

# **INSTITUTE OF CHARTERED ACCOUNTANTS OF NEW ZEALAND BILL**

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AS REPORTED FROM THE FINANCE AND EXPENDITURE COMMITTEE

## **COMMENTARY**

### **Recommendation**

The Finance and Expenditure Committee has examined the Institute of Chartered Accountants of New Zealand Bill and recommends that it be passed with the amendments shown in the bill.

### **Conduct of the examination**

The Institute of Chartered Accountants of New Zealand Bill was introduced and referred to the Finance and Expenditure Committee on 17 August 1995. The closing date for submissions was 27 September 1995. We received and considered submissions from the New Zealand Society of Accountants (NZSA) and the Legislation Advisory Committee. Both submissions were heard orally. Three hours and six minutes were spent on the hearing of evidence and consideration took 51 minutes.

Advice was received from the Treasury. We also received a report from the Regulations Review Committee on the commencement provision in the bill.

This commentary sets out the details of our consideration of the bill and of the major issues we addressed.

### **Background**

The bill repeals and replaces the New Zealand Society of Accountants Act 1958 to implement changes to the way in which the NZSA is both structured and governed. The changes arise from the NZSA's review of its future role and structure. The main features of the bill are that it:

- Continues the NZSA as a statutory body under the new name "Institute of Chartered Accountants of New Zealand" and sets out its functions.
- Requires the Institute to have rules and a code of ethics to govern members' conduct.

- Provides for a Professional Conduct Committee, a Disciplinary Tribunal and an Appeals Council to deal with disciplinary matters.
- Continues the restriction of the term “chartered accountant” and related terms to members.
- Provides for continued residual management of the fidelity fund relating to claims made before 1 May 1993.

### **Approach taken in the bill**

#### **Scope of the bill**

The major issue which we considered was the proposed scope of the bill, as introduced. The bill appeared to us to be unnecessarily long and complex for a bill of this kind.

The Minister of Finance foreshadowed this issue on the introduction of the bill. The Minister noted that the intention is to shift many operational and procedural aspects from the statute to the Institute’s rules. On the basis of the Legislation Advisory Committee’s legislative guidelines, however, the bill contained prescriptive processes for the composition and powers of the disciplinary bodies. The Minister invited us to examine whether the bill’s provisions and the degree of prescription could be reduced.

The NZSA confirmed that it had anticipated a “minimalist” Act would be sufficient to give effect to the desired changes. The bill is not intended to extend the NZSA’s statutory powers or rights. It is intended essentially to refine the existing legislation and leave many administrative and mechanical matters to the new set of rules recently established. The three important elements which the NZSA expected to be included in the bill are:

- Statutory recognition of the Institute.
- Legal protection for the name “chartered accountant”.
- Statutory powers necessary to effect the Institute’s investigatory and disciplinary process.

We received a Ministry of Justice report on its involvement in the preparation of the bill. The ministry was involved in general checking of the bill, in particular for compliance with the New Zealand Bill of Rights Act 1990. It had raised concerns that the initial draft did not comply with certain of the Legislation Advisory Committee’s guidelines for legislation. Further drafts addressed the matters raised, which the ministry considers to be valid concerns. The ministry noted that the statutes regulating the legal and medical professions are more detailed than this bill and only a moderate increase in the size of the bill resulted from addressing the guideline issues.

Arising from the Minister’s and our own concerns, we reviewed the content of the bill and assessed which provisions, if any, were essential. We requested the NZSA to justify the need for the bill.

#### **NZSA’s justification for the bill**

The NZSA outlined many reasons as justification for the provisions in the bill, including the following:

- Quality assurance mechanisms are less effective without statutory backing to ensure compliance with all elements that ensure quality.
- Statutory support of the investigatory and disciplinary process is necessary, particularly to:

- Compel members and third parties to cooperate in the investigation of complaints.
- Compel attendance for the giving of evidence and the production of documents in tribunal hearings or appeals.
- Discipline former members.
- Grant immunity to witnesses.
- A large number of statutory functions are carried out only by members, therefore it is appropriate for the Institute itself to be established by statute.
- Establishment by its own statute is also desirable because there are constitutional and practical difficulties in establishment under the Incorporated Societies Act 1908.
- Protection of the use of the name “chartered accountant” and related abbreviations is necessary because civil remedies are not a satisfactory alternative.
- Claims are still being processed for the fidelity fund and its continued operation is necessary.

The NZSA also identified a range of general benefits from retaining a minimalist Act. Consumers benefit from the competitive accounting environment and from the quality of service which they can expect from members of the NZSA. The wider community benefits from the NZSA’s public “watchdog” role through the statutory requirements to audit financial statements. Commercial and capital markets can rely on the information conveyed by members and the legislation demonstrates a high level of commitment to maintaining a transparent financial market. Public accountability of the NZSA is maintained through the disciplinary process. There are savings to the State from the establishment of a single representative accounting body of high status for consultation and regulation purposes and for developing accounting standards and theory. There are also positive benefits to consumer welfare through the occupational regulation, without any resultant costs such as increased prices and reduced choice. The NZSA emphasised that it contributes significantly to the reputation of New Zealand’s capital markets, to the quality and reliability of the information provided to those markets, and to the financial environment more generally.

### **Change to a minimalist approach**

While we acknowledge the very valuable role performed by the NZSA, we are not entirely convinced by the arguments advanced to justify special legislation of this nature and the need for such a prescriptive approach. Following further consultation with the Minister of Finance and the NZSA, we decided, with their support, that a minimalist approach should be adopted for the bill. This has the effect of substantially reducing the length of the bill by more than halving the number of clauses and by simplifying some of the remaining clauses. We anticipate that the majority of the provisions that we recommend be removed from the bill will be incorporated into the Institute’s own rules.

We recommend that the bill be amended by:

- Omitting the provisions relating to: the Council of the Institute; the registered office of the Institute; the appointment and membership of the Professional Conduct Committees and disciplinary bodies; certain additional powers of the Professional Conduct Committee; the requirement for the hearings of the disciplinary bodies to be in public; the power of a disciplinary body to conduct a hearing in private and to prohibit publication of information; procedural matters for complaints against members of the Institute; the

offence of failing to comply with a requirement of the Professional Conduct Committee or of a disciplinary body; the offence for acting in contempt of the disciplinary bodies; the service of documents on the Institute; proof of the rules and the code of ethics in proceedings; and the continuation of the assets, rights and liabilities of the NZSA with the Institute.

- Adding references to the Council and the Professional Conduct Committee and disciplinary bodies as matters required to be provided for in the Institute's rules.
- Amending the proposed power for disciplinary bodies to summon witnesses to provide that the parties to proceedings must apply to a District Court Judge for leave authorising the issue of a witness summons and providing that the requirements as to service of a summons and payment of witnesses shall be the same as a summons issued by a District Court.
- Simplifying the provision relating to evidence in proceedings before a disciplinary body.
- Simplifying the powers and procedures of the Professional Conduct Committee and disciplinary bodies, requiring the rules to provide for these matters and retaining the requirement for the committee and bodies to observe the rules of natural justice.

### **Occupational licensing in general**

Our consideration of this bill has raised the general issue of the need for, and the scope of, legislation providing for occupational licensing. We are disappointed with the arguments put forward in support of this bill but we do not wish to single out the accounting profession by rejecting the bill. In our view, however, a minimalist approach should be adopted for occupational licensing generally and a consistent treatment applied across the board. We consider that this bill may provide a model of an appropriate minimalist approach. We recommend that the Government institute a major review of occupational licensing to establish a model for such legislation which rationalises the powers available to the professional organisations and improves their general accountability, in particular to Parliament in relation to any coercive powers or monopoly rights granted.

### **Removal of statutory basis for disciplinary process**

We note that the recommended amendments materially reduce the coercive powers which the Institute is granted under the statute. The bill, as amended, would only contain four clauses with express statutory powers that could potentially affect people other than members or former members. These clauses:

- Empower the Professional Conduct Committee to apply to the District Court for leave authorising the issue of a witness summons.
- Provide protection for members of disciplinary bodies, witnesses and counsel.
- Create an offence for failure to comply with a lawful summons to appear before a disciplinary body.
- Provide for disciplinary bodies to receive evidence on oath.

Most of the provisions providing for the Institute's internal disciplinary powers are recommended to be removed from the bill. We consider that these are appropriate matters to be addressed by the Institute's own rules.

**Oversight of the Institute's powers**

We are concerned that there should be some general oversight and protection afforded where the Institute will be exercising powers that may affect third parties. The proposed amendment to require that leave to issue a witness summons must be granted by a District Court Judge, rather than a summons being available simply if signed by a member of the disciplinary body, is an important limit on this power. We also consider that there should be some continuing parliamentary scrutiny of certain of the Institute's rules and its code of ethics. This can be achieved by deeming these matters to be regulations within the meaning of the Regulations (Disallowance) Act 1989 which will make them subject to scrutiny by the Regulations Review Committee. We, therefore, recommend that the bill be amended to apply the Regulations (Disallowance) Act 1989 to certain of the Institute's rules and its code of ethics.

**Commencement**

The Regulations Review Committee raised a technical issue concerning the commencement provision in the bill. The provision provides for the Act to come into force on a date to be appointed by the Governor-General by Order in Council. The intention was to appoint the same commencement date for all provisions, except for the provisions that repeal the New Zealand Society of Accountants Amendment Act 1963 once the remaining claims on the fidelity fund have been dealt with. The Regulations Review Committee recommended that subclauses (3) and (4) of clause 44, providing for the repeal of provisions in the bill relating to the fidelity fund, should have different commencement dates from the remainder of the bill.

