

CHAPTER 27:12
PUBLIC ACCOUNTANTS AND AUDITORS ACT

Act 13/1995, 22/2001 (s. 4), 1/2015

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AN ACT to establish a Public Accountants and Auditors Board and to provide for its functions; to provide for the registration of public accountants and public auditors; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 12th April, 1996.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Public Accountants and Auditors Act [*Chapter 27:12*].

2 Interpretation

(1) In this Act—

“accountancy profession” denotes the occupation of those persons registered as general accountants, tax accountants, public accountants or public auditors;

[Definition inserted by Act 1 of 2015]

“associate constituent body” means a body specified in Part II of the Second Schedule that represents general accountants and tax accountants;

[Definition inserted by Act 1 of 2015]

“audit” means the verification or certification of financial statements, financial transactions, books, accounts or records;

“Board” means the Public Accountants and Auditors Board established by section *four*;

“by-laws” means by-laws made by the Board in terms of section *forty-three*;

“constituent body” means a principal constituent body or an associate constituent body;

[Definition substituted by Act 1 of 2015]

“general accountancy services” means the services of recording, reporting, and analysis of financial statements, financial transactions, books, accounts or records, but does not include—

(a) the auditing of those statements, transactions, books, accounts or records;

(b) the services referred to in paragraph (a) of the definition of “tax accountancy services”;

[Definition inserted by Act 1 of 2015]

“general accountant” means a person who, upon registration as a general accountant, is qualified to offer for hire or reward general accountancy services to any person, other than to a public company or statutory body;

[Definition inserted by Act 1 of 2015]

“holder”, in relation to a practising certificate, means the person to whom the practising certificate was issued;

“member” means a member of the Board;

“Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;

[Definition substituted by Act 1 of 2015]

“prescribed” means prescribed by by-laws or by regulations, whichever is appropriate to the context;

[Definition inserted by Act No.1 of 2015]

“principal constituent body” means a body specified in Part I of the Second Schedule that represents public accountants and public auditors;

[Definition inserted by Act 1 of 2015]

“public accountancy services” means all the services that a general accountant and a tax accountant may offer for hire or reward, but does not include auditing services;

[Definition inserted by Act 1 of 2015]

“public accountant” means a person who, upon registration as a public accountant, is qualified to offer for hire or reward public accountancy services to any person, including a public company or statutory body;

[Definition inserted by Act 1 of 2015]

“public auditor” means a person who, upon registration as a public auditor, is qualified to offer for hire or reward auditing services and public accountancy services to any person, including a public company or statutory body;

[Definition inserted by Act 1 of 2015]

“Register” means a Register established in terms of section 19;

[Definition substituted by Act No.1 of 2015]

“registered” means registered in a Register;

[Definition substituted by Act No.1 of 2015]

“regulations” means regulations made by the Board in terms of section 44;

[Definition inserted by Act 1 of 2015]

“revenue law” means an Act specified in the First Schedule to the Revenue Authority Act [*Chapter 23:11*];

[Definition inserted by Act No 1 of 2015]

“secretary of the Board” means the person appointed as secretary of the Board in terms of section *fourteen*.

“tax accountant” means a person who, upon registration as a tax accountant, is qualified to offer for hire or reward general accountancy services and tax accountancy services to any person, other than to a public company or statutory body;

[Definition inserted by Act 1 of 2015]

“tax accountancy services” means—

- (a) the preparation, submission and certification of a tax return or other return in terms of anyone or more of the revenue laws;
- (b) the doing of any other thing required to ensure compliance with a revenue law.

[Definition inserted by Act 1 of 2015]

(2) For the purposes of this Act, a person shall be deemed to practise as a public auditor if he carries out or offers to carry out an audit or auditing services for hire or reward.

3 Constituent bodies

(1) The bodies specified—

- (a) in Part I of the Second Schedule are principal constituent bodies; and
- (b) in Part II of the Second Schedule are associate constituent bodies,

(2) The Minister may, on the recommendation of the Board—

- (a) declare that any body of persons established in Zimbabwe to advance the interests of—
 - (i) public accountants or public auditors shall be a principal constituent body; or
 - (ii) general accountants or tax accountants shall be an associate constituent body;
- (b) declare that any constituent body whose standards have, or membership has, fallen to a level which, in the opinion of the Board, no longer justifies its continued existence as a constituent body, shall cease to be a constituent body;
- (c) amend the Second Schedule by notice in a statutory instrument—
 - (i) to give effect to a declaration in terms of paragraph (a) or (b) by adding to or deleting from the Schedule the name of the constituent body concerned; or
 - (ii) change the name of a constituent body at the request of such body communicated in writing through the Board.

[Section substituted by Act 1 of 2015]

PART II

PUBLIC ACCOUNTANTS AND AUDITORS BOARD

4 Establishment of Board

There is hereby established a board, to be known as the Public Accountants and Auditors Board, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

5 Functions of Board

- (1) Subject to this Act, the functions of the Board shall be—
- (a) to consider and determine applications for registration in terms of Part III;
 - (b) to maintain the Registers;
- [Paragraph substituted by Act 1 of 2015]
- (c) to issue practising certificates to registered persons in terms of Part IV and, in accordance with that Part, to cancel or suspend such certificates;
 - (d) to define and enforce ethical practice and discipline among registered persons;
 - (e) to encourage co-operation between the constituent bodies in matters of common interest;
 - (f) to take such steps as appear to the Board to be necessary or desirable to advance the standing and effectiveness of the accountancy profession in Zimbabwe;
 - (g) to represent the views of the accountancy profession on national, regional and international issues;
 - (h) to evaluate and monitor the standards of qualifying examinations, courses and training set or offered by the constituent bodies;
 - (i) to evaluate examinations and training courses of foreign institutions with a view to making recommendations to the constituent bodies;
 - (j) to promote the standardization of qualifying examinations on common subjects;
 - (k) to take such steps as appear to the Board to be necessary to provide for the manpower requirements of the accountancy profession in Zimbabwe.

