

No. 58 of 1996.
Accountants Act 1996.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 58 of 1996.

Accountants Act 1996.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Accountants Act 1996,

Being an Act relating to accountants, to continue in establishment the Accountants Registration Board of Papua New Guinea and to establish the Papua New Guinea Institute of Accountants and to repeal the *Accountants Registration Act* (Chapter 89) and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely–

- (a) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order.

2. INTERPRETATION.

In this Act, unless the contrary intention appears–

“**Accountant in Employment**” means a person to whom Section 67(1) applies;

“**Accountants Statutory Committee**” means the Accountants Statutory Committee established by Section 54;

“bank” means a bank as defined in Section 3 of the *Banks and Financial Institutions Act 2000*;

“Board” means the Accountants Registration Board of Papua New Guinea continued in establishment by Section 4;

“certificate of registration” means a certificate of registration issued under Section 44, 45 or 62;

“corporation” means a body corporate wherever formed or incorporated and includes a foreign company, but does not include—

- (a) a body corporate incorporated in Papua New Guinea which is a public authority or an instrumentality or agency of the State; or
- (b) a corporation sole; or
- (c) a society registered under the *Savings and Loan Societies Act 1961*;

“Council” means the Council of the Papua New Guinea Institute of Accountants established under Section 25;

“Deputy Chairman” means the Deputy Chairman of the Board;

“Institute” means the Papua New Guinea Institute of Accountants established under Section 23;

¹**“person”** means a person who may require services or render services under this Act, and includes a corporation;

“Public Accountant” means a person who as a principal, either alone or with others, undertakes or holds himself out as willing to undertake work in the nature of general accountancy for remuneration (other than solely by way of salary);

“reciprocating board” means a board with whom the Board has entered into an agreement under Section 47;

“Register” means a Register kept under Section 21 and, in relation to a category of accountants, means the Register kept for that category;

“registered” means registered under this Act;

“Registered Company Auditor” means a person registered as such under this Act, and in relation to a corporation that is not a company, includes a person qualified to act as the auditor of the corporation under the laws of the country in which the corporation is incorporated;

“Registered Liquidator” means a person registered as such under this Act who undertakes or holds himself out as willing to undertake work in the nature of general accounting and auditing of accounts and liquidating services;

¹ Section 2 (definition of “person”) inserted by No 16 of 2000.

“registered person” means a person registered under this Act in any of the categories of registration specified in Section 42;

“Registered Public Accountant” means a person registered as a Registered Public Accountant under this Act;

“Registered Public Commercial Book-keeper” means a person who as a principal, either alone or with others, undertakes or holds himself out as willing to undertake work in the nature of commercial book-keeping for remuneration;

“Registrar” means the Registrar of Accountants appointed under Section 19;

“repealed Acts” means the Acts repealed by Section 85;

“rule” means a rule made by—

- (a) the Council under Section 32; or
- (b) the Board under Section 68;

“this Act” includes the regulations.

3. REFERENCE TO ACCOUNTANTS, ETC.

(1) Where in any law a reference is made to an accountant or to a licensed or registered accountant, that reference shall be read as a reference to an Accountant in Employment or Registered Public Accountant or Registered Company Auditor or Registered Liquidator as appropriate within the meaning of this Act.

(2) Reference to a practice in accountancy means the practice of those persons registered in a category specified in Section 42 except Accountants in Employment.

PART II. – ACCOUNTANTS REGISTRATION BOARD OF PAPUA NEW GUINEA.

4. CONTINUATION IN ESTABLISHMENT OF THE BOARD.

The Accountants Registration Board of Papua New Guinea established under the repealed Acts, continues in establishment notwithstanding the repeal.

5. CONSTITUTION OF THE BOARD.

(1) The Board shall consist of–

- (a) the Auditor-General, *ex officio*, or his nominee who shall be Chairman; and
- (b) the President of the Papua New Guinea Institute of Accountants, *ex officio*, or his nominee, who shall be the Deputy Chairman; and
- (c) four persons engaged in the practice of accountancy of whom–
 - (i) one shall be a Registered Public Accountant; and
 - (ii) two shall be Registered Company Auditors; and
 - (iii) one shall be a Registered Liquidator; and
- (d) two persons who shall be professors of or lecturers in accountancy or accountancy matters at an academic institution, but shall not be drawn from the same institution in Papua New Guinea; and
- (e) a lawyer who holds a restricted practising certificate under the *Lawyers Act 1986*; and
- (f) a Registered Accountant in Employment representing the Accountants in Employment.

(2) Subject to Subsection (3), the members referred to in–

- (a) Subsection (1)(c)–shall be appointed by the Minister on the recommendation of the Chairman, given after consideration by the Chairman of a panel of names submitted by the Papua New Guinea Institute of Accountants; and
- (b) Subsection (1)(d)–shall be appointed by the Minister on the recommendation of the Chairman; and
- (c) Subsection (1)(e)–shall be appointed by the Minister on the recommendation of the Chairman given after consideration of a panel of names submitted by the Papua New Guinea Law Society; and
- (d) Subsection (1)(f)–shall be appointed by the Minister,

by notice in the National Gazette.

(3) Where–

- (a) a vacancy has occurred in the membership of the Board under Subsection (1)(c) or (e); and
- (b) the Chairman has requested the body referred to respectively in Subsection (2)(a) or (c) to submit a panel of names; and
- (c) the body has not submitted a panel of names within a reasonable time,

the Chairman may submit a panel of names of suitably qualified persons to the Minister and the Minister shall make the necessary appointment from such panel.

6. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 5(1)(c), (d), (e) and (f), an alternate member shall be appointed in the same way and subject to the same conditions as the member for whom he is alternate.

(2) In the event of a member being unable to attend a meeting of the Board, the alternate member has and may exercise all the powers, functions, duties and responsibilities of the member.

(3) An alternate member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except under Subsection (2), take part in debate, vote on any matter or be counted towards a quorum.

7. TENURE OF OFFICE.

A member of the Board (other than an *ex officio* member) shall be appointed for a period not exceeding three years, and is eligible for re-appointment.

8. LEAVE OF ABSENCE OF MEMBERS.

The Minister may grant leave of absence to a member of the Board on such terms and conditions the Minister determines.

9. OATH AND AFFIRMATION OF OFFICE.

(1) Before entering on the duties of his office, a member or alternate member of the Board shall take an oath or make an affirmation in the form in Schedule 1.

(2) The oath or affirmation shall be taken or made before the Minister, or a person appointed by him, for the purpose.

10. FEES AND ALLOWANCES.

(1) The members of the Board shall be paid such fees (if any) and allowances (if any) as are prescribed.

(2) Until fees and allowances are prescribed, the provisions of the *Boards (Fees and Allowances) Act 1955* apply.

11. VACATION OF OFFICE BY MEMBERS.

- (1) If a member of the Board, other than the Auditor-General—
- (a) becomes permanently incapable of performing his duties; or
 - (b) resigns his office by writing under his hand addressed to the Minister; or
 - (c) dies; or
 - (d) ceases to be a resident of the country; or
 - (e) is absent, except on leave granted by the Minister from three consecutive meetings of the Board; or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
 - (g) becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or
 - (h) is convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of the conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment, or is under bond to appear for sentence if called upon,

the Minister shall terminate his appointment.