We accept that it is appropriate to amend the bill in this way. We recommend that the bill be amended to provide for a commencement date of 1 October 1996, except for subclauses (3) and (4) of clause 44 which shall come into force on a date appointed by the Governor-General by Order in Council.

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## KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

*Struck Out (Unanimous)*

Subject to this Act,

Text struck out unanimously

*New (Unanimous)*

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Rt. Hon. W. F. Birch

## INSTITUTE OF CHARTERED ACCOUNTANTS OF NEW ZEALAND

### ANALYSIS

Title	20. Enforcement of orders
1. Short Title and commencement	
2. Interpretation	<i>Offences</i>
3. Act to bind the Crown	31. Improper use of terms implying membership of Institute
<i>Institute of Chartered Accountants of New Zealand</i>	32. Accountants and auditors must be qualified
4. Continuation of Society as Institute	34. Failure to comply with summons of disciplinary body
5. Functions of Institute	<i>Appointment of Agent to Conduct Practice of Sole Practitioner</i>
8. Rules of Institute	37. Agent may be appointed to conduct sole practitioner's practice
9. Code of ethics	<i>Miscellaneous Provisions</i>
10. Application of Regulations (Disallowance) Act 1989 to certain rules and code of ethics	41. References to Society
<i>Matters Relating to Disciplining of Members</i>	42. References to chartered accountants
12. Professional Conduct Committee and disciplinary bodies to observe rules of natural justice	43. Fees payable to Registrar
15. Evidence at hearings of disciplinary bodies	44. Fidelity fund
16. Disciplinary bodies may summon witnesses	45. Transitional provision relating to disciplinary proceedings
18. Protection for members of disciplinary bodies and others	46. Amendments to other Acts
	47. Repeals Schedules

### A BILL INTITULED

#### An Act to—

- 5 (a) Continue the New Zealand Society of Accountants under the name “Institute of Chartered Accountants of New Zealand”; and
- (b) Require the Institute to have rules governing membership, discipline, and other matters and a code of ethics governing the professional conduct of its members; and

*Struck Out (Unanimous)*

**(c) Provide for the discipline of members of the Institute; and**

**(d) Prohibit the use of terms implying membership of the Institute by persons who are not members; and** 5

**(e) Provide for related matters; and**

**(f) Repeal the New Zealand Society of Accountants Act 1958**

BE IT ENACTED by the Parliament of New Zealand as follows: 10

**1. Short Title and commencement**—(1) This Act may be cited as the Institute of Chartered Accountants of New Zealand Act 1995.

*Struck Out (Unanimous)*

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more orders may be made bringing different provisions into force on different dates. 15

*New (Unanimous)*

(2) Except as provided in **subsection (3)** of this section, this Act shall come into force on the 1st day of October 1996. 20

(3) **Subsections (3) and (4) of section 44** of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

**2. Interpretation**—In this Act, unless the context otherwise requires,— 25

“Appeals Council” means the Appeals Council referred to in **(section 11 (c) section 8 (1) (h))** of this Act:

“Certificate of public practice” means a certificate of public practice issued in accordance with the rules: 30

“Chartered accountant” means a member of the Institute who, under the rules of the Institute, is entitled to use the designation “chartered accountant”:



“Code” means the code of ethics of the Institute referred to in **section 9** of this Act:

“Council” means the Council of the Institute referred to in **(section 6) section 8 (1) (a)** of this Act:

5 “Disciplinary body” or “body” means the Disciplinary Tribunal or the Appeals Council:

“Disciplinary Tribunal” means the Disciplinary Tribunal referred to in **(section 11 (b)) section 8 (1) (g)** of this Act:

“Document” includes any book or paper:

10 “Institute” means the Institute of Chartered Accountants of New Zealand constituted under this Act:

“Member” means a person who, under the rules of the Institute, is a full member or provisional member of the Institute:

15 “Professional Conduct Committee” means the Professional Conduct Committee referred to in **(section 11 (a)) section 8 (1) (f)** of this Act:

“Registrar” means the Registrar of Companies at Wellington:

20 “Registration” means registration by the Registrar on a public file:

“Rules” means the rules of the Institute delivered to the Registrar under **section 8** of this Act:

25 “Society” means the New Zealand Society of Accountants constituted under the New Zealand Society of Accountants Act 1958.

**3. Act to bind the Crown**—This Act binds the Crown.

*Institute of Chartered Accountants of New Zealand*

30 **4. Continuation of Society as Institute**—(1) The body corporate existing under the name of the New Zealand Society of Accountants immediately before the day on which this section comes into force continues on and after that day under the name “Institute of Chartered Accountants of New Zealand”.

35 (2) The Institute is a body corporate with perpetual succession and a common seal, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

40 (3) The Institute shall have members in accordance with the rules and this Act; but membership does not of itself—

4 *Institute of Chartered Accountants of New Zealand*

- (a) Impose on the members any liability in respect of any contract, debt, or other obligation made or incurred by the Institute; or
- (b) Confer on the members any right, title, or interest in the property of the Institute.

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**5. Functions of Institute**—The functions of the Institute are—

- (a) To promote quality, expertise, and integrity in the profession of accountancy by its members in New Zealand:
- (b) To promote, control, and regulate the profession of accountancy by its members in New Zealand:
- (c) To promote the training, education, and examination of persons practising, or intending to practise, the profession of accountancy in New Zealand or elsewhere:
- (d) Any other functions that are conferred on it by the rules.

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*Struck Out (Unanimous)*

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**6. Council of Institute**—(1) The Institute shall have a Council constituted in accordance with the rules.

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(2) All decisions relating to the operations of the Institute shall be made by or under the authority of the Council.

(3) The Council has the powers, including the power of delegation, given to it by this Act, any other Act, or the rules.

**7. Registered office of Institute**—(1) The Institute must always have a registered office.

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(2) The registered office of the Institute is the place notified to the Registrar under this section and registered as such.

(3) The Council must give the Registrar notice in writing of the registered office of the Institute no later than 14 days after the day on which this section comes into force.

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(4) The Council may change the registered office of the Institute at any time and, if it does, must give the Registrar notice in writing of the change no later than the day before the day on which that change takes effect.

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**8. Rules of Institute**—(1) The Institute must have rules that provide for—

- (a) The admission of members of the Institute; and
- (b) The cessation of membership of the Institute; and

*Struck Out (Unanimous)*

- (c) The summoning and holding of general meetings of the Institute, and the method of voting at those meetings; and
- 5 (d) A President and one or more Vice-Presidents of the Institute; and
- (e) An Executive Board of the Institute; and
- (f) The amendment and replacement of the rules; and
- 10 (g) Such other matters as are required by this Act to be included in the rules.
- (2) In addition to the provisions required by subsection (1) of this section, the rules may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law.
- 15 (3) The Council must, no later than 14 days after the day on which this section comes into force, deliver to the Registrar for registration a document described as, and which shall constitute, the rules of the Institute.
- 20 (4) The Council must, no later than 14 days after the passing of any amendment to the rules or replacing the rules, deliver to the Registrar for registration a copy of the amendment or the new rules.

*New (Unanimous)*

- 8. Rules of Institute**—(1) The Institute must have rules that provide for—
- 25 (a) A Council of the Institute and the powers of the Council; and
- (b) The admission of members of the Institute and the cessation of membership; and
- 30 (c) The summoning and holding of general meetings of the Institute, and the method of voting at those meetings; and
- (d) A President and one or more Vice-Presidents of the Institute; and
- (e) An Executive Board of the Institute; and
- 35 (f) A Professional Conduct Committee to investigate complaints against members and former members of the Institute and the powers and procedure of that Committee; and

*New (Unanimous)*

- (g) A Disciplinary Tribunal to hear complaints and matters referred to it by the Professional Conduct Committee and the powers and procedure of that Tribunal; and
- (h) An Appeals Council to hear appeals from decisions of the Disciplinary Tribunal and the powers and procedure of that Council; and 5
- (i) The kinds of conduct, including criminal offences, professional misconduct, and financial misconduct, for which a member or former member may be disciplined; and 10
- (j) The actions that may be taken in respect of, and the penalties that may be imposed on, a member or former member by the Professional Conduct Committee or a disciplinary body for such conduct; and 15

(k) The amendment and replacement of the rules.

(2) In addition to the provisions required by subsection (1) of this section, the rules may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law. 20

(3) The Council must, no later than 14 days after the day on which this Act comes into force, deliver to the Registrar for registration a document described as, and which shall constitute, the rules of the Institute.

(4) The Council must, no later than 14 days after the passing of any amendment to the rules or replacing the rules, deliver to the Registrar for registration a copy of the amendment or the new rules. 25

**9. Code of ethics**—(1) The Institute must always have a code of ethics that governs the professional conduct of its members. 30

(2) The code of ethics must be prescribed by the Council.

(3) The Council must, no later than 14 days after the day on which this (section) Act comes into force, deliver a copy of the code to the Registrar for registration. 35

(4) The Council may at any time amend the code or revoke the code and replace it with a new code.

(5) The Council must, no later than 14 days after passing any amendment to the code or replacing the code, deliver to the Registrar for registration a copy of the amendment or the new code. 40

*Struck Out (Unanimous)*

**10. Approval of certain rules and code of ethics by Order in Council**—(1) The following rules shall not come into force until they have been approved by the Governor-General by Order in Council:

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(a) Rules that relate to the entitlement of members to use the designation “chartered accountant”; and

(b) Rules made for any of the purposes of **sections 8 (1) (a) and (b), 11, 12, and 42** of this Act.

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(2) Neither the code nor any amendment to, or replacement of, the code shall come into force until it has been approved by the Governor-General by Order in Council.