(2) For the better exercise of its functions, the Board shall have power to do or cause to be done all or any of the things specified in the First Schedule, either absolutely or conditionally and either solely or jointly with others.

6 Membership of Board

(1) The Board shall consist of members appointed by the constituent bodies in terms of this section.

(2) Subject to subsection (3), each principal constituent body shall appoint two persons, and each associate constituent body shall appoint one person, who are qualified for membership in terms of section 7.

(3) The membership of the Board must reflect a ratio of three members appointed by principal constituent bodies for every two members appointed by associate constituent bodies; to that end—

- (a) the secretary of the Board may disallow any nomination or invite any additional nomination to maintain that ratio, but in so doing the Secretary must ensure that every constituent body is represented on the Board;
 - (b) the question of which nomination is to be disallowed for the purposes of this section or which constituent body is to make any additional nomination is to be settled by consensus among the principal constituent bodies or associate constituent bodies (whichever group of constituent bodies is affected by the secretary's action); in the absence of such consensus, the secretary must decide the issue by lot in the presence of authorized representatives of the constituent bodies concerned.
- (4) A constituent body may appoint an alternate to any member appointed by it, and an alternate member—
- (a) shall act as a member only when the member to whom he or she is alternate is for any reason unable to exercise his or her functions on the Board; and
 - (b) when acting as a member, shall exercise the functions of the member to whom he or she is alternate:

Provided that the alternates to the chairperson and vice-chairperson of the Board shall not exercise the functions of chairperson or vice-chairperson, as the case may be.

(5) As soon as possible after appointing a member or an alternate member to the Board, a constituent body shall inform the secretary of the Board, in writing, of the name and address of the member or alternate member so appointed.

(6) Subject to subsection (7), in making appointments to the Board every constituent body must keep in mind that the Board must as far as possible be equally representative of both genders, and for that purpose—

- (a) each principal constituent body must endeavour to appoint a man and a woman to the Board;
- (b) the secretary of the Board may list associate constituent bodies alphabetically and require the first listed body to appoint a member of a particular gender and the next listed one to appoint a member of a different gender, and so on down the list;
- (c) any alternate of a member must be of the same gender as the member of whom he or she is the alternate,

(7) If the secretary of the Board is satisfied, on written representation made to him or her by the principal constituent body or associate constituent body concerned at the time when it is required to make any nomination, that there is a scarcity of suitable candidates of a particular gender, the secretary shall disregard the provisions of subsection (6) to the extent necessary to enable the body to make the nomination concerned,

(8) Subsection (6) of the section 6 of the principal Act as substituted by this Act shall not apply so as to require any member of the Board as it existed on the date of commencement of this Act to vacate his or her office.

[Substituted by Act No.1 of 2015]

7 Qualifications for membership of Board

(1) Subject to subsection (2), a person shall be qualified for appointment to the Board if he is a member of a constituent body and is registered as a public auditor or a public accountant.

(2) A person shall not be appointed as a member, and no person shall be qualified to hold office as a member, if—

- (a) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (b) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) if the disciplinary authority of a constituent body, following disciplinary proceedings, has—
 - (i) directed that his membership of the constituent body concerned be cancelled; or
 - (ii) ordered his suspension from practice;
 and his membership of the constituent body has not been restored or the period of his suspension has not elapsed, as the case may be; or
- (d) his registration is cancelled or he is suspended from practice following disciplinary action in terms of this Act; or
- (e) within the period of five years immediately preceding the date of his proposed appointment, he has been sentenced in any country to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended, and he has not received a free pardon.

8 Terms and conditions of office of members

(1) Unless they vacate their office earlier, members shall hold office for a period of four years from the date of their appointment:

Provided that, of the persons first appointed by any constituent body, one member and one alternate member shall hold office for a period of two years from the date of their appointment.

(2) On the expiry of the period for which a member has been appointed, he shall continue to hold office until he has been reappointed or his successor has been appointed:

Provided that a member shall not hold office in terms of this subsection for a period exceeding six months.

(3) A member who resigns or retires shall be eligible for reappointment to the Board.

(4) A constituent body may at any time, by notice in writing to the secretary of the Board, cancel the appointment of a member whom it has appointed and appoint some other qualified person to hold his office for the unexpired period of that member's term of office.

(5) Members shall hold office on such terms and conditions, including terms and conditions relating to remuneration and the payment of allowances, as the Board may fix.

(6) A member may be reappointed, but no member may serve more than two consecutive terms.

[Subsection inserted by Act 1 of 2015]

9 Vacation of office by member

(1) A member shall vacate his office and his office shall become vacant—

- (a) after giving the secretary of the Board such period of notice of intention to resign as may be fixed in his terms and conditions of service or, if no such period has been fixed, one month after the date on which he gives such notice, or after the expiry of such other period of notice as he and the Board may agree; or
- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine in any country; or
- (c) if he becomes disqualified in terms of section *seven* to hold office as a member; or
- (d) if his appointment is cancelled in terms of subsection (4) of section *eight*; or
- (e) if he is required in terms of subsection (2) to vacate his office.

(2) The Board, with the approval of the Minister, may require a member to vacate his office if the member—

- (a) has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or
- (b) has failed to comply with any term or condition of his office fixed in terms of subsection (5) of section *eight*; or
- (c) is mentally or physically incapable of efficiently exercising his functions as a member; or
- (d) has been absent without the permission of the Board from three consecutive meetings of the Board, of which he has had notice, and the Board is satisfied that there was no just cause for the member's absence.

(3) On the death of, or the vacation of office by, a member, the constituent body that appointed him shall appoint a qualified person to fill the vacancy for the unexpired period of the member's term of office:

Provided that, if the unexpired period of the member's term of office is less than six months, the constituent body need not fill the vacancy until the period has expired.

