



ANALYSIS

	<i>Appointment of Agent to Conduct Practice</i>
	12. Chartered accountant may appoint agent to conduct practice
	13. Appointment of chartered accountant to conduct practice of chartered accountant who is mentally disordered or dead
	14. Conditions affecting donee of a power of attorney
	15. Termination of agency
	16. Agent may be authorised to appoint substitute
	17. Fees, etc.
	<i>Chartered Accountants</i>
	18. Members of Society to be known as chartered accountants
	19. Application of provisions relating to Fidelity Fund
	20. Prescribed fees to be paid into Fidelity Fund
	21. Application of the fund
Title	
1. Short Title and commencement	
2. Interpretation	
3. Post-qualification divisions	
4. Rules governing certificates of public practice	
5. Qualifications for membership of Society	
6. Right to practice publicly	
7. Readmission after being struck off for non-payment of fees	
8. Suspension from practice because of disability	
9. Disciplinary Committee	
10. Improper use of terms implying membership of Society	
11. Non-members practising accountancy under licence	

1968, No. 137

An Act to amend the New Zealand Society of Accountants Act 1958 [18 December 1968]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the New Zealand Society of Accountants Amendment Act 1968, and shall be read together with and deemed part of the New Zealand Society of Accountants Act 1958 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the first day of July, nineteen hundred and sixty-nine.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in their appropriate alphabetical order the following definitions:

“‘Certificate of public practice’ means a certificate issued by the Council in accordance with the rules of the Society authorising the person named in the certificate (being a person ordinarily resident within New Zealand) to offer his services as an accountant to the public within New Zealand:

“‘Chartered accountant’ means a person who is for the time being a member of the Society:

“‘Chartered accountant in public practice’ means a chartered accountant who is for the time being the holder of a certificate of public practice:”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definitions of the terms “public accountant” and “registered accountant”.

3. Post-qualification divisions—(1) Subsection (2) of section 12 of the principal Act is hereby amended—

(a) By inserting in paragraph (b), after the word “Society”, the words “and any division thereof”:

(b) By omitting from paragraph (h) the word “thereof”, and substituting the words “of the Society and divisions thereof”:

(c) By inserting in paragraph (j), after the word “Society”, the words “and divisions thereof”.

(2) Section 12 of the principal Act is hereby further amended by repealing paragraph (k) of subsection (2), and substituting the following paragraph:

“(k) The establishment of a division or divisions of members of the Society with particular qualifications or interests in any branch of the profession, and the prescribing of designations and designatory letters for members thereof:”.

4. Rules governing certificates of public practice—Section 12 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (j), the following paragraph:

“(jj) The defining of conditions under which certificates of public practice may be issued and withdrawn:”.

5. Qualifications for membership of Society—(1) Section 14 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) No person shall be registered by the Council as a member of the Society if he is less than twenty-one years of age; and no person shall be registered by the Council as a member or provisional member of the Society if, in the opinion of the Council, he is not of good character or reputation or is engaged in any business or occupation inconsistent with the integrity of a member of the Society.”

(2) Section 14 of the principal Act is hereby further amended by repealing subsection (2).

(3) Section 14 of the principal Act is hereby amended by omitting from subsection (3) the words “subsections one and two”, and substituting the expression “subsection (1)”.

(4) Subsection (2) of section 16 of the principal Act is hereby further amended—

(a) By omitting the words “Subject to subsection two of section fourteen of this Act”:

(b) By omitting the word “registered”:

(c) By inserting, after the words “sent to them”, the words “or to hold a certificate of public practice”.

6. Right to practice publicly—The principal Act is hereby amended by inserting, after section 14, the following section:

“14A. No member of the Society shall have the right to offer his services to the public under the designation ‘chartered accountant’ unless he is the holder of a certificate of public practice issued in accordance with rules made under subsection (2) of section 12 of this Act.”