*New (Unanimous)*

**10. Application of Regulations (Disallowance) Act 1989 to certain rules and code of ethics**—The Regulations (Disallowance) Act 1989 applies to—

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(a) The rules that relate to the matters referred to in **sections 5 (d), 8 (1) (a), (b), and (f) to (j), and 42** of this Act; and

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(b) Rules that relate to the entitlement of members to use the designation “chartered accountant”; and

(c) The code of ethics required by **section 9** of this Act— as if they were regulations within the meaning of that Act.

*Struck Out (Unanimous)*

*Professional Conduct Committee and Disciplinary Bodies*

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*New (Unanimous)*

*Matters Relating to Disciplining of Members*

*Struck Out (Unanimous)*

- 11. Professional Conduct Committee and disciplinary bodies**—(1) The Executive Board of the Institute shall appoint, in accordance with the rules,—
- (a) A Professional Conduct Committee, which shall consist of such number of persons as the rules shall require, but which shall not include the President or any Vice-President of the Institute or any member of a disciplinary body; and 5
  - (b) A Disciplinary Tribunal, which— 10
    - (i) Shall consist of such number of persons as the rules shall require; and
    - (ii) Shall include at least 2 persons who are not members of the Institute; but
    - (iii) Shall not include the President or any Vice-President of the Institute or any member of the Professional Conduct Committee or the Appeals Council; and 15
  - (c) An Appeals Council, which— 20
    - (i) Shall consist of such number of persons as the rules shall require; and
    - (ii) Shall include a barrister of not less than 7 years' practice, who shall be the chairperson of the Appeals Council; but
    - (iii) Shall not include any member of the Professional Conduct Committee or the Disciplinary Tribunal. 25
- (2) The quorum for a meeting of the Professional Conduct Committee, the Disciplinary Tribunal, or the Appeals Council shall be as stated in the rules, except that the quorum for a meeting of the Disciplinary Tribunal must include at least one person who is not a member of the Institute. 30

- 12. Powers and procedures of Professional Conduct Committee and disciplinary bodies**—(1) The rules may state— 35
- (a) Powers and procedures of any one or more of the Professional Conduct Committee and each disciplinary body; and
  - (b) Obligations of members— 40
- that are additional to, but not inconsistent with, the powers, procedures, and obligations set out in this Act.

*Struck Out (Unanimous)*

(2) Except as provided in this Act or the rules, the procedures of the Professional Conduct Committee or a disciplinary body shall be as determined by that Committee or body.

5 (3) The Professional Conduct Committee and each disciplinary body shall observe the rules of natural justice.

(4) The Disciplinary Tribunal may from time to time appoint a legal assessor, who may be present at a hearing of the Tribunal and may at any time advise the Tribunal on matters of law, procedure, and evidence.

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*New (Unanimous)*

**12. Professional Conduct Committee and disciplinary bodies to observe rules of natural justice**—In the exercise of their functions and powers the Professional Conduct Committee and each disciplinary body shall observe the rules of natural justice.

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*Struck Out (Unanimous)*

**13. Additional powers of Professional Conduct Committee**—Without limiting the powers of the Professional Conduct Committee contained in this Act or the rules, the Committee may, for the purposes of any investigation,—

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(a) Make, or employ any person to make, such preliminary inquiries as it considers necessary; and

(b) Require any member or former member of the Institute or Society to whom the investigation relates to provide to the Committee or any person so employed any documents, things, or information that are in the possession or under the control of that member or former member and that relate to the subject-matter of the investigation; and

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(c) Take copies of any documents that are provided to it under paragraph (b) of this section.

**14. Hearings of disciplinary bodies to be in public**—  
(1) Except as provided in subsection (2) of this section and in

*Struck Out (Unanimous)*

section 19 (1) (a) of this Act, every hearing of a disciplinary body must be held in public.

(2) A disciplinary body may deliberate in private as to its decision or as to any matter arising in the course of the hearing. 5

**15. Evidence at hearings of disciplinary bodies—**

(1) Subject to section 12 (3) of this Act, a disciplinary body may receive as evidence any statement, document, information, or matter whether or not it would be admissible in a Court. 10

(2) A disciplinary body may inspect and examine any documents, things, and information.

(3) A disciplinary body may permit—

(a) A person to give evidence on oath (and for that purpose an officer or employee of the Institute, or a member of the disciplinary body, may administer an oath); and 15

(b) A person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath. 20

*New (Unanimous)*

**15. Evidence at hearings of disciplinary bodies—**(1) A disciplinary body may—

(a) Receive evidence on oath (and for that purpose an officer or employee of the Institute, or a member of the disciplinary body, may administer an oath); and 25

(b) Permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath.

(2) A hearing before a disciplinary body is a judicial proceeding for the purposes of section 109 of the Crimes Act 1961. 30

*Struck Out (Unanimous)*

**16. Disciplinary bodies may summon witnesses—**(1) A disciplinary body may issue a summons in writing, signed by a 35



*Struck Out (Unanimous)*

- member of the disciplinary body, requiring a person specified in the summons to attend a hearing of the disciplinary body at the time and place specified in the summons and do all of the following at the hearing:
- 5 (a) Give evidence:  
(b) Give evidence under oath:  
(c) Produce documents, things, or information or any specified documents, things, or information in the possession or control of that person that are relevant to the hearing.
- 10 (2) A disciplinary body may require that any documents or information produced under this section be verified by oath, statutory declaration, or otherwise.
- 15 (3) A disciplinary body may—  
(a) Require that copies of any documents or information produced under this section must also be provided to any person appearing at the hearing; and  
(b) Impose any terms and conditions in respect of the provision of copies of any documents or information to a person appearing at the hearing and the use that may be made of them.
- 20 (4) A disciplinary body may issue a summons under this section on its own motion or on application.
- 25 (5) A summons to a witness under this section must be served in accordance with the provisions of the **First Schedule** to this Act.
- 30 (6) Every witness who attends a hearing of a disciplinary body in accordance with a summons under this section is entitled to the fees, allowances, and travelling expenses referred to in the **First Schedule** to this Act.

*New (Unanimous)*

- 16. Disciplinary bodies may summon witnesses**—(1) A District Court Judge may, on the application of a party to proceedings before a disciplinary body, give a certificate authorising the disciplinary body to issue a summons under this section.
- 35 (2) A District Court Judge shall not give a certificate under **subsection (1)** of this section unless satisfied that—

*New (Unanimous)*

- (a) The evidence of the witness is or may be material to the hearing of a matter by the disciplinary body; and
- (b) It is necessary or desirable that the summons be issued to compel the attendance of the witness at the hearing. 5
- (3) A disciplinary body shall, on production by a member of the Professional Conduct Committee of a certificate referred to in **subsection (1)** of this section, issue a summons in writing, signed by a member of the disciplinary body, requiring a person specified in the summons to attend a hearing of the disciplinary body at the time and place specified in the summons and do all or any of the following at the hearing: 10
- (a) Give evidence:
- (b) Give evidence under oath:
- (c) Produce documents, things, or information or any specified documents, things, or information in the possession or control of that person that are relevant to the hearing. 15
- (4) A disciplinary body may require that any documents or information produced under this section be verified by oath, statutory declaration, or otherwise. 20
- (5) A disciplinary body may—
- (a) Require that copies of any documents or information produced under this section must also be provided to any person appearing at the hearing; and 25
- (b) Impose any terms and conditions in respect of the provision of copies of any documents or information to a person appearing at the hearing and the use that may be made of them.
- (6) A summons may be served— 30
- (a) By delivering it to the person summoned; or
- (b) By posting it to the person summoned at that person's usual place of residence.
- (7) A summons must,—
- (a) If it is to be served under **subsection (6) (a)** of this section, be served at least 24 hours before the attendance of the witness is required: 35
- (b) If it is to be served under **subsection (6) (b)** of this section, be served at least 10 days before the attendance of the witness is required. 40

*New (Unanimous)*

(8) A summons that is posted shall be treated as having been served when it would have been served in the ordinary course of post.

- 5 (9) There shall be paid or tendered to the witness by the person requiring the attendance of the witness at the time the summons is served, or at some other reasonable time before the hearing, the sum estimated to be payable to that witness for fees, allowances, and expenses in accordance with the  
10 scales for the time being prescribed by regulations under the Summary Proceedings Act 1957.

*Struck Out (Unanimous)*

**17. Person presiding at hearing of disciplinary body may exercise certain powers**—The power to issue  
15 summonses, or to do any other act preliminary or incidental to the hearing of any matter by a disciplinary body, may be exercised by the person having the authority to preside at hearings of the body or by an officer of the Institute purporting to act by direction of or with the authority of that person.

20 **18. Privileges of witnesses, counsel, and others**—

(1) Every person, who—

- (a) Provides documents, things, or information to the Professional Conduct Committee; or  
(b) Produces documents or things to a disciplinary body; or  
25 (c) Gives evidence or answers questions at a hearing of a disciplinary body,—

has the same privileges and immunities as witnesses have in a Court.

30 (2) Every counsel appearing before a disciplinary body has the same privileges and immunities as counsel in a Court.

*New (Unanimous)*

**18. Protection for members of disciplinary bodies and others**—(1) No action shall lie against a member of the Professional Conduct Committee or a disciplinary body in

*New (Unanimous)*

exercising, in good faith, any power or function under this Act or the rules.

(2) Every person, who—

(a) Provides documents, things, or information to the Professional Conduct Committee; or 5

(b) Produces documents or things to a disciplinary body; or

(c) Gives evidence or answers questions at a hearing of a disciplinary body—

has the same privileges as witnesses have in a Court. 10

(3) Every counsel appearing before a disciplinary body has the same privileges and immunities as counsel in a Court.