10 Chairman and vice-chairman of Board.

(1) At its first meeting in any financial year, the Board shall elect from amongst its members a chairman and a vice-chairman who shall hold office until the election of their successors.

(2) If the chairman or vice-chairman of the Board dies or ceases to be a member of the Board, the Board shall elect a successor at its next meeting, who shall hold office until the Board elects a new chairman or vice-chairman, as the case may be, in terms of subsection (1).

(3) The vice-chairman of the Board shall exercise the chairman's functions during any period that the chairman is unable to do so.

11 Meetings and procedure of Board.

(1) Subject to this section, the Board shall meet at such places and times for the dispatch of its business, and adjourn, close and otherwise regulate its meetings and procedure, as it thinks fit:

Provided that the Board shall meet at least four times a year.

(2) Meetings of the Board shall be convened by the secretary of the Board, who shall ensure that at least seven days' notice of any meeting is given to each member:

Provided that the unintentional failure to give such notice to any member shall not invalidate the proceedings of the meeting concerned.

(3) The secretary of the Board may himself at any time and shall, at the request of not fewer than four members, convene a special meeting of the Board, which meeting shall be convened for a date not sooner than seven days and not later than twenty-one days after receipt of such request.

(4) If the secretary of the Board is for any reason unable to exercise his functions in terms of subsection (2) or (3), the chairman shall exercise them.

(5) The chairman or, in his absence, the vice-chairman shall preside at meetings of the Board:

Provided that, if the chairman and vice-chairman are both absent from any meeting, the members present may elect one of their number to preside at the meeting as chairman.

(6) A majority of members shall form a quorum at any meeting of the Board.

(7) All acts, matters or things authorized or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(8) At all meetings of the Board, each member present shall have one vote on each question before the Board:

Provided that, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(9) If a member requires any matter which is being considered by a meeting of the Board to be deferred for consideration by the constituent bodies, that matter shall stand deferred to the next ordinary meeting of the Board, at which a decision on the matter may be taken.

(10) Any proposal circulated among all members and agreed to by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the Board:

Provided that, if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.

12 Committees of Board

(1) For the better exercise of its functions, the Board may establish committees to which it may delegate, either absolutely or subject to conditions, such of its functions as it thinks fit:

Provided that—

- (i) such a delegation shall not prevent the Board from exercising the functions concerned;
- (ii) the Board may amend or withdraw any decision of a committee in the exercise of its delegated functions.

(2) The Board may appoint persons who are not members of the Board to be members of any committee established under subsection (1), and may fix the terms and conditions of notice of such persons.

(3) The procedure of any committee of the Board shall be as fixed by the Board.

(4) The Board shall fix the quorum of any committee of the Board.

(5) Subsections (5) to (7) and (10) of section *eleven* shall apply, *mutatis mutandis*, to committees and their members as they apply to the Board and its members.

13 Minutes of proceedings of Board and committees

(1) The Board shall cause minutes of all proceedings and decisions taken at all meetings of the Board and of its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or of the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

14 Secretary and other staff of Board

The Board shall appoint a secretary and such members of staff as will enable the Board to carry out its functions in terms of this Act.

15 Funds of Board.

The funds of the Board shall consist of—

- (a) fees paid for registration and for the issue of practising certificates; and
- (b) levies paid to it by constituent bodies in terms of by-laws; and
- (c) any other moneys to which the Board may become entitled, whether by way of fees, gifts, loans or otherwise.

16 Financial year of Board.

The financial year of the Board shall be the period of twelve months ending on the 30th June in each year or on such other date as may be prescribed.

17 Accounts of Board and audit of accounts

(1) The Board shall keep proper books of account and other records relating thereto in respect of all its activities, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Board shall—

- (a) appoint as auditors one or more persons approved by the Minister who are registered public auditors; and
- (b) ensure that its accounts are examined once in each financial year by the auditors appointed in terms of paragraph (a), in accordance with current auditing practice and such directions as the Minister may give the Board from time to time.

18 Reports and financial statements of Board

(1) Within six months from the end of each financial year, the Board shall prepare a report and financial statements in respect of that financial year, and shall forthwith submit a copy of the report and financial statements to the Minister and to each constituent body.

(2) In addition to the annual report referred to in subsection (1), the Board—

- (a) shall submit to the Minister such other reports as the Minister may require; and
- (b) may submit to the Minister such other reports as the Board may consider advisable;

in regard to the functions, operations and property of the Board.

(3) The Board shall give the Minister all such information relating to its functions, operations and property as the Minister may at any time require.

(4) The Minister may lay a report submitted to him in terms of subsection (1) or (2) before Parliament.

PART III

REGISTER AND REGISTRATION
[Part substituted by Act 1 of 2015]

19 Register of Public Auditors, Public Accountants, Tax Accountants and General Accountants

(1) The Board shall establish the following registers—

- (a) the Register of Public Auditors; and
- (b) the Register of Public Accountants; and
- (c) the Register of Tax Accountants; and
- (d) the Register of General Accountants; and
- (e) a register, by whatever name the Board may designate it, in which shall be recorded the names, address and other prescribed particulars of every firm, partnership or other entity offering accountancy profession services for hire or reward.

(2) The secretary of the Board shall be responsible, subject to any directions given to him or her by the Board, for maintaining the Registers and, subject to subsection (3), ensuring that entries are made in the appropriate Register recording—

- (a) the name and such other particulars as may be prescribed of each person whom the Board has directed shall be registered; and
- (b) the fact that a practising certificate has been issued to a registered person, or that any such practising certificate has ceased to be valid; and

- (c) particulars of the cancellation or suspension of any person's registration, and of the restoration of any such cancelled registration or the termination of any such suspension; and
- (d) any necessary corrections or alterations to any particulars or facts referred to in paragraph (a), (b) or (c); and
- (e) any other particulars that may be prescribed or that the Board may determine.