7. Readmission after being struck off for non-payment of fees—Subsection (4) of section 20 of the principal Act is hereby amended—

(a) By omitting the words “pay to the Council”, and substituting the words “upon payment to the Council of”:

(b) By omitting the words “shall thereupon be entitled to have his name restored to the register”, and substituting the words “the Council shall restore his name to the register if it is satisfied that he is still qualified to be registered as a member or provisional member of the Society, as the case may be”.

8. Suspension from practice because of disability—The principal Act is hereby amended by inserting, after section 20, the following section:

“20A. (1) If it appears to the Council that any person, being a member or provisional member of the Society or the holder of a licence or certificate issued under section 32A or section 34 of this Act, is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing, the Council may, by notice in writing under the hand of the President or Vice-President of the Society or of the Secretary to the Society served upon that person, require that person to submit himself for examination at the expense of the Society by a registered medical practitioner specified in the notice (in accordance with an arrangement between the Council and that medical practitioner) within such reasonable time (being not less than seven days) as may be specified in the notice.

“(2) Where a registered medical practitioner makes an examination of any person pursuant to subsection (1) of this section, he shall as soon as practicable thereafter make a report in writing to the Secretary to the Society as to the mental and physical condition of the person examined so far as it affects the capacity of that person to perform his professional duties satisfactorily.

“(3) In any case where a notice in writing has been served upon any person under subsection (1) of this section, the Council may, upon the expiration of the time specified in the notice or the earlier receipt by the Secretary to the Society of a written report in respect of the person from the registered medical practitioner named in the notice, and after considering the report (if any) and all relevant circumstances, and after giving the person a reasonable opportunity to be heard, suspend the person’s membership or provisional membership of the Society or the licence or certificate issued to him under section 32A or section 34 of this Act, as the case may be, if it is satisfied that the person is (owing to mental or physical disability) unable to perform his professional duties satisfactorily, and that, because he may attempt to perform those duties, it is necessary in the public interest to prevent him from so doing.

“(4) Any such suspension shall take effect forthwith upon its being made, but may at any time be revoked—

“(a) By the Council; or

“(b) By the Supreme Court either—

“(i) On an appeal by the person so suspended to that Court made within twenty-eight days after the date on which the Council has suspended that person or has last refused to revoke the suspension on an application made to it in that behalf by that person; or

“(ii) On an application by the person so suspended to that Court in any case where the person has applied in writing to the Secretary to the Society for the revocation of the suspension under paragraph (a) of this subsection and has not been advised of the decision of the Council in connection with his application within twenty-eight days after the date on which the application was delivered to the Secretary.

“(5) While any person is so suspended under this section, that person shall be deemed for the purposes of this Act, other than sections 22 to 29, not to be a member or provisional member of the Society or the holder of a licence or certificate under section 32A or section 34 of this Act, as the case may be.”

9. Disciplinary Committee—Section 24 of the principal Act is hereby amended by adding the following subsection:

“(11) Except as expressly provided in this Act and in the rules of the Society, the Disciplinary Committee may regulate its procedure as it thinks fit.”

10. Improper use of terms implying membership of Society—(1) Subsection (1) of section 32 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby amended—

(a) By inserting, after the word “conviction”, the words “in the case of an individual”:

(b) By inserting, before the word “who”, the words “and in the case of a body corporate to a fine not exceeding four hundred dollars”:

(c) By omitting from paragraph (b) the words “public accountant or a registered accountant”, and substituting the words “chartered accountant or a chartered accountant in public practice or a cost and management accountant”.

(2) Section 32 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Every person commits an offence and is liable on summary conviction in the case of an individual to a fine not exceeding two hundred dollars, and in the case of a body corporate to a fine not exceeding four hundred dollars, who describes himself in writing as a public accountant or a registered accountant, unless it is proved that the manner and circumstances in which he did the act which is proved were such as to raise no reasonable inference that he was referring to the practice of accountancy.”