*Struck Out (Unanimous)*

**19. Orders by disciplinary body in relation to publicity—**(1) If a disciplinary body considers that it is appropriate to do so, having regard to the interests of any person or to the public interest, it may— 15

(a) Hold a hearing, or any part of a hearing, in private; and

(b) Make an order prohibiting the publication of all or any of the following: 20

(i) A report of any proceedings before it or any part of those proceedings:

(ii) Any document, or any part of any document, produced at any hearing before it:

(iii) The name of, or any matter that may identify, a person to whom any hearing relates or any other person. 25

(2) An order made under **subsection (1)(b)** of this section continues in force for the period specified in the order or, if no period is specified, until the disciplinary body revokes the order. 30

(3) **Subsection (1)(b)(iii)** of this section does not apply to communications between any or all of the following:

(a) The Council:

(b) The Professional Conduct Committee: 35

(c) Any disciplinary body:

(d) An employee or officer of the Institute.

**20. Enforcement of orders**—(1) Where the Professional Conduct Committee or a disciplinary body, acting in accordance with this Act or the rules, makes an order or otherwise exercises any power in respect of any person who is or was a member of the Institute, that order or other exercise of any power has effect whether or not that person remains a member of the Institute.

(2) Where the Professional Conduct Committee or a disciplinary body, acting in accordance with this Act or the rules, orders any person who is or was a member of the Institute to pay a penalty, expenses, or other monetary amount to the Institute, that amount is recoverable by the Institute from that person as a debt due to the Institute, whether or not that person remains a member of the Institute.

*Struck Out (Unanimous)*

*Complaints against Members*

**21. Complaints may be made to Professional Conduct Committee**—(1) Any person may lodge a complaint with the Institute for investigation by the Professional Conduct Committee about anything done or not done by a member in the course of his or her practising accountancy whether before or after the commencement of this section.

(2) Every complaint must be in writing and supported by any statutory declaration or additional information the Professional Conduct Committee may require.

(3) On receipt of a complaint, the Professional Conduct Committee must investigate the complaint and—

(a) Determine that no further action be taken:

(b) Determine that the member be informally admonished, whether or not the member has breached this Act, the rules, or the code:

(c) When a complaint would otherwise warrant being referred to the Disciplinary Tribunal, with the written agreement of the member, make one or more of the following determinations:

(i) That the member waive or return the whole or part of any fee:

(ii) That another member be authorised to undertake or complete work that the member has been engaged to perform:

(iii) That the member be reprimanded:

*Struck Out (Unanimous)*

- 
- (iv) That the member be severely reprimanded:
- (v) That the member pay to the Institute a monetary penalty of an amount not exceeding \$5,000: 5
- (vi) That the member pay the whole or part of any costs and expenses of the complainant or the Institute, or both:
- (d) Determine that the matter be referred to the Disciplinary Tribunal for hearing. 10
- (4) Where the Professional Conduct Committee determines that a matter should be referred to the Disciplinary Tribunal for hearing, it shall—
- (a) State in its determination the charges to be heard, being charges in respect of any conduct or circumstance referred to in any of paragraphs (a) to (i) of subsection (3) of section 23 of this Act; and 15
- (b) Refer the matter to the Disciplinary Tribunal.
- (5) The Professional Conduct Committee shall give written notice of a determination to the complainant and to the member concerned within 14 days of making the determination. 20
- 22. Suspension of member—**(1) At any time after a complaint has been lodged with the Institute under section 21 of this Act, the Disciplinary Tribunal may, if it thinks fit, make an order— 25
- (a) Suspending the member against whom the complaint has been made from membership of the Institute until the suspension is revoked by order of the Disciplinary Tribunal or Appeals Council; and 30
- (b) Directing that, after 14 days has elapsed, notice of the suspension be published in any publication that the Disciplinary Tribunal thinks fit.
- (2) A member who is suspended under subsection (1) of this section may apply to the Disciplinary Tribunal for revocation of the suspension or the order directing publication. 35
- (3) A member may appeal to the Appeals Council against any refusal of the Disciplinary Tribunal to revoke a suspension or an order directing publication made under subsection (1) of this section. 40
- (4) The Institute shall ensure that,—
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*Struck Out (Unanimous)*

- 5 (a) Where a member is suspended under **subsection (1)** of this section, written notice of the suspension and of the right of the member to apply to the Disciplinary Tribunal under **subsection (2)** of this section is given to the member; and
- 10 (b) Where, on an application under **subsection (2)** of this section, the Disciplinary Tribunal refuses to revoke the suspension or the order directing publication, written notice of the Tribunal's decision and of the right of the member to appeal to the Appeals Council under **subsection (3)** of this section is given to the member.
- 15 (5) Where a member who has been suspended under **subsection (1)** of this section applies to the Disciplinary Tribunal under **subsection (2)** of this section or appeals to the Appeals Council under **subsection (3)** of this section,—
- (a) The suspension order shall have effect unless and until the suspension is revoked by the Disciplinary Tribunal or the Appeals Council; but
- 20 (b) Publication of the notice of the suspension shall be delayed until the application or appeal has been determined.

**23. Disciplinary Tribunal hearing**—(1) Where the Professional Conduct Committee refers any matter to the  
25 Disciplinary Tribunal for hearing, the Tribunal shall give the member concerned not less than 14 days' written notice of the hearing and of the charges.

(2) At every hearing before the Disciplinary Tribunal, the Professional Conduct Committee shall be responsible for the  
30 presentation of the case against the member concerned and may be represented by counsel or otherwise.

(3) The Disciplinary Tribunal may, after conducting a hearing of a charge against a member, exercise one or more of the powers set out in **subsection (4)** of this section if the  
35 Disciplinary Tribunal finds that—

- (a) The member has been convicted of an offence punishable by imprisonment or a fine, and the Disciplinary Tribunal is of the opinion that the conviction reflects on the member's fitness to practise accountancy, or  
40 tends to bring the profession into disrepute; or
- (b) The member is guilty of—

*Struck Out (Unanimous)*

- |  |    |
|--|----|
| (i) Misconduct in a professional capacity; or  |    |
| (ii) Conduct unbecoming an accountant; or  |    |
| (c) The member is guilty of negligence or incompetence in a professional capacity, and that this has been of such a degree or so frequent as to reflect on his or her fitness to practise accountancy or as to tend to bring the profession into disrepute; or | 5  |
| (d) The member has been adjudicated bankrupt or made a composition with his or her creditors within 3 years of the matter being referred to the Disciplinary Tribunal; or  | 10 |
| (e) The member has breached any of the provisions of this Act, the rules, or the code; or  |    |
| (f) The member, being a chartered accountant who holds a certificate of public practice, has engaged in any other business which is inconsistent with the integrity of a chartered accountant who holds a certificate of public practice; or                   | 15 |
| (g) The member has—  | 20 |
| (i) Knowingly entered into partnership with a person whose membership of the Institute has been terminated or suspended at the time the partnership is entered into; or  |    |
| (ii) Acted as an agent in carrying on such a person's practice; or   | 25 |
| (iii) Employed such a person without the consent of the Disciplinary Tribunal; or  |    |
| (h) The member has at any time supplied to the Institute or to any officer or employee of the Institute, any information which is false or misleading; or  | 30 |
| (i) The member has failed to pay any sum due to the Institute by the date specified for payment.   |    |
| (4) Where the Disciplinary Tribunal finds a member guilty of a charge it, may exercise one or more of the following powers:  | 35 |
| (a) Terminate the member's membership of the Institute (but without limiting the right of the member to apply for re-admission to membership in accordance with the rules);  |    |
| (b) Suspend the member's membership of the Institute for any period not exceeding 5 years:   | 40 |



*Struck Out (Unanimous)*

- (c) Order that the member pay to the Institute a monetary penalty of an amount not exceeding \$5,000:
- 5 (d) Cancel or suspend any certificate of public practice held by the member:
- (e) Order the investigation of the member's practice in accordance with the rules:
- (f) Order regular reviews of the member's practice in accordance with the rules:
- 10 (g) Order the member to complete any professional development course or to engage an adviser or tutor, at the member's own expense:
- (h) Authorise another member to undertake or complete work that the member has been engaged to perform:
- 15 (i) Order the member to waive or return the whole or part of any fee:
- (j) Censure the member:
- (k) Order that the member not practise in partnership with a person who is not a member.
- 20 (5) The Disciplinary Tribunal may make any order as to the payment of the costs and expenses of the hearing and the investigation by the Professional Conduct Committee as it thinks fit.
- (6) The Institute shall ensure that written notice of a decision of the Tribunal, and of the right of appeal under **section 24** of this Act, is—
- 25 (a) Given to the complainant, the member, and the Council within 14 days of the Tribunal's decision; and
- (b) If the rules so require, published in accordance with the rules.
- 30

**24. Appeals to Appeals Council**—(1) A member who is dissatisfied with a decision of the Disciplinary Tribunal in relation to him or her under **section 23** of this Act may appeal against the decision to the Appeals Council by giving written notice stating the grounds of appeal to the Institute within

35 28 days of the member receiving notice of the decision under that section.

(2) Where an appeal is notified under **subsection (1)** of this section, the Appeals Council shall give the member not less

40 than 14 days' written notice of the appeal hearing.

*Struck Out (Unanimous)*

(3) The Professional Conduct Committee shall be entitled to appear and be heard at the hearing of the appeal and may be represented by counsel or otherwise.