(3) The obligation for a firm, partnership or other entity referred to in subsection (2)(e) to be registered, the conditions for such registration, the penalties for non-compliance with such obligation or conditions, and the particulars to be entered in the register referred to in subsection (2)(e), shall be as prescribed by regulations made in terms of section 44.

20 Registers to be open to inspection

Any person may inspect a Register and make copies of any entry therein at all reasonable times on payment of such fee as may be prescribed:

Provided that no such fee shall be payable by—

- (a) a police officer or member of the Civil Service acting in the course of his or her duty as such; or
- (b) any other person whom the secretary of the Board has authorised to inspect the Register in question.

21 Qualifications for registration

(1) Subject to subsection (5), a person shall be qualified for registration as a public auditor if he or she is a member in good standing of—

- (a) the Institute of Chartered Accountants of Zimbabwe established under the Chartered Accountants Act [*Chapter 27:02*]; or
- (b) the Zimbabwe branch of the Chartered Association of Certified Accountants incorporated by Royal Charter in the United Kingdom, and—
 - (i) holds an auditing practising certificate issued in the United Kingdom and recognized by the Board; and
 - (ii) has passed examinations approved for the purpose of this section by the Board in consultation with the Zimbabwe branch of the Chartered Association of Certified Accountants incorporated by Royal Charter in the United Kingdom;

or

- (c) the Institute of Certified Public Accountants of Zimbabwe, a locally incorporated company limited by guarantee; or
- (d) any other body representing the accountancy profession that is prescribed by regulations made under section 44.

(2) Subject to subsection (5), a person shall be qualified for registration as a public accountant if he or she is a member in good standing of any principal constituent body.

(3) Subject to subsection (5), a person shall be qualified for registration as a tax accountant if he or she is a member in good standing of—

- (a) the Institute of Certified Tax Accountants of Zimbabwe a locally incorporated company limited by guarantee; or
- (b) a principal constituent body;

and has passed examinations to achieve a tax accountancy qualification that have been approved by the Board in consultation with the body referred to in paragraph (a) or (b).

(4) Subject to subsection (5), a person shall be qualified for registration as a general accountant if he or she is a member in good standing of—

- (a) the Southern Africa Association of Accountants, a locally incorporated company limited by guarantee; or
- (b) the Institute of Administration and Commerce of Zimbabwe, a locally incorporated company limited by guarantee; or
- (c) a principal constituent body;

(5) A person shall not be qualified for registration if—

- (a) he or she has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (b) he or she has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) within the period of five years immediately preceding his application for registration—
 - (i) he or she has been convicted inside or outside Zimbabwe of a criminal offence which, in the opinion of the Board, is of a disgraceful or dishonourable nature; or
 - (ii) he or she has behaved in a manner which in the opinion of the Board, is of a disgraceful or dishonourable nature;

or

(d) he or she has been certified either inside or outside Zimbabwe to be mentally disordered or defective or of unsound mind in terms of the Mental Health Act [*Chapter 15:06*] or an equivalent law in a foreign country, and the certification remains in force.

(6) Before reaching a decision as to whether or not a person is disqualified for registration in terms of subsection (5), the Board shall—

(a) inform him or her in writing of the grounds on which it might reach such a decision and afford him or her a reasonable opportunity to make representations in the matter, in writing or in person as the Board thinks fit; and

(b) pay due regard to any representations made by him or her in terms of paragraph (a).

(7) Any general accountant who becomes qualified as a tax accountant, public accountant or public auditor, or tax accountant who becomes qualified as a public accountant or public auditor, or public accountant who becomes qualified as a public auditor, must, before practising as such, obtain the appropriate registration as such under this Part

22 Application for registration

(1) Any person who wishes to be registered in any of the Registers referred to in section 19(1) shall submit to the constituent body of which he or she is a member an application therefor in the form and manner prescribed, together with the prescribed registration fee.

(2) On receipt of an application in terms of subsection (1), the secretary or registrar or other executive officer of the constituent body concerned shall certify in writing whether or not the applicant—

(a) is a member in good standing of the constituent body; and

(b) is qualified for registration as a public auditor, public accountant, tax accountant or general accountant, as the case may be;

and shall forward the application, together with the registration fee, to the secretary of the Board.

23 Registration

The Board shall consider every application for registration forwarded to it in terms of section 22 and—

(a) if the Board is satisfied that the applicant is qualified for registration, the Board shall direct the secretary of the Board to register the applicant in the appropriate Register;

(b) if the Board is not so satisfied, the Board shall refuse the application and direct the secretary of the Board to notify the applicant in writing of its decision.

(2) Whenever the secretary of the Board registers a person in terms of this section, he or she shall issue that person with a certificate in the form prescribed, indicating the Register in which that person has been registered

24 Cancellation or suspension of registration

(1) Subject to subsection (4), the Board shall direct the secretary of the Board to cancel the registration of any registered person who—

(a) has ceased to be a member of any constituent body by virtue of whose membership he or she was registered; or

(b) has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country; or

(c) has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country; or

(d) has been convicted inside or outside Zimbabwe of a criminal offence which, in the opinion of the Board, is of a disgraceful or dishonourable nature; or

(e) is certified either inside or outside Zimbabwe to be mentally disordered or defective or of unsound mind in terms of the Mental Health Act [*Chapter 15:06*] or an equivalent law in a foreign country.

(2) Subject to subsection (3), if the Board is notified in writing by a constituent body that it has suspended the membership of a registered person, the Board shall suspend that person's registration for the same period as his or her membership has been suspended.

(3) Before reaching a decision as to whether or not a registered person's registration should be cancelled or suspended in terms of sub-section (1), the Board shall—

(a) inform him or her in writing of the grounds on which it might reach such a decision and afford him or her a reasonable opportunity to make representations in the matter, in writing or in person as the Board thinks fit; and

(b) pay due regard to any representations made by him or her in terms of paragraph (a).