(2) The Minister may, at any time, terminate the appointment of a member of the Board, other than the Auditor-General, on the grounds of inability, inefficiency, incapacity or misbehaviour.

(3) Where the appointment of a member is terminated under this section, the Minister shall, by notice in the National Gazette, declare his office vacant.

12. MEETINGS OF THE BOARD.

(1) The Chairman or Deputy Chairman shall preside at all meeting of the Board.

(2) The Board shall meet at such times and places as in the opinion of the Chairman are necessary for the efficient conduct of its affairs.

(3) If requested to do so by not less than three members, the Chairman shall call a meeting of the Board as soon as practicable after receiving the request.

- (4) At a meeting of the Board—
- (a) five members of the Board constitute a quorum; and
 - (b) matters arising shall be decided by a majority of the votes of the members present and voting; and

(c) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(5) The Board shall cause minutes of its meetings to be recorded and kept.

(6) Subject to this Act, the procedures of the Board are as determined by the Board.

13. INDEMNITY OF MEMBERS OF THE BOARD.

No matter or thing done or suffered by the Board or by any member of the Board or by the Registrar or by any person acting on behalf of the Board *bona fide* in the execution or intended execution of this Act, or the exercise and discharge or intended exercise and discharge of any of the powers or duties therein shall render the Board or any member of the Board or the Registrar or any person acting on behalf of the Board or the State subject to any liability in respect thereof.

14. PROCEEDINGS VALIDATED.

(1) No act or proceeding of the Board shall be invalidated by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of a member of the Board.

(2) All acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified to act, be as if such member had been duly appointed and was qualified to act and had acted as a member of the Board and as if the Board had been properly and fully constituted.

15. FUNCTIONS OF THE BOARD.

Subject to this Act, the functions of the Board, in relation to the regulation and control of the practice of accountancy in the country are—

- (a) to register persons qualified to practise accountancy; and
- (b) to determine the standard of qualification and experience required for registration in the various categories of registration; and
- (c) to make rules for the control and regulation of the practice of accountancy; and
- (d) to report to the Minister on any matter relating to the operation of Part XI of the *Companies Act 1997*; and
- (e) to do all things that it is required by this Act to do, or that are necessary or convenient to be done to protect the public interest and to give effect to this Act.

16. POWERS OF THE BOARD.

(1) Subject to this Act, the Board has, in addition to the powers conferred on it by this Act, power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

(2) The Board may institute, carry on, prosecute or defend any action, complaint, information or proceeding relating to the functions and powers of the Board under this Act.

17. OTHER COMMITTEES.

(1) The Board may establish such committees as it considers necessary or expedient for the purposes of exercising or carrying out its powers or functions under this Act.

(2) The Board shall appoint persons to be members of a committee established under Subsection (1) and may appoint persons who are not members of the Board.

(3) The Board may delegate to a committee established under Subsection (1) all or any of its powers or functions except this power of delegation.

(4) The procedures at a meeting of a committee shall be determined by the Board or, in the absence of any determination, by the committee.

18. DELEGATION.

(1) The Board may, by instrument, delegate to the Registrar all or any of its powers.

(2) The delegation by the Board of a power or function under this section shall be deemed to include a power to further delegate that power or function.

PART III. – ADMINISTRATION.**19. SECRETARIAT.**

(1) There is established a Secretariat for the administration of this Act comprising–

- (a) the Registrar of Accountants; and
- (b) the Executive Director; and
- (c) such other officers as may be necessary for the administration of this Act.

(2) Subject to Subsection (3) and to the *Salaries and Conditions Monitoring Committee Act 1988*, the Board shall appoint the persons specified in Subsection (1) on terms and conditions determined by the Board.

(3) The appointments to the offices referred to in Subsection (1)(a) and (b) are for a period of three years and are renewable.

(4) The Registrar shall be the officer-in-charge of the Secretariat.

(5) Where a person appointed to an office in the Secretariat under Subsection (1) is, immediately prior to his appointment, an officer of the National Public Service, his service in the Secretariat shall, for the purpose of determining his existing and accruing rights, be counted as service in the Public Service.

20. GENERAL FUNCTIONS OF THE REGISTRAR.

The Registrar shall–

- (a) be the officer-in-charge of the Secretariat; and
- (b) be responsible to the Chairman for the safe custody of all papers and documents submitted to the Board; and
- (c) be responsible for keeping the Registers provided for in Section 21; and
- (d) be responsible for the proper carrying out of the functions of Registrar; and
- (e) record in the appropriate Register all entries of registration, cancellation and re-instatement; and
- (f) sign all certificates of registration; and
- (g) attend all meetings of the Board, record the proceedings thereof, conduct the correspondence and deal with such other matters as may be assigned to him by the Chairman.

21. REGISTERS.

There shall be established the following registers which shall be kept by the Registrar:–

- (a) the Register of Accountants in Employment;
- (b) the Register of Registered Public Commercial Book-keepers;
- (c) the Register of Registered Public Accountants;
- (d) the Register of Registered Company Auditors;
- (e) the Register of Registered Liquidators.

22. FUNDS OF THE BOARD, KEEPING OF BOOKS AND AUDIT OF ACCOUNTS.

(1) The funds of the Board shall consist of—

- (a) such sums as may be payable to the Board from moneys appropriated by Parliament for the purpose; and
- (b) such sums as may be charged by the Board by way of fees; and
- (c) such moneys or assets as may accrue to or vest in the Board whether in the course of the exercise of its functions, or otherwise; and
- (d) such moneys or other assets as may accrue to or vest in the Board by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or royalties, from the Government or other persons; and
- (e) such sums as are derived from the sale of any property, real or personal, by or on behalf of the Board; and
- (f) such sums as are received by the Board by way of voluntary contributions; and
- (g) such moneys or other assets as may be donated to the Board by any foreign government, international agency or other external body of persons, corporate or unincorporate; and
- (h) such moneys borrowed from financial institutions within limits determined by the Board.

(2) The Board shall cause proper books of accounts to be kept.

(3) The Board shall cause the financial statements, consisting of an income and expenditure account and a balance sheet made up to and at 31 December in each year, to be audited by a Registered Company Auditor.

PART IV. – PAPUA NEW GUINEA INSTITUTE OF ACCOUNTANTS.***Division 1.******The Institute.*****23. PAPUA NEW GUINEA INSTITUTE OF ACCOUNTANTS.**

(1) The professional institute known as the Papua New Guinea Institute of Accountants Inc., incorporated under the *Associations Incorporation Act 1966* and existing immediately before the coming into operation of this Act is hereby established under this Act as a professional institute known as the Papua New Guinea Institute of Accountants.

(2) On and from the coming into operation of this Act, the Institute shall operate in accordance with the provisions of this Act and the provisions of the *Associations Incorporation Act 1966* shall not apply to it.

(3) The Institute is not subject to the control or direction of any person other than provided by this Act.

