may, in accordance with its constitution, issue a new practising certificate to a person whose practising certificate is cancelled, or re-register a person whose registration is cancelled.
- (4) Where the registration of any person is cancelled in accordance with the provisions of this Act, any practising certificate held by such person shall become void.

## 27. Appeals to Disciplinary Committee

Any person aggrieved by any decision made by or on behalf of the Institute may appeal to the Disciplinary Committee within ninety days of such decision.

## 28. Offences relating to registration, etc.

Any person who—

- (a) makes or causes to be made, an unauthorised entry, alteration or erasure in a register, certificate of registration, practising certificate, or in any copy thereof; or
- (b) procures or attempts to procure for himself or any other person a practising certificate or registration of any matter by means of fraud, misrepresentation or concealment of any material fact;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

*[As amended by Act [No. 13 of 1994](#)]*

## Part V – Discipline

### 29. Professional misconduct

A member of the Institute shall be guilty of professional misconduct if he does any of the acts or things set out in the Schedule.

### 30. Disciplinary Committee

- (1) The Institute shall, at each annual general meeting, elect from amongst its members other than members of the Council, a Disciplinary Committee of the Institute composed of the following members:
  - (a) a chairman of the Disciplinary Committee;
  - (b) a vice-chairman of the Disciplinary Committee; and
  - (c) not less than two and not more than four other members:Provided that a retiring member of the Disciplinary Committee may be re-elected.
- (2) The chairman of the Disciplinary Committee, or in his absence, the vice-chairman of the Disciplinary Committee, shall preside at every meeting and every sitting of the Disciplinary Committee.

### 31. Functions of Disciplinary Committee

The functions of the Disciplinary Committee shall be to hear and determine—

- (a) any complaint or allegation against a registered accountant;
- (b) any complaint or allegation against the Institute or any organ thereof;
- (c) any appeal from any decision made by or on behalf of the Institute.

### 32. Proceedings of Disciplinary Committee

- (1) Three members of the Disciplinary Committee shall form a quorum:  
Provided that the Disciplinary Committee shall not sit unless it is made up of an uneven number.
- (2) Any question before a sitting of the Disciplinary Committee shall be decided by a majority of votes of the members of the Disciplinary Committee sitting and every member so sitting shall record a vote.
- (3) All proceedings of the Disciplinary Committee shall be *in camera*.
- (4) The Disciplinary Committee shall cause to be kept a record of its proceedings.
- (5) Any party to a hearing before the Disciplinary Committee shall be entitled to be represented by a legal practitioner.
- (6) Every decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected thereby.
- (7) Subject to the provisions of this section, the Disciplinary Committee may make rules regulating its own procedure and the procedure for the hearing of any matter before it.

### 33. Powers of Disciplinary Committee

- (1) The Disciplinary Committee may, for the purposes of any inquiry, hear and receive evidence and may administer oaths.
- (2) Any party to a hearing before the Disciplinary Committee may apply to a court of competent jurisdiction for the issue of summons to give evidence or to produce documents before the Disciplinary Committee:  
Provided that no person shall be compelled under any such summons to produce any document which he could not be compelled to produce on the trial of an action.

- (3) Any person summoned to attend before the Disciplinary Committee who, without sufficient cause—
- (a) refuses or fails to attend at the time and place specified in the summons or, having attended, leaves without the permission of the Disciplinary Committee; or
  - (b) having attended, refuses to be sworn or to affirm; or
  - (c) refuses, without lawful excuse, to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him; or
  - (d) refuses to produce any book, record, document or thing which he has been required by summons to produce;

shall be guilty of an offence and shall be liable, upon conviction, for every such refusal or failure, to a fine not exceeding two thousand five hundred penalty units.

- (4) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

*[Cap. 87]*

- (5) Where the Disciplinary Committee, after due inquiry, finds a registered accountant guilty of professional misconduct, it may impose one or more of the following penalties, that is to say it may —
- (a) order the cancellation of his practising certificate or registration;
  - (b) censure him;
  - (c) caution him;
  - (d) impose a fine, not exceeding two thousand five hundred penalty units to be paid to the Institute;
  - (e) order him to pay to the Institute or to any other party to the hearing any costs of or incidental to the proceedings;
  - (f) order him to pay to any party to the hearing or other person, as restitution, the amount of loss caused by his negligence;
  - (g) impose any reasonable conditions for the postponement or suspension, for a period not exceeding one year, of any of the foregoing punishments.
- (6) In any hearing before the Disciplinary Committee, any finding of fact which is shown to have been made by any court in Zambia shall be conclusive evidence of the fact so found.

*[As amended by Act [No. 13 of 1994](#)]*

#### **34. Reports by Disciplinary Committee to Institute**

The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Institute a report of the proceedings together with a copy of the record kept in accordance with subsection (4) of section thirty-two.

#### **35. Appeals to High Court**

- (1) Any person aggrieved by any decision of the Disciplinary Committee may appeal to the High Court within thirty days of such decision being communicated to him.
- (2) On any appeal under this section, the Institute shall be the respondent.
- (3) The cancellation of any registration ordered by the Disciplinary Committee under this Part shall not take effect until the expiration of the time for lodging an appeal against such order or, if an

appeal is lodged, until such time as the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

- (4) The High Court may, on any appeal under this section—
- (a) confirm, vary or set aside any finding made, penalty imposed or direction given by the Disciplinary Committee;
  - (b) remit the matter to the Disciplinary Committee for further consideration in accordance with such directions as the High Court may give;
  - (c) make such other order as to costs or otherwise as it thinks fit:

Provided that no proceedings of the Disciplinary Committee shall be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.