(4) Whenever the secretary cancels or suspends a person's registration in terms of this section, he or she shall notify that person, in writing, of the cancellation or suspension.

25 Restoration of registration

(1) The Board shall direct the secretary of the Board to restore to the Register the name of a person whose registration was cancelled on the ground referred to in section 24(1)(a), if a constituent body notifies the Board, in writing, that he or she has become a member of the body or has had his or her membership restored.

(2) A person whose registration has been cancelled in terms of section 24 may apply for his or her registration to be restored, and sections 21 to 23 shall apply, with such changes as may be necessary, as if he or she were applying for registration.

[Part III substituted by Act 1 of 2015]

PART IV

PRACTISING CERTIFICATES

26 Prohibition against practice without practising certificate

(1) Subject to subsection (2) and to section *forty-five*, no person shall practise as a public auditor, public accountant, tax accountant or general accountant, whether directly or indirectly, by himself or in partnership or association with any other person, except in accordance with the terms and conditions of a valid practising certificate which authorizes him to practise as a public accountant or public auditor, as the case may be.

[Subsection as amended by of Act 1 of 2015]

(2) Subsection (1) shall not apply to anything done by a registered person which he could lawfully do as an unregistered person in terms of section *thirty-nine*.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by Act 22 of 2001]

(4) Conviction for an offence under subsection (3) shall not be a bar to a further prosecution or conviction if the offence continues.

27 Application for practising certificate

A person who wishes to obtain a practising certificate shall apply to the Board in the form and manner prescribed, and shall submit with his application such fee, certificates, documents and information as may be prescribed.

28 Issue or refusal of practising certificate

(1) On receipt of an application for a practising certificate in terms of section 27, the Board shall issue a practising certificate to the applicant authorizing him or her to practise as a public auditor, public accountant, tax accountant or general accountant, if the Board is satisfied that the applicant—

- (a) is registered in the appropriate Register; and
- (b) is a member in good standing of a constituent body;

and, if the Board is not so satisfied, it shall refuse to issue the practising certificate concerned and shall advise the applicant accordingly.

(2) Where an applicant who already holds a practising certificate authorising him or her to practise as a public accountant, tax accountant or general accountant has applied for a practising certificate authorizing him or her to practise as a public auditor or in a registerable category of the accountancy profession other than the one for which he or she was registered, the Board shall require him or her to surrender his or her existing practising certificate before issuing him or her with a new practising certificate.

[Section substituted by Act 1 of 2015]

29 Period of validity of practising certificates

(1) Subject to this section, a practising certificate shall remain valid for so long as its holder remains registered.

(2) A practising certificate which authorizes its holder to practise as a public auditor shall cease to be valid in so far as it relates to practice as a public auditor, if its holder ceases to be registered as a public auditor.

30 Terms and conditions of practising certificates

(1) A practising certificate may be issued subject to such terms and conditions as may be prescribed or as the Board may determine after consultation with the constituent body of which the holder of the certificate is a member.

(2) Any terms and conditions determined in terms of subsection (1) shall be endorsed on the practising certificate concerned.

(3) If, following any disciplinary action against a public auditor, public accountant, tax accountant or general accountant, conditions are imposed upon his or her entitlement to practise, the a public auditor, public accountant, tax accountant or general accountant shall forthwith return any practising certificate held by him or her to the secretary of the Board, who shall endorse the conditions on the certificate.

[Subsection substituted by Act 1 of 2015]

(4) A practising certificate shall not authorize its holder to practise as a public auditor, public accountant, tax accountant or general accountant while his registration as such is suspended in terms of this Act.

[Subsection amended by Act 1 of 2015]

31 Withdrawal of practising certificates

If, after due inquiry, the Board is satisfied that a public auditor, public accountant, tax accountant or general accountant has not complied with any term or condition of a practising certificate held by him, the Board may withdraw the practising certificate and, if it does so, the secretary of the Board shall advise the public accountant or public auditor accordingly.

[Subsection amended by Act 1 of 2015]

32 Surrender of withdrawn or invalid practising certificates

Where a person has been advised in writing by the secretary of the Board that a practising certificate issued to him has been withdrawn or has ceased to be valid, he shall forthwith and in any event within thirty days after being so advised return the practising certificate to the secretary for destruction.

[Subsection amended by Act 1 of 2015]

PART V

DISCIPLINE

33 Rules of professional conduct

(1) The Board may in by-laws prescribe rules of professional conduct to be observed by registered persons.

(2) Each constituent body may make rules, in accordance with the enactment under which it is established or its constitution, as the case may be, governing the professional conduct of its members who are registered persons:

Provided that no such rules shall be inconsistent with rules made by the Board under subsection (1).

34 Disciplinary proceedings

(1) Each constituent body shall be responsible, in the first instance, for the professional conduct of its members who are registered persons and, for that purpose, each constituent body shall have power, in accordance with the enactment under which it is established or its constitution, as the case may be, to undertake disciplinary proceedings against such members and to punish them for breaches of the rules referred to in section *thirty-three*.

(2) The Secretary may, on the direction of the Board refer persons suspected of contravening the by-laws or any other provision of this Act to the appropriate constituent bodies for disciplinary action, and the relevant constituent body shall ensure that all necessary steps are taken to deal with the referral expeditiously, and shall report the outcome of the same to the Board within a reasonable time.

[Subsection inserted by Act No.1 of 2015]

35 Review of disciplinary proceedings

(1) Where a constituent body has found that a member who is a registered person has contravened any rule referred to in section *thirty-three*, the constituent body shall report that fact to the Board in writing within fourteen days, and shall provide the Board with such information regarding the case as the Board may reasonably require.