(4) Every appeal shall be by way of rehearing but, unless the Appeals Council directs otherwise, it shall not be permissible to recall witnesses who gave evidence before the Disciplinary Tribunal or to introduce any new evidence. 5

(5) After hearing any appeal, the Appeals Council may—

(a) Confirm or vary or reverse the Disciplinary Tribunal's decision and, for this purpose, the Appeals Council may exercise any of the powers set out in **section 23** of this Act; and 10

(b) Make any order as to the payment of the costs of the appeal as it thinks fit. 15

(6) The Institute shall ensure that written notice of a decision of the Appeals Council, and of the right of appeal under **section 25** of this Act, is—

(a) Given to the complainant, the member, and the Council within 14 days of the Appeals Council's decision; and 20

(b) Unless the Appeals Council directs otherwise, published in accordance with the rules.

**25. Appeal to District Court**—(1) A member who is dissatisfied with a decision of the Appeals Council in relation to him or her under **section 24** of this Act may appeal against the decision to the District Court. 25

(2) Every appeal under this section shall—

(a) Be brought by way of originating application; and

(b) Be lodged within 28 days of the member receiving notice of the decision under **section 24** of this Act, or within such further time as a District Court Judge may allow on application made before or after the expiration of that period. 30

**26. Procedure on appeal**—(1) Every appeal under **section 25** of this Act shall be heard as soon as reasonably practicable after the appeal is lodged. 35

(2) The Professional Conduct Committee shall be entitled to appear and be heard at the hearing of the appeal and may be represented by counsel or otherwise.

*Struck Out (Unanimous)*

5 (3) On the hearing of an appeal under **section 25** of this Act, a District Court Judge may confirm, reverse, or modify the decision appealed against, or may make any decision that could have been made by the Appeals Council.

(4) Nothing in this section gives a District Court Judge power to review any part of the decision other than the part appealed against.

10 (5) Subject to **section 29** of this Act, the decision of a District Court Judge on any appeal under **section 25** of this Act shall be final.

**27. Power of District Court to refer appeals back for reconsideration**—(1) A District Court Judge may, instead of determining any appeal under **section 25** of this Act, direct the Appeals Council to reconsider, either generally or in respect of any specified matters, the whole or any part of the decision appealed against.

15 (2) In giving any direction under **subsection (1)** of this section, a District Court Judge shall—

20 (a) Advise his or her reasons for doing so; and

(b) Give such directions as the Judge thinks just as to the whole or any part of the decision that is referred back for reconsideration.

25 (3) Where any decision is referred back to the Appeals Council under **subsection (1)** of this section, the Appeals Council shall, in reconsidering that matter, take into account the District Court Judge's reasons for giving a direction under that subsection, and give effect to the Judge's directions under **subsection (2) (b)** of this section.

30 **28. Orders as to costs and publication of names, etc.**—

(1) On any appeal under **section 25** of this Act, a District Court Judge may make an order for the payment by the Institute, or the appellant, of the costs incurred in respect of the appeal by the other party to the appeal.

35 (2) On any appeal under **section 25** of this Act, a District Court Judge may, if in the Judge's opinion it is proper to do so having regard to the interests of any person and to the public interest, make an order prohibiting the publication of the name or particulars of the affairs of any member or any other person.

*Struck Out (Unanimous)*

**29. Appeal to High Court on question of law—**

(1) Where, in respect of any appeal under section 25 of this Act, the appellant is dissatisfied with any decision of the District Court Judge as being erroneous in point of law, the appellant may appeal to the High Court by way of case stated for the opinion of that Court on the question of law only. 5

(2) Subject to subsection (3) of this section, every appeal under this section shall be heard and determined in accordance with rules of Court. 10

(3) The provisions of Part IV of the Summary Proceedings Act 1957 (including the other provisions of that Act which are applied in that Part), so far as they relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable and with all necessary modifications, to every appeal under this section. 15

**30. Decisions not to take effect until appeals determined—**

Subject to section 22 (5) of this Act, no decision of the Disciplinary Tribunal, the Appeals Council, or a District Court shall take effect while the member remains entitled to appeal against the decision in accordance with this Act or while any such appeal awaits determination. 20

*Offences*

**31. Improper use of terms implying membership of Institute—**

(1) Every person commits an offence who,— 25

(a) Not being a member of the Institute, uses in connection with his or her business, employment, or profession any written words, initials, or abbreviations of words intended to cause or which may reasonably cause any other person to believe that the person is a member of the Institute; or 30

(b) Not being entitled to do so under the rules, describes himself or herself in writing as a chartered accountant or a chartered accountant in public practice or an associate chartered accountant or an associate chartered accountant in public practice or an accounting technician; or 35

(c) Not being a member of the Institute, describes himself or herself in writing as a registered accountant, unless it is proved that the manner and circumstances in 40

which the description was given were such as to raise no reasonable inference that it was referring to membership of the Institute; or

- 5 (d) Not being entitled to do so under the rules, uses in connection with his or her name, or with the name under which he or she carries on business, the initials "C.A.", "A.C.A.", "F.C.A.", "F.A.C.A.", "C.A. (P.P.)", "A.C.A. (P.P.)", or "A.T." or an abbreviation of the words "chartered accountant", "associate chartered  
10 accountant", "registered accountant", or "accounting technician" or any combination of any such initials or abbreviations, unless it is proved that the manner and circumstances in which the initials or abbreviations were used were such as to raise no reasonable  
15 inference that they were referring to membership of the Institute.

(2) Every person who commits an offence against **subsection (1)** of this section is liable on summary conviction to a fine not exceeding \$5,000.

20 **32. Accountants and auditors must be qualified—**

*Struck Out (Unanimous)*

- 25 (1) Subject to **subsection (3)** of this section, no person shall describe himself or herself or hold himself or herself out publicly as an accountant or auditor unless that person is suitably qualified in accordance with **subsection (2)** of this section to offer accounting or auditing services to the public.

*New (Unanimous)*

- 30 (1) Subject to **subsection (3)** of this section, every person commits an offence who describes himself or herself or holds himself or herself out publicly as an accountant or auditor unless that person is suitably qualified in accordance with **subsection (2)** of this section to offer accounting or auditing services to the public.

- 35 (2) For the purposes of this section, a person is suitably qualified if that person holds a certificate, degree, diploma, registration, or similar qualification, whether obtained in New Zealand or elsewhere, that is relevant to the practices of accounting and auditing.

- (3) Nothing in this section prevents—
- (a) Any person who is not offering his or her services to the public as an accountant or auditor or under any similar designation from the use of such a designation in respect of or in relation to his or her salaried employment or occupation: 5
  - (b) Any person from practising publicly and describing himself or herself as a secretary, bookkeeper, or cost consultant, or under any other designation not associated with or conveying the impression that he or she is an accountant or auditor: 10
  - (c) Any person or member of a club, institution, or association which is not carried on with a view to profit from acting as auditor of the club, institution, or association: 15
  - (d) Any Minister of the Crown or officer charged with the administration of any law or the Controller and Auditor-General from appointing, or authorising or approving the appointment of, any person as auditor in respect of any undertaking. 20
- (4) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$5,000.

*Struck Out (Unanimous)*

- 33. Failure to comply with requirement of Professional Conduct Committee**—(1) Every member or former member of the Institute, and every former member of the Society, commits an offence who, without sufficient cause, does not comply with a requirement of the Professional Conduct Committee under **section 13 (b)** of this Act. 25
- (2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$1,000. 30

- 34. Failure to comply with summons of disciplinary body**—(1) Every person summoned under **section 16** of this Act to attend a hearing of a disciplinary body commits an offence if he or she, without sufficient cause, does any or all of the following: 35
- (a) Fails to attend in accordance with the summons:
  - (b) Does not give evidence when required to do so:
  - (c) Does not give evidence under oath when required to do so: 40

(d) Does not answer any question that is lawfully asked by the disciplinary body:

(e) Does not provide any documents, things, or information the summons requires that person to provide.

5

*Struck Out (Unanimous)*

10

(2) A person summoned to attend a hearing of a disciplinary body shall not be convicted of an offence against **subsection (1)** of this section unless, at the time of the service of the summons or at some other reasonable time before the date on which the person was required to attend, there was paid or tendered to that person the amount fixed under **clause 3 (2)** of the **First Schedule** to this Act.

*New (Unanimous)*

15

(2) A person summoned to attend a hearing of a disciplinary body shall not be convicted of an offence against **subsection (1)** of this section unless witnesses expenses are paid or tendered to that person in accordance with **section 16 (9)** of this Act.

20

*Struck Out (Unanimous)*

(3) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$1,000.

25

**35. Failure to comply with requirement or order of disciplinary body**—(1) Every person commits an offence who, without sufficient cause, does not comply with a requirement or order made by a disciplinary body under this Act.

(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$1,000.

30

**36. Contempt of disciplinary bodies**—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who—

(a) Assaults, threatens, or intimidates, or intentionally insults, a disciplinary body or any member or officer of a disciplinary body during a sitting of the disciplinary body, or in going to or returning from any sitting; or

*Struck Out (Unanimous)*

- (b) Intentionally interrupts the proceedings of a disciplinary body or otherwise misbehaves while the disciplinary body is sitting; or
- (c) Intentionally and without lawful excuse disobeys an order or direction of a member of a disciplinary body in the course of any proceedings before the disciplinary body. 5
- (2) A member of a disciplinary body may order the exclusion from a sitting of the disciplinary body of any person whose behaviour, in that member's opinion, constitutes an offence against **subsection (1)** of this section, whether or not the person is charged with the offence; and any member of the Police may take such steps as are reasonably necessary to enforce such an exclusion. 10 15
- Cf. 1994, No. 143, s. 221

*Appointment of Agent to Conduct Practice of Sole Practitioner*

**37. Agent may be appointed to conduct sole practitioner's practice**—(1) Notwithstanding any other enactment or rule of law, an agent may be appointed, in accordance with the provisions of the **Second Schedule** to this Act, to conduct the practice of a chartered accountant in public practice who is a sole practitioner. 20

*New (Unanimous)*

(2) Every power of attorney given in accordance with the provisions of the New Zealand Society of Accountants Amendment Act 1968 and in force immediately before the day on which **subsection (1)** of this section comes into force shall be deemed to have been given in accordance with that subsection and the **Second Schedule** to this Act. 25 30



*Miscellaneous Provisions*

*Struck Out (Unanimous)*

5 **38. Service of documents on Institute**—Any writ or other document may be served on or delivered to the Institute by leaving it at the registered office of the Institute.