(3) Subsection (2) of section 32 of the principal Act is hereby amended—

(a) By inserting, after the word “initials” where it first appears, the expression “‘C.M.A.’ or ‘A.C.A.’ or ‘F.C.A.’”:

(b) By inserting, before the words “public accountant” where they first appear, the words “chartered accountant or”:

(c) By omitting the words “as a public accountant or a registered accountant”, and substituting the words “as a chartered accountant”.

(4) Subsection (2A) of section 32 of the principal Act, as inserted by section 27 of the New Zealand Society of Accountants Amendment Act 1963, is hereby amended by omitting the words “public accountant”, and substituting the words “chartered accountant in public practice”.

(5) Subsection (3) of section 32 of the principal Act is hereby amended by omitting the words “public accountant or a registered accountant”, and substituting the words “chartered accountant or a chartered accountant in public practice or a cost and management accountant”.

11. Non-members practising accountancy under licence—

(1) Section 32A of the principal Act, as inserted by section 28 of the New Zealand Society of Accountants Amendment Act 1963, is hereby amended by omitting from subsection (6) the words “withdraw a licence from any person”, and substituting the words “exercise in respect of any person who is the holder of a licence all or any of the disciplinary powers conferred on it by subsection (6A) of this section”.

(2) The said section 32A of the principal Act is hereby further amended by inserting, after subsection (6), the following subsections:

“(6A) The disciplinary powers which the Council or the Non-members Administration Committee may exercise as aforesaid in respect of any such person, if it thinks fit, shall be as follows:

“(a) It may cause the licence held by the person to be cancelled:

“(b) It may cause the licence held by the person to be suspended for a period not exceeding five years:

“(c) It may impose on the person a penalty not exceeding two hundred dollars:

“Provided that no such penalty may be imposed under this paragraph in respect of any act or omission which constitutes an offence for which the person has been convicted by any Court and which is punishable by imprisonment or fine:

“(d) It may censure the person:

“(e) It may order the person to pay to the Society such sum as the Council or Committee thinks fit in respect of costs and expenses of and incidental to the inquiry.

“(6B) No person’s licence shall be cancelled or suspended as aforesaid by reason of any offence committed before the date of the issue of the licence, if at that date the Council or Committee which issued the licence was aware of his conviction in respect of that offence.

“(6C) No decision of the Council or the Non-members Administration Committee exercising any of the disciplinary powers conferred on it by or under the foregoing provisions of this section shall take effect while the person to whom the decision relates remains entitled to appeal against the decision in accordance with subsection (8) of this section or while any such appeal by him awaits determination by the Special Committee of Appeal:

“Provided that the Council or the Non-Members Administration Committee may order the interim suspension of the person’s licence until its decision takes effect or is superseded by a decision of the Special Committee of Appeal.

“(6D) In any case where the Council or the Non-members Administration Committee causes the licence held by any person to be cancelled, it may, as part of its decision, fix a time after which the person whose licence is cancelled may apply for the reissue of a licence to him. If no such time is fixed, the Council may allow any such application to be made at such time as it thinks fit:

“Provided that any person aggrieved by the refusal of the Committee to consider any such application in a case where no time has been fixed may apply to the Special Committee of Appeal to fix the time after which application for the reissue of the licence may be made.

“(6E) At the time permitted in accordance with subsection (6D) of this section, the person may apply for the reissue of his licence, and all the provisions of this section as to the issue of a licence shall so far as they are applicable apply to the reissue of the licence.

“(6F) Every monetary penalty imposed, and all costs and expenses payable, under this section shall be recoverable as a debt due to the Council.

“(6G) The Council may withdraw a licence issued under this section from any person, if the person has retired from practising in New Zealand as an accountant or auditor or under a similar designation under the licence.”

(3) The said section 32A of the principal Act is hereby further amended by omitting from subsection (8) the words “and whose licence has been withdrawn by the Council may appeal against the withdrawal”, and substituting the words “and who is affected by any decision of the Council or the Non-members Administration Committee under subsection (6A) of this section may, within twenty-eight days after the date of the decision, appeal against the decision”.