(2) If, after the thirty-day period specified in section *thirty-six*, the member concerned has not lodged an appeal under that section, the Board shall forthwith review the decision of the constituent body in any case reported to it under subsection (1):

Provided that, if the Board agrees to hear an appeal after the thirty-day period, it needs not review the case under this subsection.

(3) In a review under subsection (2), the Board may confirm, alter or set aside the decision of the constituent body concerned or refer the matter back to the constituent body for further consideration:

Provided that the Board shall not alter or set aside the decision unless it is satisfied that—

- (a) the constituent body concerned failed to follow any procedure which, by or under any enactment or its constitution, it was required to follow in disciplinary proceedings; or
- (b) the constituent body concerned failed to observe the rules of natural justice; or
- (c) the decision of the constituent body concerned was unreasonable in all the circumstances of the case; and that a substantial miscarriage of justice ensued.

36 Appeal to Board against disciplinary action.

(1) A registered person whose membership of a constituent body has been suspended or cancelled following disciplinary proceedings against him may appeal in writing to the Board, setting out clearly the grounds of his appeal, within thirty days after being informed of his suspension or cancellation, or within such further period as the Board may allow.

(2) An appeal under subsection (1) shall be lodged in the form and manner prescribed.

(3) The Board shall forward a copy of any appeal lodged with it under subsection (1) to the constituent body concerned, and the constituent body shall, within thirty days or such longer period as the Board may permit, provide the Board with such number of copies of the record of the disciplinary proceedings as may be prescribed.

(4) After affording the appellant and the constituent body concerned a reasonable opportunity to make representations in the matter, the Board shall consider any appeal under this section and may confirm, alter or set aside the decision of the constituent body concerned or refer the matter back to the constituent body for further consideration.

(5) If the Board receives oral evidence in an appeal under this section, it shall ensure that a record is kept of such evidence.

(6) If in an appeal under this section the Board confirms the suspension or cancellation of the appellant's registration, the Board may make an order requiring the appellant to pay the expenses of and incidental to the appeal, or any part of those expenses.

(7) The Board may recover from the appellant concerned any amount he has been ordered to pay under subsection (6) by proceedings against him in a court of competent jurisdiction.

(8) An appeal to the Board made in terms of this section shall not suspend the decision being appealed against.

[Subsection inserted by Act 1 of 2015]

PART VI

GENERAL

37 Use of certain designations

(1) A registered public accountant shall be entitled to use the designation "Registered Public Accountant (Zimbabwe)" or the initials "R.P.Acc.(Z)".

(2) A registered public auditor shall be entitled to use the designation "Registered Public Auditor (Zimbabwe)" or the initials "R.P.A.(Z)".

(3) A registered tax accountant shall be entitled to use the designation "Registered Tax Accountant (Zimbabwe)" or the initials "R.T. Acc (Z)".

(4) A registered general accountant shall be entitled to use the designation "Registered General Accountant" or the initials "R.G. Acc (Z)".

[Section amended by Act No.1 of 2015]

38 Offences by unregistered persons

(1) Subject to section *thirty-nine* and any other enactment, no person other than—

(a) a registered public accountant shall—

- (i) hold himself or herself out to be a registered public accountant; or
- (ii) use the designation or initials referred to in section 37(1) or any other name, title, description or letters indicating that he or she is a registered public accountant, whether by advertisement or description or in any document;

(b) a registered public auditor shall—

- (i) practise as a public auditor; or
- (ii) hold himself or herself out to be a registered public auditor; or
- (iii) use the designation or initials referred to in section 37(2) or any other name, title, description or letters indicating that he or she is a registered public auditor, whether by advertisement or description or in any document;

(c) a registered tax accountant shall—

- (i) hold himself or herself out to be a registered tax accountant; or
- (ii) use the designation or initials referred to in section 37(3) or any other name, title, description or letters indicating that he or she is a registered tax accountant, whether by advertisement or description or in any document;

(d) a registered general accountant shall—

- (i) hold himself or herself out to be a registered general accountant; or
- (ii) use the designation or initials referred to in section 37(4) or any other name, title, description or letters indicating that he or she is a registered general accountant, whether by advertisement or description or in any document.

(2) No person, other than a constituent body, shall—

(a) hold itself out to be a constituent body or as being represented on the Board or associated in any way with the Board; or

(b) claim that it can issue certificates or qualifications that would entitle the holder thereof to be registered, or to practise, as an accountancy professional.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and—

- (a) in the case of an individual, be liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment; or
- (b) in the case of a corporate body, partnership or other juristic entity, be liable to a fine not exceeding level eight.

(4) Additionally, every partner of a partnership, or every director or member of the governing body of a corporate body or other juristic entity, that is guilty of contravening subsection (1) or (2), shall be concurrently guilty of the same offence and be liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(5) A conviction for an offence under subsection (3) shall not be a bar to a further prosecution or conviction if the offence continues.

[Section substituted by Act 1 of 2015]

39 Exemptions

- (1) Section *thirty-eight* shall not prevent a person who—
 - (a) is employed exclusively at a salary and does not carry on business on his own account, from describing himself as an accountant or internal auditor in relation to the undertaking in which he is employed; or
 - (b) without receiving any fee or reward, prepares or reports on the accounts of a club, society, institute or other association not established for the acquisition of gain, from describing himself as an honorary auditor in relation to the preparation of or reporting on such accounts.
- (2) Any person in the *bona fide* employment of—
 - (a) a registered public accountant, tax accountant or general accountant; or
 - (b) a company or partnership referred to in subsection (5); shall not be regarded as practising as a public accountant, tax accountant or general accountant, as the case may be, or as holding himself or herself out to be a registered public accountant, tax accountant or general accountant, for the purposes of section 38 in respect of anything done in the course of such employment while under the direction and control of a registered public accountant, tax accountant or general accountant;

[Substituted by Act 1 of 2015]

- (3) Any person in the *bona fide* employment of—
 - (a) a registered public auditor; or
 - (b) a company or partnership referred to in subsection (5);

shall not be regarded as practising as a public auditor or as holding himself out to be a registered public auditor for the purposes of section *thirty-eight* in respect of anything done in the course of such employment while under the direction and control of a registered public auditor.