24. FUNCTIONS OF THE INSTITUTE.

(1) The functions of the Institute are—

- (a) continuously to review and to disseminate to its members and others information concerning national and international developments in technical matters affecting the profession of accounting and auditing; and
- (b) to set accounting and auditing standards appropriate to conditions prevailing in Papua New Guinea and to the continued international acceptance of audited financial statements originating in Papua New Guinea; and
- (c)² to advise the Board on any matters referred to it; and
- (d) to determine the qualifications acceptable for admission to membership of the Institute; and
- (e) to carry out research into matters affecting the profession of accounting and auditing; and
- (f) to provide continued professional education to its members; and
- (g) to formulate and monitor rules of professional conduct and ethics applicable to its members; and
- (h)³ to make rules for the protection of the funds of clients of members held by members and for the due performance of professional obligations; and

² Section 24(c) amended by No 16 of 2000.

³ Section 24(h) amended by No 16 of 2000.

- (i) to discipline its members and, where appropriate, to request the Accountants Statutory Committee to inquire into allegations of improper conduct by a member; and
- (j) in accordance with Section 5(2)(a), to submit to the Chairman a panel of names for consideration for appointment to the Board; and
- (k)⁴ to establish and administer, or participate in the establishment and administration of any organization, whether incorporated or not, having as its principal object or as one of its principal objects the advancement of the profession of accountancy; and
- (l) to provide for the education of members who intend to undergo the examinations conducted by the Examination Committee; and
- (m) to grant prizes and scholarships, to hold exhibitions and to establish and subsidize lectureships in universities and other educational institutions in subjects relating to accountancy; and
- (n) to promote, in any manner in which the Institute thinks fit, the interests of the profession of accounting and auditing in Papua New Guinea.

(2) For the purpose of carrying out its functions under Subsection (1) the Institute may—

- (a) charge fees for admission to membership of the Institute and for renewal of membership of the Institute; and
- (b) receive grants from the Board and from other organizations including overseas organizations; and
- (c) borrow money, by way of bank overdraft or otherwise, within limits set by the Council, for any of its purposes; and
- (d) receive voluntary donations or grants; and
- (e) sell publications and other documentation; and
- (f) generally do all things necessary for carrying out its functions.

(3) In addition to, but without limiting the powers, authorities, functions and jurisdiction conferred upon or imposed on the Institute under this Act, the Institute shall have the power, authority and jurisdiction to co-operate with any university, college or institute or institute of advanced education or other examining institute situated in the country in making provision for the training, education and examination of persons who wish to register under this Act and in the preparation of the syllabus of work for candidates for examination, and to advise from time to time as to the course of instruction, study and training for candidates.

⁴ Section 24(k) amended by No 16 of 2000.

25. COUNCIL.

(1)⁵ ⁶The Institute shall be governed by a Council consisting of 12 members, namely—

- (a) the President who shall have served a previous term as a member of the Council; and
- (b) the Vice President; and
- (c) the Treasurer; and
- (d) nine other members.

(2)⁷ ⁸The members of the Council—

- (a) shall be Fellows or Associates of the Institute; and
- (b) shall be elected at the Annual General Meeting of the Institute; and
- (c) shall hold office for a term of one year; and
- (d) are eligible for re-election.

(3)⁹ [*Repealed.*]

(4) The Council may, from time to time in its discretion, appoint any member of the Institute to be a co-opted member of the Council provided that there are not more than two co-opted members of the Council at any one time.

26. CHAIRMAN AND DEPUTY CHAIRMAN.

¹⁰(1) The President shall be Chairman of the Council.

(2) In the absence of the President, the Vice President shall act as Chairman.

(3) In a meeting of the Council where both the President and Vice President are absent, the members present shall elect from their own number a Chairman for that meeting.

27. VACATION OF OFFICE.

(1)¹¹ ¹²If a member of the Council—

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns by writing under his hand addressed to the Chairman; or
- (c) dies; or

⁵ Section 25(1) repealed and replaced by No 16 of 2000.

⁶ Section 25(1) repealed and replaced by No 16 of 2000.

⁷ Section 25(2) repealed and replaced by No 16 of 2000.

⁸ Section 25(2) repealed and replaced by No 16 of 2000.

⁹ Section 25(3) repealed by No 16 of 2000.

¹⁰ Section 26 repealed and replaced by No 16 of 2000.

¹¹ Section 27(1) amended by No 16 of 2000.

¹² Section 27(1) amended by No 16 of 2000.

- (d) ceases to be a resident of the country; or
- (e) is absent, except on leave granted by the Council, from three consecutive meetings of the Council; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (g) becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or
- (h) is convicted of an offence punishable under a law by death or imprisonment for one year or longer, and as a result of such conviction is subject to be sentenced to death or imprisonment, is under sentence of death or is undergoing imprisonment or is under bond to appear for sentence if called upon; or
- (i) ceases for any reason to be eligible for membership of the Council; or
- (j) fails to comply with Section 30,

he shall cease to be a member of the Council and the vacancy thereby created is a casual vacancy until the next Annual General Meeting of the Council.

(2) The Council may appoint an eligible person to fill a casual vacancy.

28. MEETINGS OF THE COUNCIL.

(1)¹³ ¹⁴The Council shall meet at such times as the members of the Council may consider necessary for the efficient conduct of its business, and such meetings shall be held at such places and times and on such days as the members shall determine.

(2) At a meeting of the Council—

- (a) not less than one half of the members of the Council constitute a quorum; and
- (b) the Chairman, or in his absence the Deputy Chairman, shall preside, and in the absence of both the Chairman and the Deputy Chairman the members present shall elect one of their number to preside at the meeting; and
- (c) all matters shall be decided by a majority of the members present and voting; and
- (d) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(3) Minutes of each meeting shall be—

¹³ Section 28(1) amended by No 16 of 2000.

¹⁴ Section 28(1) amended by No 16 of 2000.

- (a)¹⁵ kept by the Secretary, who shall be appointed by the Council; and
- (b) confirmed by the Council at its next meeting; and
- (c) signed by the Chairman or other member presiding.

(4) Subject to this Act, the procedures of the Council are as determined by the Council.

29. EDUCATION AND EXAMINATION COMMITTEE.

¹⁶(1) The Council shall establish an Education and Examination Committee.

(2) The members of the Education and Examination Committee shall be appointed by the Council and shall consist of—

- (a) one member of the Council who shall be the Chairman; and
- (b) one person engaged in the practice of accountancy; and
- (c) two other persons holding Associate or Fellow status in the Institute.

(3) Subject to Subsection (4), a member of the Education and Examination Committee—

- (a) holds office for a term of one year; and
- (b) is eligible for re-appointment.

(4) A member of the Education and Examination Committee ceases to hold office where the member—

- (a) is absent, except on leave granted by the Council, from three consecutive meetings of the Education and Examination Committee; or
- (b) being a member appointed under Subsection (2)(b), ceases to be engaged in the practice of accountancy.

(5) Where a member of the Education and Examination Committee—

- (a) resigns; or
- (b) ceases to hold office in accordance with Subsection (4),

the Council shall appoint a replacement who shall hold office for the remainder of the term of that office.

(6) The functions of the Education and Examination Committee are—

- (a) to recommend to the Council the syllabus of professional and technical level examinations that are required to be taken by persons seeking to qualify for membership of the Institute; and
- (b) to set, moderate and conduct such examinations as the Council considers necessary for the purpose of enabling persons to qualify for membership of the Institute; and

¹⁵ Section 28(3)(a) amended by No 16 of 2000.

¹⁶ Section 29 repealed and replaced by No 16 of 2000.