(4) The provisions of sections 12 to 17 of this Act shall, so far as they are applicable and with the necessary modifications, apply in relation to the practice and accounts of a person who is the holder of a licence under subsection (1) of section 32A of the principal Act (as inserted by section 28 of the New Zealand Society of Accountants Amendment Act 1963) as if such a person were a chartered accountant in public practice:

Provided that:

- (a) The donee of a power of attorney given by such a person may be—
 - (i) Any other such person or two or more such persons jointly; or
 - (ii) A chartered accountant in public practice or two or more such chartered accountants jointly;
- (b) The references in section 17 of this Act to fees payable in accordance with the rules of the Society and to contributions and levies to the New Zealand Society of Accountants Fidelity Fund shall be read, in relation to such a person, as if they were references to

fees payable in terms of subsection (7) of the said section 32A of the principal Act and to premiums payable in order to provide fidelity insurance cover.

Appointment of Agent to Conduct Practice

12. Chartered accountant may appoint agent to conduct practice—(1) Notwithstanding anything to the contrary in the Property Law Act 1952 or any rule of law, any chartered accountant in public practice without partners may, while of sound mind, at any time and from time to time, with the prior written consent of every donee of the power of attorney hereinafter mentioned, give a power of attorney, in a form approved by the Council, to any other chartered accountant in public practice, or to two or more of them jointly or severally, to conduct in the name of the donor of the power of attorney the practice and operate the account or accounts relating to the practice of that donor during such period or periods as may be specified in the power of attorney, being all or any of the periods mentioned in subsection (2) of this section, and to exercise and perform during the period or periods so specified all or any of the powers and duties connected with the conduct of that practice in accordance with and subject to the provisions of the principal Act and this Act and the rules of the Society.

(2) The period or periods for which a power of attorney may be given under subsection (1) of this section shall be:

- (a) Any current or future period or periods during which the donor of the power of attorney is living but is wholly or partially incapacitated and unable by reason of his physical or mental condition to conduct his practice:
- (b) Any current or future period during which the donor of the power of attorney is absent from New Zealand:
- (c) The period from the date of the death of the donor of the power of attorney until his administrator within the meaning of the Administration Act 1952 either lawfully disposes of the practice or revokes the power of attorney.

(3) The powers of the donee of any power of attorney given under this section shall terminate if the power of attorney is revoked by the donor thereof or is otherwise revoked under this Act, or if the donee of the power of attorney

is released under subsection (2) of section 15 of this Act, but shall not terminate by reason only of the death of the donor of the power of attorney or of his becoming of unsound mind.

(4) While the Public Trustee is entitled under section 88 of the Mental Health Act 1911 to the custody and administration of the estate of the donor of any power of attorney given under this section, or while there is a committee appointed under that Act of that estate, or while there is a manager appointed under the Aged and Infirm Persons Protection Act 1911 of the estate of the donor of any power of attorney given under this section, the powers of the donee of the power of attorney may at any time and from time to time be suspended by the Public Trustee or by the committee or manager, as the case may be, who may at any time revoke any such suspension.

(5) The powers of the donee of any power of attorney given under this section shall not be exercised after the expiration of one year from the date of the grant in New Zealand of administration in the estate of the donor of the power of attorney, except during such further period or periods as may be approved by the Council.

(6) Nothing in this Act shall prevent—

- (a) The lawful disposal of the practice of the donor of any power of attorney given under this Act; or
- (b) A chartered accountant granting any power of attorney otherwise than under this Act.