(4) Section *thirty-eight* shall not apply to any person in the full-time employment of the State, a statutory body or a local authority in respect of anything done by him in the course of such employment.

(5) Notwithstanding section *thirty-eight*, a company or partnership whose directors or partners, as the case may be—

- (a) are registered public auditors, public accountants, tax accountants or general accountants; .and
- (b) hold practising certificates; and
- (c) directly control and manage the provision of public, tax or general accounting or auditing services by the company or partnership;

may practise as a public auditor, public accountant, tax accountant or general accountant, as the case may be.

[Section substituted Act 1 of 2015]

40 Appeals from decisions of Board

(1) Any person who is aggrieved at any decision of the Board in terms of Part III, IV or V may, within thirty days after being advised of the decision, appeal to the High Court in such manner as may be prescribed in rules of court made in terms of the High Court Act, [*Chapter 7:06*].

- (2) In an appeal in terms of subsection (1), the High Court may—
 - (a) confirm, vary or set aside the decision appealed against; or
 - (b) remit the matter to the Board for further consideration;

and may make such other order, whether as to costs or otherwise, as it thinks just.

(3) The noting of an appeal in terms of subsection (1) against a decision of the Board under section *thirty-one* to withdraw a practising certificate shall not suspend the decision appealed against, unless—

- (a) the Board, by written notice to the public auditor, public accountant, tax accountant or general accountant concerned, agrees otherwise; or

[Paragraph substituted by Act No.1 of 2015]

- (b) the High Court on application directs otherwise; in which event the Board shall return the practising certificate to the appellant pending the outcome of the appeal.

41 Evidence

(1) A Register shall be *prima facie* proof of all matters directed or authorized by or under this Act to be noted therein.

(2) A certificate purporting to be signed by the secretary of the Board to the effect that—

- (a) the name of a person appears in any specified part of the Register, shall be *prima facie* proof that the person is a registered public accountant or a registered public auditor, public accountant, tax accountant or general accountant, as the case may be;
- (b) the name of a person has been deleted or removed from or does not appear in a Register, shall be *prima facie* proof that the person is not a registered public accountant or a registered public auditor, as the case may be;
- (c) a registered person has been suspended from practice for a specified period, shall be *prima facie* proof that he has been suspended for that period;
- (d) a registered person is or is not the holder of a practising certificate, shall be *prima facie* proof of that fact;
- (e) any terms or conditions were endorsed on any practising certificate, shall be *prima facie* proof of those terms or conditions.

(3) A certificate referred to in subsection (2) or a copy of an entry in a Register or of a document in the custody of the secretary of the Board, or an extract from a Register or any such document shall, if it purports to be certified by the secretary of the Board, be admitted in evidence in any court on its production by any person without further proof or production of the original.

[Section amended by Act 1 of 2015]

42 Maintenance of standards of examinations

(1) After consultation with all the constituent bodies, the Board may recommend that a constituent body adopt any syllabus, training requirement or examination structure the adoption of which, in the Board's opinion, is necessary or desirable to maintain or enhance professional standards.

(2) If a constituent body proposes to change any syllabus, training requirement or examination structure applicable to its members or prospective members, it shall advise the Board, in writing, of the proposal at least three months before making any such change.

(3) If the Board considers that any proposal of which it has been advised under subsection (2) will be detrimental to the interests of the profession, it shall advise the constituent body concerned in sufficient time to enable the constituent body to cancel or modify the proposed change in the light of the Board's attitude.

(4) If any constituent body—

- (a) fails or refuses to adopt any syllabus, training requirement or examination structure recommended by the Board under subsection (1); or
- (b) changes any syllabus, training requirement or examination structure in a manner which the Board has advised will be detrimental to the interests of the profession;

the Board may refuse to register any persons who thereafter become members of that constituent body.

43 By-laws

(1) Subject to subsection (3), the Board may make by-laws prescribing anything which in terms of this Act is required to be prescribed or which, in the Board's opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) By-laws made in terms of subsection (1) may provide for—

- (a) fees which shall be payable in connection with registration, the issue of certificates, the renewal of certificates, and anything else issued or done in terms of this Act;
- (b) the issue of duplicate, corrected or amended certificates of registration;
- (c) the form of the Registers and the circumstances in which they may be inspected by members of the public;
- (d) the levies payable by the constituent bodies to the Board;
- (e) applications for practising certificates, the renewal of such certificates and the form of such certificates;
- (f) the procedure for reviews by and appeals to the Board under Part Y.

(3) By-laws shall not have effect until they have been approved by the Minister and published in the *Gazette*.

[Section substituted by Act 1 2015]

44 Regulation of professional standards

(1) In this section and section 45(4), “non-independent accountancy professional” means an individual qualified as a public accountant, public auditor, general accountant or tax accountant, who—

- (a) does not practise as such by himself or herself, or in partnership or association with other persons; and
- (b) is employed or retained to render any of the services of a public accountant, public auditor, general accountant or tax accountant.