- (c) to perform such other functions relating to education and examinations as the Council may direct.

30. DISCLOSURE OF INTEREST.

(1) A member of the Council who is directly or indirectly interested in a matter being considered by the Council, otherwise than as a member in common with the other members of an incorporated company consisting of not less than 25 persons, shall, as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Council.

(3) The member making the disclosure under Subsection (1)–

- (a) shall not, after the disclosure, take part in any deliberation or decision of the Council with respect to that matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Council for any such deliberation or decision.

31. GENERAL FUNCTIONS AND POWERS OF THE COUNCIL.

The management and control of the affairs of the Institute shall be vested in the Council and all such powers, acts or things as may be exercised or done by the Institute which are not in this Act expressly directed as required to be exercised or done by the Institute in general meeting may, subject to this Act and any resolution passed from time to time by the Institute in general meeting, be exercised or done by the Council.

32. RULES.

(1) The Council may make Rules providing for–

- (a) procedures for Council meetings; and
- (b) conduct of elections for members of the Council; and
- (c) procedures for general meetings of the Institute; and
- (d) the due performance of professional obligations by members of the Institute; and
- (e) the protection of client funds held by members of the Institute; and
- (f) professional conduct of members of the Institute; and
- (g) disciplining of members of the Institute for breaches of professional conduct.

(2) Notice of Rules made under Subsection (1) shall be given in the National Gazette by the Chairman of the Board and Rules shall come into operation–

- (a) on the gazettal of such notice; or

(b) on such other date as is specified in the notice.

(3) Until such time as the Council has made Rules under Subsection (1), the Chairman of the Board may determine the Rules.

(4) Rules determined under Subsection (3) shall, on the making of Rules under Subsection (1), be deemed to have been repealed.

Division 2.

Membership of the Institute.

33. MEMBERSHIP OF THE INSTITUTE.

(1) Membership of the Institute is open to—

- (a) all persons registered on a Register established under this Act; and
- (b) Accounting Technicians; and
- (c) Registered Accountancy Graduates; and
- (d) Registered Accountancy Students.

(2) All persons registered under this Act are required to be members of the Institute.

34. CATEGORIES OF MEMBERSHIP.

Membership of the Institute is divided into the following categories:—

- (a) Fellows of the Institute;
- (b) Associates of the Institute;
- (c) Accounting Technicians;
- (d) Registered Accountancy Graduates;
- (e) Registered Accountancy Students.

35. FELLOWS OF THE INSTITUTE.

The Rules of the Institute shall provide for the terms and conditions relating to the admission or advancement of a person to membership of the Institute as a Fellow and without limiting the foregoing shall specify the required level of training, examinations, period of service, experience and fitness for membership.

36. ASSOCIATES OF THE INSTITUTE.

The Rules of the Institute shall provide for the terms and conditions relating to the admission of a person as an Associate of the Institute, and without limiting the foregoing shall specify the required level of training, examinations, period of service, experience and fitness for membership.

37. ACCOUNTING TECHNICIANS.

The Rules of the Institute shall provide for the terms and conditions relating to the admission of a person as an Accounting Technician, and without limiting the foregoing shall specify the required level of training, examinations, period of service, experience and fitness for membership.

38. REGISTERED ACCOUNTANCY GRADUATES.

(1) The Council may from time to time determine the terms and conditions under which a graduate in accountancy may be registered as a Registered Accountancy Graduate and without limiting the foregoing the terms and conditions in respect of educational qualification and fitness for registration.

(2) The Council may from time to time determine—

(a) the rights and privileges to be granted to; and

(b) the obligations under which the rights and privileges are granted to,

persons who are Registered Accountancy Graduates in accountancy.

(3) A Registered Accountancy Graduate shall have no voting rights in respect of the Institute.

39. REGISTERED ACCOUNTANCY STUDENTS.

(1) A person who is a *bona fide* student at university in Papua New Guinea or overseas and who is studying accountancy or commerce (with accountancy as a major subject) may be admitted as a Registered Accountancy Student of the Institute.

(2) A Registered Accountancy Student shall have no voting rights in respect of the Institute.

PART V. – REGISTRATION AND QUALIFICATIONS.

40. APPLICATION FOR REGISTRATION.

(1) A person may, in the prescribed form and in the prescribed manner, apply to the Board for registration in any of the categories specified in Section 42.

(2) A person applying for registration under Subsection (1) shall furnish to the Registrar–

- (a) evidence to the satisfaction of the Board of his qualifications, work experience, competence and character for registration; and
- (b) evidence that he has Professional Indemnity Insurance cover in respect of the category of registration for which he is applying in an amount to the satisfaction of the Board; and
- (c) evidence of such other matters as the Board may reasonably require.

(3) The Board may require an applicant for registration to attend personally before the Board and, if he fails to attend as required, may refuse the application.

41. REGISTRATION OF NON-RESIDENTS.

(1) For the purposes of this section, “**non-resident person**” means a person who is not ordinarily resident in Papua New Guinea.

(2) Subject to Subsection (4), a non-resident person shall not be entitled to be registered in any of the categories specified in Section 42.

(3) A non-resident person, who, without the approval of the Board, provides accounting, auditing or liquidating services within Papua New Guinea for a fee, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(4) A non-resident person may apply in writing to the Board for approval to provide accounting, auditing or liquidating services within Papua New Guinea for a fee.

(5) A person applying for approval under Subsection (4) shall furnish to the Board–

- (a) particulars of the accounting, auditing or liquidating services which he proposes to provide within Papua New Guinea; and
- (b) particulars of individuals and corporations to whom it is proposed to provide such services.

(6) An application for approval under Subsection (4), shall be accompanied by a non-refundable fee as prescribed.

(7) On receipt of an application under Subsection (4), the Board may, at its absolute discretion, grant approval for the applicant to carry on the services being applied for and upon such conditions as the Board thinks fit.

42. CATEGORIES OF REGISTRATION.

(1) Where it is satisfied that a person has the required qualifications and is otherwise a suitable person, the Board may authorize the registration of that person in any one or more of the following categories:—

- (a) an Accountant in Employment;
- (b) a Registered Public Commercial Book-keeper;
- (c) a Registered Public Accountant;
- (d) a Registered Company Auditor;
- (e) a Registered Liquidator.

(2) Registration of a person as a Registered Public Commercial Book-keeper shall not be effected after 31 December 1999.

43. REQUIREMENTS OF REGISTRATION.

(1) The minimum qualification and experience requirements for the different categories of registration specified in Section 42 shall be set out in the Rules.

(2) A person registered under this Part shall—

- (a)¹⁷ become a member of the Institute before that registration; and
- (b) thereafter during the period of his registration remain a member of the Institute.

44. MODE OF REGISTRATION.

(1) Where the Board has authorized the registration of a person, the registration shall be effected by entering in the Register—

- (a) his name; and
- (b) his place of residence; and
- (c) his postal address or addresses both within and outside the country; and
- (d) the situation of his place of business or places of business (if any) in the country; and
- (e) the category of his registration; and
- (f) the date of his registration; and
- (g) such other particulars (if any) as are prescribed.

(2) An entry in the Register shall be signed by the Registrar.