Cf. 1961, No. 47, s. 19

13. Appointment of chartered accountant to conduct practice of chartered accountant who is mentally disordered or dead—(1) In any case where the Public Trustee is entitled under section 88 of the Mental Health Act 1911 to the custody and administration of the estate of a chartered accountant in public practice who is practising on his own account without partners, or where any person is for the time being the committee under that Act or the manager under the Aged and Infirm Persons Protection Act 1911 of the estate of such a chartered accountant, the Public Trustee or the committee or manager (as the case may be) may, subject to the provisions of this Act applicable to the chartered accountant so practising, give to any other chartered accountant in public practice or two or more of them a power of attorney for the same purposes and for the same period or periods as the chartered accountant so practising could have done.

(2) The administrator within the meaning of the Administration Act 1952 of the estate of a deceased chartered accountant in public practice who was practising on his own account without partners immediately before his death may, with the prior consent of the Council and subject to the provisions of this Act applicable to the chartered accountant so practising, give to any other chartered accountant in public practice or two or more of them a power of attorney for the same purposes as the chartered accountant so practising could have done and for the balance remaining of the period specified in paragraph (c) of subsection (2) of section 12 of this Act.

(3) No power of attorney shall be given under this section in respect of the practice of any chartered accountant while any other power of attorney in respect of the practice of that chartered accountant remains in force and has not been suspended.

(4) All the provisions of this Act shall apply to any power of attorney given under subsection (1) or subsection (2) of this section as if it were given by the chartered accountant to whose practice the power of attorney relates.

Cf. 1961, No. 47, s. 20

14. Conditions affecting donee of a power of attorney—

(1) No donee of a power of attorney given under any of the foregoing provisions of this Act in respect of the practice of any chartered accountant shall commence to act under that power of attorney until—

- (a) That donee has produced that power of attorney for the inspection of the Secretary to the Society:
- (b) That donee has given a certified copy of that power of attorney to the Secretary to the Society:
- (c) The Council, or a Committee of the Council to which the Council has delegated its powers under this paragraph, has resolved to permit that donee to act under the said power of attorney.

(2) In every case where the donee of any power of attorney given under this Act becomes entitled under that power of attorney to operate any account of a deceased chartered accountant in public practice, if there is for the time being no administrator within the meaning of the Administration Act 1952 of the estate of that chartered accountant, that donee shall give notice to the Commissioner of Inland Revenue in the manner and within the time prescribed by section 45 of

the Estate and Gift Duties Act 1968 of any payment made by him out of that account of any money that belonged to the deceased chartered accountant on the date of his death in his own right and was not subject to any trust.

Cf. 1961, No. 47, s. 21

15. Termination of agency—(1) Forthwith upon the revocation or suspension of a power of attorney which has been given in respect of the practice of a chartered accountant in public practice under this Act and produced to the Secretary to the Society under section 14 of this Act, or upon the donee of such a power of attorney ceasing for any reason to act thereunder, written notice thereof shall be given to the Secretary to the Society by—

- (a) The donor of the power of attorney if he is living and capable of doing so; and
- (b) The donee of the power of attorney if he is living and capable of doing so; and
- (c) Any other person who revokes or suspends the power of attorney.

(2) Where the donee of a power of attorney given in respect of the practice of a chartered accountant under this Act ceases to act thereunder while he is living and capable of so acting, that donee shall continue to observe and comply with the requirements of the Council, and shall be personally responsible for the observance of the provisions of the principal Act and this Act and all regulations made under the principal Act until the power of attorney is revoked or suspended or the donee of the power of attorney is released by resolution passed by the Council.

(3) No such release shall be given by the Council until it is satisfied by such proof as it requires that it is proper in all the circumstances to do so.

(4) Any power of attorney given under this Act shall be revoked by operation of law upon the chartered accountant to whose practice the power of attorney relates commencing to practice in partnership with any other chartered accountant or chartered accountants.

Cf. 1961, No. 47, s. 22

16. Agent may be authorised to appoint substitute—Any power of attorney given under this Act may contain provision for the donee of that power of attorney to appoint a substitute;

Amendment

and all the provisions of this Act shall apply accordingly to a substitute appointed under such a provision as if he had been the donee appointed by the original power of attorney.