### **36. Rules by Chief Justice**

The Chief Justice may, by statutory instrument, make rules regulating appeals to the High Court provided for under this Part.

## **Part VI – General**

### **37. Prohibition of publication or disclosure of information to unauthorised persons**

- (1) No person shall, without the consent in writing given by or on behalf of the Institute, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act.
- (2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.
- (3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

*[As amended by Act [No. 13 of 1994](#)]*

### **38. Regulations and rules**

- (1) The Minister may, in consultation with the Council, make regulations by statutory instrument for the better carrying out of the purpose of this Act.
- (2) The Council may, subject to the provisions of the constitution, make rules affecting the Institute, the Council, committees of the Council, Council members, members, staff of the Institute, and persons studying or intending to become registered accountants.

### **39. Repeal and saving of the old volumes**

- (1) The Public Accountants (Registration) Act is repealed.

- (2) Notwithstanding the repeal of the said Act and the provisions of this Act, any person practising as an accountant at the commencement of this Act may continue practising, whether or not he was registered under that Act, for a period of twelve months from the commencement of this Act.

[Cap. 597]

## Part VII – Transitional provisions

### 40. Transitional Council and committees

- (1) Upon the commencement of this Act the Minister shall, notwithstanding the provisions of sections ten and eleven, appoint a transitional Council consisting of not less than five and not more than ten persons, and shall designate one of their number as Chairman and another as Vice-Chairman.
- (2) Until it is dissolved in accordance with subsection (4), the transitional Council shall be deemed for all purposes to have been duly constituted in accordance with section ten, and any reference in this Act to the Council shall apply, *mutatis mutandis*, to the transitional Council.
- (3) Until they have been replaced in accordance with subsection (1) of section eleven, the persons designated Chairman and Vice-Chairman under subsection (1) shall be deemed for all purposes to have been duly elected to their respective offices.
- (4) The members of the transitional Council shall hold office for a period of eighteen months from the commencement of this Act, or until such time as the Institute has elected a Council in accordance with section ten, whichever is the earlier:
- Provided that if the Minister is satisfied that the period of eighteen months should be extended for good cause, he may, by statutory instrument, extend such period by up to six months at a time.
- (5) The transitional Council may, with the approval of the Minister, establish transitional committees of the Council.
- (6) The provisions of subsection (2) and (4) shall apply, *mutatis mutandis*, to members of any transitional committee of the Council which may be established under this Part.

## Schedule (Section 29)

### Professional misconduct

1. A member of the Institute shall be guilty of professional misconduct if, in respect of his practice as an accountant, he—
- (a) allows any person, other than a registered accountant, to practise in his name;
- (b) enters into partnership or association with a person who is not entitled under this Act to set up practice as an accountant;
- (c) procures or attempts to procure any business as an accountant either through the services of a person not qualified to be registered under this Act or by means unbecoming of a professional accountant;
- (d) pays or allows, or agrees to pay or allow, directly or indirectly, any share, commission or brokerage out of his fees for or profits from his professional services as an accountant to any person other than to or for a registered accountant, or an existing or retired partner;
- (e) accepts or agrees to accept, directly or indirectly, any share, commission or brokerage out of the professional fees of any person who is not a registered accountant or partner in a firm of accountants;

- (f) advertises himself, his practice or his services, except to the extent that is necessary to indicate his offices or to give his address to persons having business or professional dealings with him;
  - (g) solicits directly or indirectly clients or business as an accountant by circulars, advertisement, personal communication, interview, or any other means;
  - (h) unlawfully discloses or uses to his own advantage any information which relates to his client or which was acquired in the course of his professional engagement;
  - (i) certifies or submits in his name or in the name of his firm a report of an examination of financial statements if the statements and related records have not been made by him, his partner or a registered accountant employed by his firm;
  - (j) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead people to infer that he vouches for the accuracy of such earnings;
  - (k) expresses his opinion, in a professional capacity, on financial statements of any business or enterprise in which he, or to his knowledge, his immediate family, his firm or a partner in his firm has an interest, unless he discloses such interest in his report; and for the purposes of this paragraph "immediate family" includes a spouse and his own or such spouse's child, parent, brother, sister, uncle, aunt, first cousin, nephew, niece, foster or adopted child and half-brother or half-sister;
  - (l) charges for professional work, other than insolvency, bankruptcy or receivership, fees which are based on a percentage of profits or which are contingent on results;
  - (m) in a financial statement in which his client has interest, fails to disclose to, or knowingly conceals from, such client mis-statements or facts known to himself and the disclosure of which is necessary in order that the financial statement does not mislead;
  - (n) gives an opinion in a professional capacity without obtaining sufficient information therefor, unless that fact is revealed; or
  - (o) fails to account for, or bank, the money of a client separately from his or his firm's money or uses funds belonging to his client for unauthorised purposes.
2. A member of the Institute shall be guilty of professional misconduct if he does any act which is likely to bring the profession of accountancy or the Institute into disgrace, contempt or disrespect.