(3) Where a person is registered as an Accountant in Employment, a Registered Public Commercial Book-keeper, a Registered Public Accountant, a Registered Company Auditor or a Registered Liquidator the Board shall cause to be

¹⁷ Section 43(2)(a) repealed and replaced by No 16 of 2000.

issued to him a certificate of registration in the prescribed form signed by the Registrar.

(4) A certificate of registration remains in force until December next following the date of issue.

45. RENEWAL OF REGISTRATION.

(1) A person registered under this Act who desires to continue his registration shall, between 1 October and 31 December in each year, lodge with the Registrar—

- (a) an application for renewal of registration in the prescribed form; and
- (b) the prescribed fee.

(2) Where a person has complied with Subsection (1), the Board shall, after satisfying itself that the person seeking renewal has satisfied all conditions prescribed by the Board for renewal of registration, cause to be issued to him a new certificate of registration.

(3) Where a person registered under this Act fails to comply with the provisions of Subsection (1) but, before 31 March in the year succeeding lodges with the Registrar—

- (a) an application in the prescribed form; and
- (b) the prescribed fee; and
- (c) the prescribed fee for late application,

the Board may cause to be issued to him a new certificate of registration.

(4) If a person registered under this Act fails to comply with the provisions of Subsection (1) or (3) the Board shall remove his name from the Register.

(5) A person whose name has been removed from the Register under Subsection (4) may apply to have his name restored to the Register and, on lodgement of an application in the prescribed form and on payment of the prescribed fee, the Board may restore his name and cause to be issued to him a new certificate of registration.

46. PROOF OF REGISTRATION.

(1) A certificate of registration is evidence that the person specified in the certificate was registered under this Act, on the date specified in the certificate, in the category of registration so specified.

(2) A certificate purporting to be under the hand of the Registrar and stating that—

- (a) person was or was not registered; or
- (b) the registration of a person was suspended on any date or dates or during any period mentioned in the certificate,

is in all courts and before all persons and bodies authorized to receive evidence, evidence of the matters stated.

47. RECIPROCAL ARRANGEMENTS.

(1) The Board may enter into a reciprocal arrangement with the accountants board or other competent authority in any country or place for—

- (a) the recognition of the status of a person registered, licensed or authorized by that board or other competent authority to practise as an accountant in that country or place, and for his registration as a Registered Public Accountant, Registered Public Commercial Book-keeper or Registered Company Auditor or Registered Liquidator as the case may be, under this Act; and
- (b) similar recognition, registration, licensing or authorization in that country or place of persons registered under this Act.

(2) An arrangement under Subsection (1) may contain a condition that a person applying to be registered under this Act shall furnish such additional evidence of character and competency as the Board considers satisfactory.

48. FRAUDULENT REGISTRATION.

A person who, in connection with an application for registration under this Act, makes a false or misleading statement or produces a false certificate, testimonial or other document is guilty of an offence.

Penalty: A fine not exceeding K500.00.

49. LOSS OF QUALIFICATION.

A person registered under this Act who loses any qualification, registration or membership of a professional body by virtue of which he claimed eligibility for registration under this Act must immediately inform the Board of that fact, and a person who knowingly or wilfully fails to do so is guilty of an offence.

Penalty: A fine not exceeding K500.00.

50. PROFESSIONAL INDEMNITY INSURANCE.

A person registered under this Act shall maintain with an established insurer professional indemnity insurance cover in respect of his work in the category in respect of which he is registered in an amount to the satisfaction of the Board.

51. ACCOUNTANTS TO HAVE REGISTERED ADDRESSES.

(1)¹⁸ ¹⁹Every person registered under this Act shall have a registered address in Papua New Guinea.

¹⁸ Section 51(1) amended by No 16 of 2000.

(2) All notices and other documents required or authorized to be served on or given to a registered person or corporation under this Act shall be deemed to be duly served or given if left at the registered address of that registered person or corporation.

(3) The address specified in the application for registration under Section 40 as the address at which the applicant proposes to carry on the practice of accountancy shall, upon registration, be deemed to be the registered address.

(4) Notice of any change in the situation of a registered address shall be given to the Registrar within the prescribed time, and the Registrar shall enter such change in the Register.

(5) A person or corporation carrying on the practice of accountancy without complying with the requirements of this section is guilty of an offence.

Penalty: A fine not exceeding K200.00.

52. ALTERATION OF REGISTER.

(1) The Board shall cause to be removed from the Register the names of all registered persons who have died or who have requested their names to be removed, and may cause such alterations to be made to the particulars recorded in the Register as are necessary.

(2) By notice to a registered person, posted to him at his registered postal address or delivered to him or delivered to some person over 16 years of age at his place of business or one of his places of business recorded in the Register, the Board may inquire whether—

- (a) his place of business in the country; or
- (b) his postal address; or
- (c) his place of residence,

is or are still the address or addresses, or the place of residence, shown in the Register.

(3) If an answer to a notice under Subsection (2) is not returned within six months after the date of the posting or other delivery of the notice, the Board may cause the name of the person to be removed from the Register.

53. CANCELLATION OR SUSPENSION OF REGISTRATION FOR FRAUD, ETC.

The Board may cause to be removed from the Register the name of a person—

- (a) whose registration has been obtained by fraud or misrepresentation; or
- (b) who is convicted, whether in Papua New Guinea or elsewhere, of an offence punishable by imprisonment for one year or longer or of any

¹⁹ Section 51(1) amended by No 16 of 2000.

- other offence that, in the opinion of the Board, renders him unfit to practise accountancy; or
- (c) who is convicted of an offence under this Act or who breaks an undertaking given by him under Section 57(7)(c); or
 - (d) who is convicted of an offence against any other law relating to the duties and functions of accountants or matters incidental to accountancy; or
 - (e) whose name is, otherwise than at his own request, removed from the Register or from like records kept by a reciprocating board; or
 - (f) who becomes of unsound mind as that expression is used in the *Public Health Act 1973*; or
 - (g) who is found by the Accountants Statutory Committee to have been guilty of—
 - (i) disgraceful or improper conduct in his professional capacity; or
 - (ii) allowing a person other than a registered person to practice in his name as a Registered Public Commercial Book-keeper, Registered Public Accountant, Registered Company Auditor or Registered Liquidator, as the case may be; or
 - (iii) directly or indirectly giving or offering to a person any valuable consideration for securing or attempting to secure for himself employment as an accountant.

54. ACCOUNTANTS STATUTORY COMMITTEE.

- (1) An Accountants Statutory Committee is hereby established.
- (2) The Accountants Statutory Committee shall comprise—
 - (a)²⁰ the Chairman of the Membership, Ethics and Discipline Committee of the Institute; and
 - (b) the following persons appointed by the Board:—
 - (i) not less than three practising Accountants with the qualifications specified in the Accountants Registration and Practice Rules; and
 - (ii) a person engaged in the teaching of accountancy or commercial studies in the University of Papua New Guinea or the Papua New Guinea University of Technology; and
 - (iii) a lawyer engaged in private practice,

appointed by the Board.

(3) The members of the Committee shall be appointed for a period not exceeding three years and are eligible for re-appointment.

²⁰ Section 54(2)(a) amended by No 16 of 2000.