**39. Proof of rules and code**—The production of any document purporting to be—

10 (a) A copy of the rules or any of them, or of the code or any provisions of the code; and

(b) Sealed with the seal of the Institute— shall, until the contrary is shown, be sufficient proof that those rules or the code or provisions have been duly made and are in full force and effect.

15 **40. Assets, rights, and liabilities of Society unaffected**— For the avoidance of doubt, it is hereby declared that, except as expressly provided by this Act, all assets, rights, and liabilities of the Society immediately prior to the commencement of this section—

20 (a) Are, on and from the commencement of this section, the assets, rights, and liabilities of the Institute; and

(b) Are not otherwise affected by this Act.

**41. References to Society**—Every reference to the Society in any enactment or document shall, unless the context otherwise requires, be read as a reference to the Institute.

25 **42. References to chartered accountants**—(1) Every reference in any enactment to a—

(a) Chartered accountant; or

(b) Chartered accountant in public practice; or

30 (c) Chartered accountant who holds a certificate of a public practice,—

in relation to the holding of any office (including the office of auditor), the performance of any function, the exercise of any power, or acting in any particular capacity, shall, unless the context otherwise requires, be read as a reference to a chartered accountant (within the meaning of **section 2** of this Act) who, under the rules, is entitled to hold that office, perform that function, exercise that power, or act in that capacity.

35

**43. Fees payable to Registrar**—The Governor-General may from time to time, by Order in Council, make regulations prescribing fees payable to the Registrar for registration of documents under this Act.

**44. Fidelity fund**—(1) Part I of the New Zealand Society of Accountants Amendment Act 1963 is hereby amended in the manner indicated in the **Third Schedule** to this Act. 5

(2) It is hereby declared that the Fidelity Fund Board of Trustees as constituted immediately before the commencement of this section, and any delegation of powers by the Council of the Society to the Board, shall, on and after the commencement of this (*section*) Act, continue on the same terms and conditions as applied immediately before the commencement of this (*section*) Act as if the Board had been appointed, or the powers had been delegated, by the Council of the Institute. 10 15

(3) **Subsections (1) and (2)** of this section are hereby repealed.

(4) The **Third Schedule** to this Act and the enactments specified in the **Fourth Schedule** to this Act are hereby repealed. 15

*Struck Out (Unanimous)* 20

**45. Transitional provisions**—(1) It is hereby declared that—

(a) Each member of the Council of the Society immediately before the commencement of this section shall, on and from the commencement of this section, be a member of the Council of the Institute for the remainder of his or her term of appointment on the same terms and conditions as applied immediately before the commencement of this section; and 25

(b) All other officers, and all employees and members, of the Society immediately before the commencement of this section shall, on and from the commencement of this section, be officers, employees, and members of the Institute on the same terms and conditions as applied immediately before the commencement of this section. 30 35

(2) Every power of attorney made in accordance with the provisions of the New Zealand Society of Accountants Amendment Act 1968 and in force immediately before the day on which **section 37** of this Act comes into force shall be deemed 40

*Struck Out (Unanimous)*

to have been made in accordance with **section 37** of, and the **Second Schedule** to, this Act.

*New (Unanimous)*

5     **45. Transitional provision relating to disciplinary**  
proceedings—The New Zealand Society of Accountants Act  
1958 shall, notwithstanding its repeal by **section 47** of this Act,  
continue to apply in respect of any complaint made, and any  
10 disciplinary proceedings commenced, under that Act before  
the commencement of this Act.

**46. Amendments to other Acts**—The enactments  
specified in the **Fifth Schedule** to this Act are hereby amended in  
the manner indicated in that Schedule.

15     **47. Repeals**—The enactments specified in the **Sixth Schedule** to  
this Act are hereby repealed.

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SCHEDULES

*Struck Out (Unanimous)*

**Section 16**

FIRST SCHEDULE

PROVISIONS APPLYING TO SERVICE OF WITNESS SUMMONS AND PAYMENT OF WITNESSES' EXPENSES

**1. Definition**—In this Schedule, “summons” means a summons to a witness to attend a hearing of a disciplinary body under **section 16** of this Act.

**2. Service of summons**—(1) A summons may be served—

- (a) By delivering it to the person summoned; or
- (b) By posting it to the person summoned at that person’s usual place of residence.

(2) A summons must—

- (a) If it is to be served under **subclause (1)(a)** of this clause, be served at least 24 hours before the attendance of the witness is required;
- (b) If it is to be served under **subclause (1)(b)** of this clause, be served at least 10 days before the date on which the attendance of the witness is required.

(3) A summons that is posted shall be treated, for the purposes of this Act, to have been served when it would have been delivered in the ordinary course of the post.

**3. Witnesses’ expenses etc.**—(1) Every witness attending a hearing of a disciplinary body in accordance with a summons is entitled to be paid witnesses’ fees, allowances, and travelling expenses in accordance with the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957.

(2) A disciplinary body or the person referred to in **section 17** of this Act, as the case may be, must, when issuing a summons, fix an amount that, on the service of the summons or at some other reasonable time before the date on which the witness is required to attend, is to be paid or tendered to the witness, and that amount shall be the amount of the fees, allowances, and travelling expenses that the disciplinary body or that person estimates the witness is entitled to under **subclause (1)** of this clause.

**4. Payment of witnesses’ expenses, etc.**—(1) A person requiring the evidence of a witness—

- (a) Must pay the witnesses’ fees, allowances, and travelling expenses fixed under **clause 3 (2)** of this Schedule; and
- (b) Must, on applying for a summons, deposit with the disciplinary body the amount that body or the person referred to in **section 17** of this Act, as the case may be, considers sufficient to meet those fees, allowances, and travelling expenses.

(2) The fees, allowances, and travelling expenses for a witness must be paid—

- (a) Out of any amount deposited under **subclause (1)(b)** of this clause for that purpose; or
- (b) Out of the funds of the disciplinary body in any other case.

SECOND SCHEDULE

Section 37 (1)

APPOINTMENT OF AGENT TO CONDUCT SOLE PRACTITIONER'S PRACTICE

**1. Interpretation**—(1) In this Schedule,—

“Administrator” has the meaning given to it by section 4 of the Administration Act 1969:

“Agent” means a chartered accountant in public practice appointed under **clause 2** of this Schedule to conduct the practice of a sole practitioner; and includes a substitute appointed under **clause 4** of this Schedule:

“Appointor” means a person who has given a power of attorney under this Schedule:

“Chartered accountant in public practice” means a chartered accountant who for the time being holds a certificate of public practice issued under the rules:

“Manager” has the meaning given to it by section 2 of the the Protection of Personal and Property Rights Act 1988:

“Representative of a sole practitioner” means—

(a) An administrator of the estate of a sole practitioner; or

(b) A manager of the practice of a sole practitioner:

“Sole practitioner” means a chartered accountant in public practice without a partner or partners.

(2) In this Schedule, a reference to conducting the practice of a chartered accountant includes operating the bank account or accounts relating to that practice.

**2. Appointment of agent**—(1) Subject to the provisions of this Schedule, a sole practitioner or the representative of a sole practitioner may appoint one or more chartered accountants in public practice to conduct the sole practitioner's practice in the sole practitioner's name.

(2) A sole practitioner or representative of a sole practitioner must not appoint an agent to conduct the practice of the sole practitioner if—

(a) An agent has already been appointed in respect of that practice; and

(b) The powers of that agent have been suspended under **clause 7** of this Schedule.

**3. Consent to appointment**—The appointment of an agent may be made only with the consent of the agent and, in the case of an appointment by an administrator, may be made only with the consent of the Council.

**4. Form and conditions of appointment**—(1) The appointment of an agent—

(a) Must be by a power of attorney in a form approved by the Council; and

(b) If 2 or more persons are appointed agents, must state whether they are appointed jointly and severally or otherwise; and

(c) May authorise the agent to appoint one or more chartered accountants in public practice as a substitute for that agent.

(2) All the provisions of this Schedule apply to a substitute appointed by an agent under this clause as if that substitute had been the agent originally appointed under **clause 2** of this Schedule.

**5. Term of appointment**—(1) The appointment of any agent by a sole practitioner, or by a manager of a sole practitioner's practice, must be for one or more of the following periods:

SECOND SCHEDULE—*continued*

APPOINTMENT OF AGENT TO CONDUCT SOLE PRACTITIONER'S PRACTICE—  
*continued*

- (a) Any period during which the sole practitioner is incapacitated and unable to conduct his or her practice:
  - (b) Any period during which the sole practitioner is absent from New Zealand:
  - (c) A period from the death of the sole practitioner until the earlier of the following:
    - (i) An administrator of the estate of the sole practitioner revokes the appointment:
    - (ii) One year after the grant of administration in the estate of the sole practitioner.
- (2) The appointment of an agent by an administrator of the estate of a sole practitioner shall continue until the administrator revokes the appointment.