Cf. 1961, No. 47, s. 24

17. Fees, etc.—Any donee acting under a power of attorney given under this Act shall pay all fees payable in accordance with the rules of the Society, all contributions and levies to the New Zealand Society of Accountants Fidelity Fund, and all other amounts for which the donor would have been liable under this Act if he had continued to practice as a chartered accountant in public practice. While all such fees, contributions, levies, and amounts are being paid in respect of any such chartered accountant who has died, the provisions of the principal Act and this Act and the rules of the Society shall apply in respect of that chartered accountant as if he were living and practising as a chartered accountant in public practice.

Cf. 1961, No. 47, s. 25

Chartered Accountants

18. Members of Society to be known as chartered accountants—(1) The principal Act is hereby amended by omitting the words “public accountant” in each place where they appear in subsection (2) of section 24 and in section 26, and substituting in each case the words “chartered accountant in public practice”.

(2) The New Zealand Society of Accountants Amendment Act 1963 is hereby amended by omitting the word “public” in each place where it appears before the word “accountant” or before the word “accountants” in sections 5, 11, 15, 16, 17, 19, 21, 22, 23, 24, and 25, and substituting in each case the word “chartered”.

(3) Except as otherwise provided in this Act, and unless the context otherwise requires, every reference in any enactment or document to a public accountant or a registered accountant shall be read as a reference to a chartered accountant.

19. Application of provisions relating to Fidelity Fund—(1) Section 3 of the New Zealand Society of Accountants Amendment Act 1963 is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) Every chartered accountant in public practice who is ordinarily resident within New Zealand:”.

(2) Section 3 of the New Zealand Society of Accountants Amendment Act 1963 is hereby further amended by repealing paragraph (d) of subsection (1).

(3) Section 3 of the New Zealand Society of Accountants Amendment Act 1963 is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) This Part of this Act shall not apply to chartered accountants who are not for the time being holders of certificates of public practice, nor to holders of practising certificates issued under section 34 of the principal Act who are not actively engaged in the practice of the profession of accountancy.”

(4) Subsection (3) of section 3 of the New Zealand Society of Accountants Amendment Act 1963 is hereby amended—

- (a) By omitting the word “public” in each place where it appears before the word “accountants”, and substituting in each case the word “chartered”;
- (b) By omitting the words “registered accountants (other than those registered by the Council as engaged to a substantial extent in accountancy work for remuneration otherwise than in the course of their normal salaried employment nor those public”, and substituting the words “those chartered”.

20. Prescribed fees to be paid into Fidelity Fund—(1) Section 10 of the New Zealand Society of Accountants Amendment Act 1963 is hereby amended by omitting from subsection (1) the word “public”, and substituting the word “chartered”.

(2) Section 10 of the New Zealand Society of Accountants Amendment Act 1963 is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) If any chartered accountant who is not the holder of a certificate of public practice wishes to commence to hold himself out as offering his services to the public in such a manner as to render it necessary in terms of the rules of the Society for him to apply for a certificate of public practice, he shall, on making application for the issue to him of a certificate of public practice and on being issued by the Council with such a certificate, become liable to pay to the fund the amount of the prescribed fee for the purposes of this Part of this Act for the financial year in which the certificate is issued:

“Provided that every chartered accountant who applies for and is issued as aforesaid with a certificate of public practice and commences public practice in New Zealand in the second half of any financial year of the Society shall pay half the prescribed fee for the purposes of this Part of this Act for that financial year.”

21. Application of the fund—Section 14 of the New Zealand Society of Accountants Amendment Act 1963 is hereby amended—

- (a) By omitting the words “public accountant” where they first appear, and substituting the words “chartered accountant within the meaning of subsection (3) of section 3 of this Act”:
- (b) By omitting the word “public” in the second place where it appears, and substituting the word “chartered”:
- (c) By omitting the words “registered accountant”, and substituting the words “chartered accountant to whom this Part of this Act does not apply”.

This Act is administered in the Treasury.