- (4) The office of a member of the Committee is vacated if that member—
- (a) dies; or
 - (b) becomes incapable of carrying out his duties by reason of mental or physical illness; or
 - (c) is convicted of an offence under this Act or is found to have been guilty of improper conduct under this Act; or
 - (d) is convicted of an offence under any law and is sentenced to a term of imprisonment; or
 - (e) ceases to be a resident of the country; or
 - (f) resigns his office by writing under his hand addressed to the Chairman of the Board.

55. CHAIRMAN AND DEPUTY CHAIRMAN OF THE ACCOUNTANTS STATUTORY COMMITTEE.

(1) The members of the Accountants Statutory Committee shall appoint one of their number to be the Chairman of the Committee and another to be the Deputy Chairman of the Committee.

(2) The Chairman, or in his absence the Deputy Chairman, shall preside at a meeting of the Committee.

(3) The Chairman and Deputy Chairman shall be appointed for a period of 12 months after which time the members of the Committee shall appoint another of their number to be Chairman and another to be the Deputy Chairman of the Committee for the next period of 12 months.

- (4) At a meeting of the Committee—
- (a) three members constitute a quorum; and
 - (b) matters arising shall be decided by a majority of votes of the members present and voting; and
 - (c) the person presiding has a deliberative and in the event of an equality of votes on a matter, also a casting vote.

(5) The Committee shall cause a written record to be kept of proceedings of meetings, hearing and inquiries.

56. FUNCTIONS OF THE ACCOUNTANTS STATUTORY COMMITTEE.

(1) Subject to this Act, the function of the Accountants Statutory Committee is to inquire into complaints against a registered person for disgraceful and improper conduct by him in the practice of accountancy.

(2) Any person may request the Accountants Statutory Committee to inquire into an allegation that a registered person has been guilty of disgraceful and improper conduct in the practice of accountancy.

(3) An inquiry under this Section shall continue notwithstanding that the person against whom a complaint has been made before the Accountants Statutory Committee has ceased to be registered after the commencement of the inquiry.

(4) All matters referred to the Accountants Statutory Committee shall be considered by the Committee which shall decide whether further inquiry is necessary.

57. INQUIRY TO BE HELD.

(1) Where the Accountants Statutory Committee decides under Section 56(4) that further inquiry in respect of a complaint is necessary it shall hold an inquiry, after giving notice to the person concerned of the matters to be inquired into and of the time and place at which the inquiry is to be held.

(2) At the inquiry the person under inquiry may be represented by a lawyer or agent, who may examine witnesses and address the Accountants Statutory Committee on his behalf.

(3) In conducting the inquiry, the Accountants Statutory Committee is not bound by technical rules of evidence or by legal procedures, but may inform itself in such manner as it thinks fit.

(4) Pending the holding of the inquiry, the Accountants Statutory Committee may request the Board to suspend the registration of the person but in no case shall the period of suspension exceed 28 days.

(5) For the purpose of an inquiry under this section, the Chairman of the Accountants Statutory Committee may by notice in the prescribed form, require any person to appear at the inquiry and to give evidence on any matter in relation to the subject matter of the inquiry.

(6) A notice under Subsection (5) may require a person to produce all or any books and documents in his custody relating to the subject matter of the inquiry.

(7) Where, upon an inquiry, investigation or hearing referred to in this section, the Accountants Statutory Committee adjudges a person to have committed an offence, the Accountants Statutory Committee may make one or more of the following orders:—

- (a) admonish or reprimand him;
- (b) require him to pay the costs of and incidental to the inquiry;
- (c) require him to give an undertaking to abstain from some specific conduct;
- (d) impose on him a fine not exceeding K10,000.00;
- (e) order the suspension of his registration for a term not exceeding one year;
- (f) order the cancellation of his registration and order the removal of his name from the Register;

(g) order that his application for registration be refused.

(8) The amount of any fine or costs imposed under Subsection (7) may be recovered by the State as a debt.

(9) Where the entitlement of a registered person to practise in a reciprocating country or place is suspended, the Accountants Statutory Committee may suspend his registration under this Act.

58. COMMITTEE TO RECORD FINDING ON WHICH DECISION PASSED.

Where the Accountants Committee takes any action under Section 57 in relation to a person, the Accountants Statutory Committee shall—

- (a) record the finding on which the decision was based and its reasons; and
- (b) if the person concerned so requests, furnish to him a copy of the findings and reasons; and
- (c) furnish to the Board a copy of the findings and the reasons.

59. BOARD TO GIVE EFFECT TO ORDERS.

Where the Accountants Statutory Committee has made an order under Section 57(7)(e), (f) or (g), the Board shall give effect to the order.

60. SURRENDER OF CERTIFICATE ON REMOVAL OF NAME FROM REGISTER OR ON SUSPENSION.

(1) Where the name of a person is removed from the Register or the registration of a person is suspended, the Board may, by written notice posted to him at his registered postal address or delivered to him or delivered to some person over 16 years of age at his place of business or one of his places of business recorded in the Register, require him to deliver his certificate of registration to the Board within 14 days after receipt of the notice.

(2) A person, who fails to comply with a notice served on him under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K50.00.

(3) It is a defence to a prosecution for an offence against Subsection (2) if the accused satisfies the court that—

- (a) the certificate has been destroyed; or
- (b) after diligent search, he has been unable to find the certificate.

(4) Notification of any suspension of registration of a person or removal of the name of a person from the Register shall be published in the National Gazette.

61. EFFECT OF SUSPENSION ON REGISTRATION.

(1) For the purposes of this Act, a person whose registration is suspended under this Act shall be deemed to be, during the period for which the registration is suspended, a person who is not registered under this Act.

(2) The Board may, by written notice, revoke the suspension, and may direct in the notice that the revocation have effect from a date specified in the notice.

(3) Where the Board revokes a suspension the Board shall promptly return the certificate of registration to the holder.

62. APPLICATION FOR RE-REGISTRATION.

(1) Where, under Section 52, the name of a person has been removed from the Register at his own request, the Board shall, on—

- (a) his lodging an application in the prescribed form; and
- (b) payment by him of the prescribed fee; and
- (c) his satisfying the requirements of the Rules,

cause—

- (d) his name to be entered again in the Register; and
- (e) a certificate of registration to be issued to him.

(2) Where, under Section 57 the name of a person has been removed from the Register, he may again apply for registration, but is not entitled to be again registered unless the Board thinks fit to authorize the registration.

63. CERTIFICATE OF REGISTRATION TO BE DISPLAYED.

(1) A person registered under this Act who is in public practice and who has established a place of business in the country must display his certificate of registration in a prominent position at his place of business in the country.

(2) A person whose registration is no longer current who displays a certificate of registration at his place of business in the country is guilty of an offence.

Penalty: A fine not exceeding K200.00.

64. LIST OF REGISTERED ACCOUNTANTS TO BE PUBLISHED.

(1) The Registrar shall cause to be published in the National Gazette before 31 March in each year a list containing the names and addresses of all registered persons as at 1 January preceding and the categories in which they are registered.

(2) The Registrar shall cause to be published in the National Gazette before 30 September in each year a list containing the names and addresses of persons registered as Registered Accountants during the period 1 January to 30 June in that year.

PART VI. – APPEALS.