**6. Cessation of agent's powers**—(1) The powers of an agent cease on the earlier of the following:

- (a) The revocation of the appointment:
- (b) The expiry of the term of the appointment:
- (c) The sole practitioner, in respect of whose practice the powers have been given, commencing practice with any other chartered accountant or chartered accountants.

(2) The powers of an agent do not cease by reason only of the sole practitioner, in respect of whose practice the agent has been appointed, dying or becoming mentally disordered.

**7. Suspension of powers of agent**—(1) The manager of the practice of a sole practitioner may, at any time, suspend the powers of an agent to conduct the practice of the sole practitioner.

(2) A manager may revoke any suspension by him or her under *subclause (1)* of this clause.

(3) A manager shall, as soon as practicable, give the agent notice in writing of the suspension or revocation.

**8. Obligations of agents**—(1) An agent must not act until—

- (a) He or she has given a certified copy of the power of attorney to the Institute; and
- (b) The Council, or a committee of the Council authorised by the Council for this purpose, has resolved to permit the agent to act under that power of attorney.

(2) If an agent ceases to act as such, the agent and his or her appointor (if living) must, as soon as practicable, give the Institute notice in writing of the agent ceasing to act.

(3) Notice to the Institute under this clause may be given to an officer or employee of the Institute authorised to accept notice for this purpose.

**9. Fees, etc.**—(1) Every agent acting under a power of attorney given under this Act must pay all fees payable in accordance with the rules of the Institute, all contributions and levies to the fidelity fund, and all other amounts for which the sole practitioner would have been liable if he or she had continued to practise as a chartered accountant in public practice.

SECOND SCHEDULE—*continued*

APPOINTMENT OF AGENT TO CONDUCT SOLE PRACTITIONER'S PRACTICE—  
*continued*

(2) While all such fees, contributions, levies, and amounts are being paid in respect of any sole practitioner who has died, the provisions of the Act and the rules shall apply in respect of that sole practitioner as if he or she were living and practising as a chartered accountant in public practice.

**10. Notice to Commissioner of Inland Revenue in certain cases—**

An agent must give notice to the Commissioner of Inland Revenue, within the time and in the manner provided by section 45 of the Estate and Gift Duties Act 1968, of any payment made by the agent out of the account of a deceased sole practitioner of money that belonged to the practitioner in the practitioner's own right.

**11. Miscellaneous provisions—**(1) The provisions of this Schedule apply notwithstanding the provisions of the Property Law Act 1952 or any other enactment or rule of law.

(2) Every enactment and rule of law applies to any agent or any agency under this Schedule, except to the extent that the enactment or rule of law has been modified by this Schedule.

(3) Nothing in this Schedule prevents—

- (a) The lawful disposal of the practice of a sole practitioner; or
  - (b) A chartered accountant granting a power of attorney otherwise than under this Schedule.
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## Section 44

## THIRD SCHEDULE

AMENDMENTS TO NEW ZEALAND SOCIETY OF ACCOUNTANTS AMENDMENT  
ACT 1963

Provision	Amendment
Sections 2 and 3 ...	<p>By repealing these sections, and substituting the following section:</p> <p>“2. <b>Interpretation</b>—(1) In this Part of this Act, unless the context otherwise requires,—</p> <p>“‘Board’ or ‘Board of Trustees’ means the Board to which the powers of the Council in relation to the fund may be delegated under section 9 of this Act:</p> <p>“‘Certificate of public practice’ means a certificate of public practice issued under the rules of the Institute:</p> <p>“‘Committee’ means any committee established under the rules of the Society:</p> <p>“‘Contributor’ means any person who holds a certificate of public practice:</p> <p>“‘Council’ means the Council of the Institute:</p> <p>“‘Fund’ means the New Zealand Society of Accountants Fidelity Fund established under this Part of this Act:</p> <p>“‘Institute’ means the Institute of Chartered Accountants of New Zealand constituted under the Institute of Chartered Accountants of New Zealand Act 1995, formerly called the New Zealand Society of Accountants:</p> <p>“‘New Zealand Society of Accountants’ means the New Zealand Society of Accountants constituted under the New Zealand Society of Accountants Act 1958.</p> <p>“(2) In this Part of this Act,—</p> <p>“(a) The term ‘chartered accountant’ means a person to whom this Part of this Act applied immediately before the commencement of the Institute of Chartered Accountants of New Zealand Act 1995; and</p>



THIRD SCHEDULE—*continued*

AMENDMENTS TO NEW ZEALAND SOCIETY OF ACCOUNTANTS AMENDMENT ACT 1963—*continued*

Provision	Amendment
Sections 2 and 3— <i>continued</i>	<p>“(b) A reference to a firm of chartered accountants includes a firm of chartered accountants (within the meaning of <b>section 2</b> of the Institute of Chartered Accountants of New Zealand Act 1995) of which such a person is a partner.</p> <p>“(3) Every reference in this Part of this Act to the Society shall, unless the context otherwise requires, be read as a reference to the Institute.”</p>
Section 4           ...           ...	By omitting from subsection (2) the words “New Zealand Society of Accountants”, and substituting the word “Society”.
Section 5           ...           ...	By repealing paragraph (a), and substituting the following paragraphs: <p>“(aa) All sums standing to the credit of the fund on the commencement of the Institute of Chartered Accountants of New Zealand Act 1995:</p> <p>“(a) All sums paid to or on account of the fund by contributors, either as annual contributions or as levies in accordance with the provisions of this Part of this Act in that behalf.”</p>
Section 10           ...           ...	By repealing this section (as amended by section 20 (2) of the New Zealand Society of Accountants Amendment Act 1968, section 5 (1) of the New Zealand Society of Accountants Amendment Act 1977, and section 2 (1) of the New Zealand Society of Accountants Amendment Act 1992), and substituting the following section: <p>“10. <b>Prescribed fees to be paid into fidelity fund</b>—(1) Every contributor shall pay, for every period specified in <b>subsection (2)</b> of this section, and in addition to any annual fee and other fees then payable by the contributor, such fee as may from time to time be prescribed by</p>

THIRD SCHEDULE—*continued*

AMENDMENTS TO NEW ZEALAND SOCIETY OF ACCOUNTANTS AMENDMENT ACT 1963—*continued*

Provision	Amendment
Section 10— <i>continued</i>	<p>resolution of the Council for the purposes of this Part of this Act.</p> <p>“(2) The period to which <b>subsection (1)</b> of this section refers shall be the period of 12 months ending with the 30th day of June in each year or with such other day in each year as the Society in general meeting may from time to time determine.</p> <p>“(3) If any person who is not the holder of a certificate of public practice wishes to obtain such a certificate, he or she shall, on making application for the issue to him or her 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.</p> <p>“(4) Notwithstanding <b>subsection (3)</b> of this section, every person who applies for and is issued with a certificate of public practice 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.</p> <p>“(5) All fees payable under this section shall become due and payable in the same manner as other fees to the Society become due and payable; and shall be recoverable as debts due to the Society (whether or not the persons liable remain contributors).”</p>
Section 11      ...      ...	<p>By repealing this section (as substituted by section 3 (1) of the New Zealand Society of Accountants Amendment Act 1992), and substituting the following section:</p> <p>“11. <b>Contributors may be required to pay levy</b>—(1) If at any time the fund is not sufficient, or, in the opinion of the Council having regard to any prospective claims or liabilities likely to be received or incurred, may not be sufficient to satisfy the liabilities of the Society in relation to</p>

THIRD SCHEDULE—*continued*

AMENDMENTS TO NEW ZEALAND SOCIETY OF ACCOUNTANTS AMENDMENT ACT 1963—*continued*

Provision	Amendment
Section 11— <i>continued</i>	<p>the fund, the Council may by resolution impose on every contributor for payment into the fund, a levy of such amount as the Council thinks fit.</p> <p>“(2) The amount of every such levy shall become payable on a date or dates, and in a manner, to be fixed by the Council; and shall be recoverable as a debt due to the Society (whether or not the persons liable remain contributors).”</p>
Section 14 (as amended by section 21 of the New Zealand Society of Accountants Amendment Act 1968)	<p>By omitting the words “within the meaning of subsection (3) of section 3 of this Act”.</p> <p>By omitting the words “chartered accountant to whom this Part of this Act does not apply”, and substituting the words “person who is not a chartered accountant”.</p>
Section 15B ... ..	<p>By inserting, after section 15A (as inserted by section 4 of the New Zealand Society of Accountants Amendment Act 1993), the following section:</p> <p>“15B. <b>Winding up of fund</b>—At any time after all claims against the fund have been received and fully dealt with under this Part of this Act, the Council may, by notice in the <i>Gazette</i>, specify a date (not being less than one month after the date of the <i>Gazette</i>) on which the fund shall be deemed to be wound up; and—</p> <p>“(a) On and from that date any remaining assets of the fund shall cease to be held by the Society in trust for the purposes appearing in this Part of this Act and may be used by the Society for any lawful purpose determined by it; and</p> <p>“(b) The Council shall, as soon as practicable after that date, prepare final accounts for the fund audited by a member of the Society appointed for the purpose by the Council.”</p>
Section 23 ... ..	<p>By omitting from subsection (2) the words “the Secretary for the Society or”.</p>

THIRD SCHEDULE—*continued*

AMENDMENTS TO NEW ZEALAND SOCIETY OF ACCOUNTANTS AMENDMENT  
ACT 1963—*continued*

Provision	Amendment
Section 23— <i>continued</i>	By omitting from subsection (5) the words “Investigation Committee, Disciplinary Committee, or Committee of Appeal”, and substituting the words “Professional Conduct Committee or any disciplinary body within the meaning of <b>section 2</b> of the Institute of Chartered Accountants of New Zealand Act 1995”.