(2) Subject to subsection (3), the Board may make regulations prescribing—

- (a) auditing standards, accounting standards and accountancy reporting standards for use in Zimbabwe, including the application of internationally recognised auditing, accounting and reporting standards;
- (b) the minimum qualifications, competency standards and requirements for registration of public auditors, public accountants, tax accountants and general accountants in addition to, and not inconstant with, those provided for in this Act;
- (c) the particular competencies, qualifications, rights and privileges of persons registered as general accountants, tax accountants, public accountants or public auditors, in a manner not inconsistent with the statutory definitions of each of those classes of the accountancy profession;
- (d) the criteria upon which the Board will recognise or withdraw recognition from educational qualifications or training programmes offered or be offered in connection with the accountancy profession at any educational institutions or by any principal or associate constituent body or by any other body purporting to represent the accountancy profession;
- (e) anything that may promote the integrity of the accountancy profession and the protection of consumers of services offered by accountancy professionals, including—
 - (i) the conduct of audit quality monitoring, practice reviews and inspections by or on behalf of the Board;
 - (ii) the monitoring of compliance with applicable standards prescribed under paragraph (a);
- (f) the recognition for certain purposes of any body purporting to represent the accountancy profession that is not a principal or associate constituent body;
- (g) the criteria for the recognition of any body referred to in paragraph (f), and the opening and maintenance of a register for the purpose of registering any such body, and the charging of a registration fee for that purpose;
- (h) the obligation for a firm, partnership or other entity referred to in subsection 19(2)(e) to be registered, the conditions for such registration, and the particulars to be entered in the register referred to in subsection 19(2)(e);
- (i) the obligation, with effect from a prescribed date, for every non-independent accountancy professional to be registered with the Board (whether through one of the Registers or in a special register to be created by the Board for this purpose) as a condition for rendering any auditing, public accountancy, general accountancy or taxation accountancy service as a non-independent accountancy professional, and—
 - (i) to be Subject, to the prescribed extent, to the same professional standards and disciplinary regime as are prescribed by or under this Act for accountancy professionals who are required to have a practising certificate under Part IV:

Provided that the Board shall not require a non-independent accountancy professional to obtain a practising certificate or any other certification, licence or registration besides registration with the Board;
 - (ii) to be registered for an indefinite period or at prescribed intervals of not less than twelve months, with m” without the payment of a prescribed fee;
- (j) penalties for breaches of the regulations, not exceeding a fine of level seven or imprisonment for a period of six months or both such fine and such imprisonment:

Provided that in the case of regulations requiring non-independent accountancy professionals to be registered, the regulations may impose the same penalties as are provided in section 38 for unregistered persons.

(3) Regulations shall not have effect until they have been approved by the Minister and published in the *Gazette*.

[Section substituted by Act 1 of 2015]

45 Transitional provisions

(1) In this section—

“commencement date” means the date of promulgation of this Act.

(2) Notwithstanding anything to the contrary in Part II, the first members appointed to the Board by each associate constituent body need not be registered persons if they are appointed before the commencement date.

(3) Notwithstanding section 38, a person who, on the commencement date, is qualified for registration as a general accountant or tax accountant may practise as such for a period not exceeding one hundred and eighty-one days, or such longer period, not exceeding a further period of one hundred and eighty-one days, as the Minister may fix in a statutory instrument (“the transitional period”), from the commencement date:

Provided that any such person who continues to practise as a general accountant or tax accountant after the transitional period shall become liable for prosecution under section 38 unless he or she has earlier—

- (a) applied for and been granted registration as a general accountant or tax accountant in accordance with Part II; or

(b) applied for registration as a general accountant or tax accountant in accordance with Part III, and the application has not yet been determined on the date of expiry of the transitional period.

(4) Notwithstanding the prescribing of a requirement under section 44(2)(i) for non-independent accountancy professionals to be registered, no such person shall be liable for any penalty prescribed for non-registration if, within a period of one hundred and eighty-one days from date of publication of the regulations prescribing such requirement or such longer period as may be prescribed (“the transitional period”), he or she has earlier—

(a) applied for and been granted registration as a non-independent accountancy professional; or

(b) applied for registration as a non-independent accountancy professionals, and the application has not yet been determined on the date of expiry of the transitional period

[Section inserted by Act 1 of 2015]

FIRST SCHEDULE (Section 5 (2))

POWERS OF BOARD

1. To purchase, hire or otherwise acquire immovable property and to construct buildings.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of the Board's functions.
3. To maintain, alter or improve its property.
4. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any property which is not required for the Board's purposes, for such consideration, if any, as the Board may determine.
5. To raise or borrow money in such manner as the Board thinks fit.
6. To invest, in such manner and on such security, if any, as the Board may determine, any of its funds which are not immediately required and to vary or realize any investments so made.
7. To insure against losses, damages, risks and liabilities which the Board may incur.
8. To fix the conditions of service of its employees appointed under section *fourteen*, to pay them such remuneration and allowances and grant them such leave of absence and to make them such gifts, bonuses and the like as the Board thinks fit and, where the Board considers it appropriate, to suspend or discharge them.
9. To provide benefits for its employees and their dependants on the employees' retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as the Board considers necessary to secure for its employees and their dependants the benefits referred to in this paragraph.
10. Generally, to do all things that are calculated to facilitate or are incidental or conducive to the performance of the Board's functions under this Act or any other enactment.

SECOND SCHEDULE (Section 3(1))

CONSTITUENT BODIES

[Schedule inserted by act 1 of 2015]

PART I

PRINCIPAL CONSTITUENT BODIES

1. The Zimbabwe branch of the Association of Chartered Certified Accountants, incorporated by Royal Charter in the United Kingdom.
2. The Zimbabwe branch of the Chartered Institute of Management Accountants, incorporated by Royal Charter in the United Kingdom.
3. The Institute of Chartered Accountants of Zimbabwe, established by the Chartered Accountants Act [*Chapter 27:02*].
4. The Institute of Chartered Secretaries and Administrators in Zimbabwe, established by the Chartered Secretaries (Private) Act [*Chapter 27:03*].
5. The Institute of Certified Public Accountants of Zimbabwe, a locally incorporated company limited by guarantee.

PART II

ASSOCIATE CONSTITUENT BODIES

1. The Institute of Certified Tax Accountants of Zimbabwe, a locally incorporated limited company.
2. The Institute of Administration and Commerce of Zimbabwe, a locally incorporated company limited by guarantee.
3. The Southern Africa Association of Accountants, a locally incorporated company limited by guarantee