65. APPEALS.

(1) Where the Accountants Statutory Committee—

- (a) admonishes or reprimands a person; or
- (b) requires a person to pay the costs of and incidental to the inquiry by the Committee; or
- (c) requires a person to give an undertaking to abstain from some specific conduct; or
- (d) imposes on a person a fine; or
- (e) orders the suspension of the registration of a person otherwise than under Section 57(9); or
- (f) orders the cancellation of the registration of a person and orders the removal of his name from the Register; or
- (g) orders the refusal of an application for registration of a person (other than an application under Section 57(9)),

the person may appeal to the Board against the decision of the Accountants Statutory Committee within one month after the decision is notified.

(2) The Board may confirm, vary or reverse the decision of the Accountants Statutory Committee.

(3) A person aggrieved by the decision of the Board under Subsection (2) may appeal to a Court of competent jurisdiction within 28 days after the decision is made by the Board.

**PART VII. – REGULATION OF THE PRACTICE OF ACCOUNTANCY AND
ACCOUNTANTS IN EMPLOYMENT.**

66. RIGHT TO PRACTISE.

Subject to this Act and any other law, a person registered under this Act may practise the profession of accountancy in the country in the category in which he is registered.

67. ACCOUNTANT IN EMPLOYMENT.

(1) A person who—

- (a)²¹ possesses qualifications of diploma, degree or professional level in commerce, economics, business or in related disciplines; and
- (b) is employed by the State or by a statutory body or by a private organization to perform duties connected with—
 - (i) the recording, classifying and analyzing of financial transactions; or
 - (ii) the preparing of financial information; or
 - (iii) the making of financial or business decisions; or
 - (iv) auditing and/or investigating transactions of an accounting nature; or
 - (v) book-keeping and accounting generally,

shall be registered as an Accountant in Employment

(2) The prospective employer of a person to whom Subsection (1) applies shall apply for the registration of that person prior to that person commencing employment.

68. RULES.

(1) The Board may make rules for regulating and prescribing the practice of accountancy, and the procedures to be adopted by Accountants in Employment, Registered Public Commercial Book-keepers, Registered Public Accountants, Registered Company Auditors and Registered Liquidators, and for regulating and prescribing all matters incidental to or relating to such practice or procedures.

(2) Without limiting the generality of Subsection (1), the Board may make rules—

- (a) prescribing the minimum qualifications (including experience) for registration in the categories of registration; and
- (b) prescribing the accounting and auditing standards as fixed by the Board to be adopted by all accountants in Papua New Guinea; and

²¹ Section 67(1)(a) amended by No 16 of 2000.

- (c) determining a recommended scale or scales of fees, costs and charges in relation to accounting practice; and
- (d) setting out the code of professional ethics by which all Accountants in Employment, Registered Public Commercial Book-keepers, Registered Public Accountants, Registered Company Auditors and Registered Liquidators are to be bound.

(3) In making a rule under this section, the Board shall consider any recommendations made to it by the Institute and by any association recognised by the Board as representing Accountants in Employment or Registered Public Commercial Book-keepers or Registered Public Accountants or Registered Company Auditors or Registered Liquidators in Papua New Guinea.

(4) Before making Rules under this section, the Board shall consider any recommendations made on a particular matter by—

- (a) the Institute; and
- (b) any other body recognized by the Board as representing accountants, auditors and liquidators.

(5) Notice of Rules made under this section shall be given in the National Gazette by the Minister and the Rules shall come into operation—

- (a) on the gazettal of such notice; or
- (b) on such other date as is specified in the notice.

69. FAILURE TO COMPLY WITH RULES.

A person who, without reasonable excuse (proof of which is on him) contravenes or fails to comply with a rule made under this Act is guilty of an offence.

Penalty: A fine not exceeding K200.00.

70. OFFENCES AND FINES FOR ILLEGAL PRACTICE.

²²(1) Subject to Subsection (3), a person other than a Registered Public Accountant, Registered Company Auditor or Registered Liquidator who—

- (a) pretends that he is or holds himself out to be a Registered Public Accountant, Registered Company Auditor or Registered Liquidator, as the case may be; or
- (b) takes or uses the name or title of a registered person, or a name, title, addition or description implying that he is a registered person; or
- (c) practices as a Registered Public Accountant, Registered Company Auditor or Registered Liquidator, as the case may be, or charges or receives a fee for work done as a registered person; or

²² Section 70 repealed and replaced by No 16 of 2000.

- (d) undertakes, or pretends to undertake, or holds himself out as being qualified to undertake, any work relating to the making up of accounts of a compiling or maintaining books of account or the management of a liquidation at a fee,

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

Default penalty: A fine not exceeding K500.00.

(2) Subject to Subsection (3), a person who is required by law to have accounts audited, and engages the services of an auditor who is not registered as an auditor under this Act is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

Default penalty: A fine not exceeding K500.00.

(3) It is a defence to a charge of an offence against Subsection (1) or (2) in relation to the preparation or auditing of any accounts or of any books of account if the person charged proves that—

- (a) he was authorized by the Board to undertake the accounting or auditing of the books of account or management of the liquidation; or
- (b) he carried out the accounting or auditing of the books of account or management of the liquidation on behalf of the Government and as part of his duties as an officer of Papua New Guinea or an authority or instrumentality of the Government.

(4) The provisions of Subsection (1) do not apply to a non-resident person approved by the Board under Section 41 in respect of the services for which the approval was given.

71. FIRMS AND CORPORATIONS.

(1) No firm may undertake any audit or accounting work in relation to the preparation of financial statements and or financial accounts or the compiling or maintaining of the books of accounts or pretend, undertake or hold itself out to be competent, unless—

- (a) all partners and Accountants in Employment of the firm or all members of the corporation including Accountants in Employment ordinarily resident in Papua New Guinea are registered persons; and
- (b)²³ [*Repealed.*]
- (c) in the case of a corporation, the true liability of the partners is unlimited.

(2) If a firm or corporation contravenes the provisions of Subsection (1), the members of the firm or the Directors of the corporation are each guilty of an offence.

²³ Section 71(1)(b) repealed by No 16 of 2000.

Penalty: A fine not exceeding K5,000.00.

Default penalty: A fine not exceeding K500.00.

72. ADMINISTRATION OF THE ESTATE OF A DECEASED PUBLIC ACCOUNTANT.

²⁴On the death of a person who, at the time of his death, was carrying on business as an accountant or book-keeper, an executor, administrator or trustee of his estate may carry on the business of the estate until it is wound up, if the practice of accountancy or book-keeping in the business is carried on by a registered person, Registered Public Commercial Book-keeper, Registered Company Auditor or Registered Liquidator.

73. REMUNERATION BY AGREEMENT.

(1) A registered person may make a written agreement with his client covering the nature of work to be performed and the remuneration relating to such work.

(2) An agreement referred to in Subsection (1)–

(a) may provide for the remuneration of the registered person by a gross sum, or by some other agreed rates of remuneration; and

(b) may be made on terms that the amount of the agreed remuneration either shall or shall not include all or any disbursements made by the accountant.

74. TRUST ACCOUNTS.

A registered person, other than an Accountant in Employment, shall keep books of accounts in relation to trust monies in a manner prescribed.

²⁴ Section 72 amended by No 16 of 2000.

PART VIII. – MISCELLANEOUS.

75. POWER TO SUMMON WITNESSES.

(1) The Registrar may, by writing under his hand, summon a person to attend the Board at a time and place specified in the summons and then and there to give evidence and produce such books, documents or writings in his custody or control as he is required by the summons to produce.

(2) A summons under this section may be served—

- (a) personally; or
- (b) by sending it by post to the person at his place of abode or business last-known to the Registrar; or
- (c) by leaving it at that place of abode or business with some person apparently living or employed at that place and apparently not less than 16 years of age.

76. POWER TO EXAMINE ON OATH.

A member of the Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and the witness may be examined on oath.

77. FAILURE TO ATTEND OR PRODUCE DOCUMENTS.

(1) A person served with a summons to attend the Board who refuses or fails, without reasonable excuse, to attend the Board, or to produce the books, documents or writings in his custody or control that he is required by the summons to produce, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

Default penalty: A fine not exceeding K200.00.

(2) It is a defence to a prosecution for refusing or failing, without reasonable excuse, to produce a book, document or writing if the defendant proves that the book, document or writing was not relevant to the matter the subject of the Board's proceedings.

78. REFUSAL TO BE SWORN OR GIVE EVIDENCE.

(1) A person appearing as a witness before the Board who refuses to be sworn or to make an affirmation, or to answer a question relevant to the proceedings put to him by a member of the Board, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) A statement or disclosure made before the Board by a witness is not, except in an appeal to the National Court under Part VI, or in proceedings for giving false

testimony before the Board, admissible in evidence against him in any civil or criminal proceedings.

79. PROTECTION OF WITNESSES.

A witness before the Board has the same protection as a witness in a matter before the National Court.

80. FEES AND ALLOWANCES TO WITNESSES.

A person who attends for the purpose of giving evidence before the Board is entitled to receive such fees and allowances as the Chairman, or in his absence the Deputy Chairman, thinks fit to allow in accordance with the prescribed scale of fees and allowances.

81. BOARD MAY INSPECT BOOKS, ETC.

The Board may inspect books, documents or writings before it and may—

- (a) retain them for such reasonable period as it thinks fit; and
- (b) make copies of such portions of them as are relevant to a matter before the Board.

82. JUDICIAL NOTICE.

All courts, Judges, and persons acting judicially shall take judicial notice of the signature of any person who has been or is the Registrar appearing on a certificate issued under this Act and of the fact that the person by whom the certificate purports to have been signed was, at the time when the certificate was signed, the Registrar.

83. DISQUALIFICATION OF UNREGISTERED PERSON FROM HOLDING CERTAIN APPOINTMENTS.

(1)²⁵ ²⁶No person, other than a Registered Company Auditor under this Act, shall be competent to hold or shall hold any appointment (whether honorary or not)—

- (a) as an auditor under the provisions of the *Associations Incorporation Act 1966* or the *Savings and Loan Societies Act 1961*; or
- (b) as an Auditor appointed under Section 99(b) of the *Co-operative Societies Act 1981*.

(2) No person, other than a Company Auditor registered under this Act, shall be competent to hold or shall hold an appointment as an auditor under the *Trust Account (Lawyers) Regulation*.

²⁵ Section 83(1) amended by No 16 of 2000.

²⁶ Section 83(1) amended by No 16 of 2000.

84. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters providing for and in relation to—

- (a) the fees (if any) payable in respect of any application, late application registration, certificate or other proceeding, act or thing provided for or required under this Act; and
- (b) the forms to be used for the purposes of this Act; and
- (c) the rights to practise of—
 - (i) Registered Public Commercial Book-keeper; and
 - (ii) Registered Public Accountant; and
 - (iii) Registered Company Auditor; and
 - (iv) Registered Liquidator; and
- (d) particulars to be entered in the Register; and
- (e) penalties of fines not exceeding K2,000.00, and default penalties of fines not exceeding K200.00, for offences against the regulations.

PART IX. – REPEAL.

85. REPEAL.

The following Acts are hereby repealed:–

- (a) *Accountants Registration Act* (Chapter 89);
- (b) *Accountants Registration (Amendment) Act 1987* (No. 1 of 1987);
- (c) *Accountants Registration (Amendment) Act 1990* (No. 20 of 1990).

PART X. – TRANSITIONAL AND SAVINGS.**86. REGISTRATION.**

A person who, immediately before the coming into operation of this Act, was registered under the repealed Acts as a Registered Company Auditor, Registered Liquidator, Registered Public Accountant or Registered Public Commercial Book keeper shall on that coming into operation, be deemed to be registered as a Registered Company Auditor, Registered Liquidator, Registered Public Accountant or Registered Public Commercial Book-keeper, as the case may be, under this Act, until his registration under the repealed Acts would, but for that coming into operation, otherwise have expired or be revoked according to law.

87. MEMBERSHIP OF THE INSTITUTE.

A person who, immediately prior to the coming into operation of this Act, was a member of the Papua New Guinea Institute of Accountants Incorporated, is, on that coming into operation, deemed to be a member of the Institute of the same category as he was, until such time as his membership of the Papua New Guinea Institute of Accountants Incorporated would, but for that coming into operation, otherwise have expired or be revoked according to the Rules of the Papua New Guinea Institute of Accountants Incorporated.

88. ASSETS, ETC, OF THE INSTITUTE.

All assets held or occupied by and all liabilities and obligations of the Papua New Guinea Institute of Accountants Incorporated immediately prior to the coming into operation of this Act are, on that coming into operation, transferred to and become assets and liabilities and obligations of the Institute.

89. STAFF.

(1) The person who, immediately before the coming into operation of this Act, held the position of Registrar under the repealed Acts, shall, on that coming into operation, hold the position of Registrar under this Act and on the same terms and conditions until—

- (a) his appointment expires or otherwise terminates according to law; or
- (b) an appointment of Registrar is made and terms and conditions determined under Section 19,

whichever first happens.

(2) A person who, immediately before the coming into operation of this Act—

- (a) held an office under the repealed Acts; or
- (b) was employed by the Papua New Guinea Institute of Accountants Incorporated,

shall, on that coming into operation, hold a similar office in the secretariat under this Act and on the same terms and conditions, until—

- (c) his appointment expires or otherwise terminates according to law; or
- (d) an appointment is made to the office and terms and conditions determined under this Act,

whichever first happens.

90. APPLICATION OF ACTS, ETC.

Where—

- (a) any Act or subordinate enactment other than this Act; or
- (b) any document or instrument whenever made or executed,

contains a reference, express or implied, to the repealed Acts or to any provision of the repealed Acts or to any office established or person registered under the repealed Acts, that reference shall, unless the context otherwise requires, be read and construed and have effect as a reference to this Act or the equivalent provision of this Act or office or person registered under this Act, as the case may be.

SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE.

Sec. 9

Oath

“I, ... , do swear that I will well and truly serve the Independent State of Papua New Guinea in the office of Chairman/Deputy Chairman/Member/Alternate Member of the Accountants Registration Board of Papua New Guinea.

So help me God!”

Affirmation

“I, ... , do solemnly and sincerely promise and declare that I will well and truly serve the Independent State of Papua New Guinea in the office of Chairman/Deputy Chairman/Member/ Alternate Member of the Accountants Registration Board of Papua New Guinea.”

Office of Legislative Counsel, PNG