**Section 44 (4)**

FOURTH SCHEDULE

ENACTMENTS RELATING TO FIDELITY FUND REPEALED

1963, No. 139—The New Zealand Society of Accountants Amendment Act 1963. (R.S. Vol. 5, p. 902.)

1968, No. 137—The New Zealand Society of Accountants Amendment Act 1968. (R.S. Vol. 5, p. 914.)

1993, No. 21—The New Zealand Society of Accountants Amendment Act 1993.

FIFTH SCHEDULE Section 46  
ENACTMENTS AMENDED

Enactment	Amendment
1908, No. 81—The Industrial and Provident Societies Act 1908 (R.S. Vol. 7, p. 407)	By omitting from section 19 (2) (as substituted by section 20 (1) of the Statutes Amendment Act 1948) the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1952, No. 55—The Dairy Industry Act 1952 (R.S. Vol. 26, p. 113)	By omitting from section 22 (1) (as amended by section 2 (2) of the Dairy Industry Amendment Act 1975) the words “an accountant registered under the New Zealand Society of Accountants Act 1958”, and substituting the words “a chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1955, No. 63—The Companies Act 1955 (R.S. Vol. 15, p. 89)	By omitting from section 165 (4) the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
	By omitting from section 260 (1) (f) (as inserted by section 41 of the Companies Amendment Act 1993) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.
1956, No. 61—The Trustee Act 1956 (R.S. Vol. 15, p. 615)	By omitting from section 83B (1) (as inserted by section 10 (1) of the Trustee Amendment Act 1957) the words, “member of the New Zealand Society of Accountants” in each place where they appear, and substituting in each case the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1957, No. 100—The Vegetables Levy Act 1957 (R.S. Vol. 11, p. 749)	By omitting from section 3 (3c) (b) the words “in public practice”, and substituting the words “(within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.

FIFTH SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1962, No. 133—The Maori Community Development Act 1962 (R.S. Vol. 8, p. 361)	By omitting from section 28 (e) (as amended by section 9 (1) of the Ministry of Maori Development Act 1991) the words “registered public accountant”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1965, No. 22—The Building Societies Act 1965 (R.S. Vol. 17, p. 41)	By repealing paragraph (a) of section 100 (1), and substituting the following paragraph: “(a) A chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1967, No. 47—The Berryfruit Levy Act 1967 (R.S. Vol. 18, p. 11)	By omitting from section 14 (1) the words “member or members of the New Zealand Society of Accountants”, and substituting the words “chartered accountant or chartered accountants (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1968, No. 35—The Estate and Gift Duties Act 1968 (R.S. Vol. 28, p. 341)	By repealing section 35B (1) (as inserted by section 5 of the Estate and Gift Duties Amendment Act 1970), and substituting the following subsection: “(1) In this section, the term ‘accountant’ means a chartered accountant or chartered accountants (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1969, No. 23—The Building Research Levy Act 1969 (R.S. Vol. 21, p. 195)	By omitting from section 12 (1) the words “member or members of the New Zealand Society of Accountants”, and substituting the words “chartered accountant or chartered accountants (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.

FIFTH SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1971, No. 28—The Unclaimed Money Act 1971 (R.S. Vol. 21, p. 831)	By repealing paragraph (j) of section 5 (1), and substituting the following paragraph: “(j) Any chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995) in respect of money held on behalf of clients.”
1971, No. 155—The Racing Act 1971 (R.S. Vol. 7, p. 731)	By omitting from section 21 (3) the words “in public practice”, and substituting the words “(within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1974, No. 48—The Private Investigators and Security Guards Act 1974 (R.S. Vol. 24, p. 633)	By repealing the definition of the term “chartered accountant in public practice” in section 2 (1). By omitting from section 50 (1) the words “in public practice”, and substituting the words “(within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1975, No. 127—The Motor Vehicle Dealers Act 1975 (R.S. Vol. 5, p. 749)	By omitting from section 32 the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”. By omitting from section 50 (1) the words “member of the new Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1976, No. 9—The Real Estate Agents Act 1976	By omitting from section 50 (5) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”. By omitting from section 72 the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.

FIFTH SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1976, No. 9—The Real Estate Agents Act 1976— <i>continued</i>	By omitting from section 91 (1) the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1976, No. 187—The Wine Makers Levy Act 1976	By omitting from section 91 (5) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”. By omitting from section 13 (1) the words “member or members of the New Zealand Society of Accountants”, and substituting the words “chartered accountant or chartered accountants (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1977, No. 84—The Gaming and Lotteries Act 1977 (R.S. Vol. 33, p. 17)	By omitting from section 56 (1) the words “in public practice”, and substituting the words “(within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1978, No. 103—The Securities Act 1978 (R.S. Vol 33, p. 587)	By omitting from the definition of the term “qualified auditor” in section 2 (1) the words “member of the New Zealand Society of Accountants who holds a certificate of public practice”, and substituting the words “chartered accountant (within the meaning of <b>section 42</b> of the Institute of Chartered Accountants of New Zealand Act 1995)”.
	By omitting clause 5 of the Second Schedule, and substituting the following clause: “5. A qualification entitling the holder to practice the profession of accountancy in New Zealand (which qualification may consist of membership of the Institute of Chartered Accountants of New Zealand and require the holder to comply with the applicable rules of the Institute).”



FIFTH SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1982, No. 118—The Friendly Societies and Credit Unions Act 1982	By repealing paragraph (a) of section 63 (1), and substituting the following paragraph: “(a) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995); or”.
1982, No. 123—The Law Practitioners Act 1982	By repealing paragraph (a) of section 123 (1), and substituting the following paragraph: “(a) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995); or”.  By repealing paragraph (c) of section 85 (6), and substituting the following paragraph: “(c) In evidence in proceedings before a District Council or committee or a Tribunal under Part VII of this Act, or before the Disciplinary Tribunal of the Institute of Chartered Accountants of New Zealand; or”.  By repealing paragraph (d) of section 85 (8), and substituting the following paragraph: “(d) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995.”.  By repealing section 85 (10), and substituting the following subsection: “(10) Where the contents, or any part of the contents, of any report are disclosed to the Council of the Institute of Chartered Accountants of New Zealand under subsection (8) of this section, that Council shall consider the information given in committee and not otherwise; and it shall not be lawful for any member of that Council or any of its officers to publish to any person any information so disclosed except in evidence in disciplinary proceedings under the Institute of Chartered Accountants of New Zealand Act 1995.”  By omitting from section 88 (1) the words “New Zealand Society of Accountants”,

FIFTH SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1982, No. 123—The Law Practitioners Act 1982— <i>continued</i>	<p>and substituting the words “Institute of Chartered Accountants of New Zealand”.</p> <p>By repealing paragraph (b) of section 88 (2), and substituting the following paragraph:  “(b) Not more than 3 shall be chartered accountants (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995) appointed by the Council of the Institute of Chartered Accountants of New Zealand.”</p> <p>By omitting from section 88 (10) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.</p> <p>By repealing section 91 (4) (as substituted by section 4 of the Law Practitioners Amendment Act 1994), and substituting the following subsection:  “(4) Regulations made under this section shall not limit or derogate from the disciplinary powers of a Tribunal under this Act or of the Appeals Council under the Institute of Chartered Accountants of New Zealand Act 1995.”</p>
1989, No. 10—The Superannuation Schemes Act 1989	<p>By repealing the definition of the term “auditor” in section 2 (1), and substituting the following definition:  “‘Auditor’ means a chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995):”.</p>
1989, No. 80—The Education Act 1989	<p>By repealing paragraph (a) of section 81B (as inserted by section 42 of the Public Finance Amendment Act 1992), and substituting the following paragraph:  “(a) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995) of the Board’s choice; or”.</p>

FIFTH SCHEDULE—*continued*  
 ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1990, No. 127—The Commodity Levies Act 1990	By omitting from section 15 (3) the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1991, No. 119—The Securities Transfer Act 1991	By repealing paragraph (c) of the definition of the term “authorised transaction” in section 2, and substituting the following paragraph: “(c) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995); or”.
1993, No. 4—Te Ture Whenua Maori Act 1993	By omitting from section 277 (4) the words “member of the New Zealand Society of Accountants”, and substituting the words “chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995)”.
1993, No. 105—The Companies Act 1993	By repealing paragraph (a) of section 199 (1), and substituting the following paragraph: “(a) A chartered accountant (within the meaning of section 42 of the Institute of Chartered Accountants of New Zealand Act 1995); or”.
	By omitting from section 286 (1) (f) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.
1993, No. 106—The Financial Reporting Act 1993	By omitting from section 25 the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.
	By omitting from section 26 (1) (a) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.
	By omitting from section 26 (1) (a) the word “Society” in each place where it appears,

FIFTH SCHEDULE—*continued*  
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1993, No. 106—The Financial Reporting Act 1993— <i>continued</i>	and substituting in each case the word “Institute”. By omitting from section 26 (1) (b) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”. By omitting from section 26 (1) (b) the word “Society” in each place where it appears, and substituting in each case the word “Institute”.
1993, No. 122—The Receiverships Act 1993 ...	By omitting from section 37 (1) (i) the words “New Zealand Society of Accountants”, and substituting the words “Institute of Chartered Accountants of New Zealand”.

## Section 47

SIXTH SCHEDULE  
ENACTMENTS REPEALED

- 1958, No. 42—The New Zealand Society of Accountants Act 1958. (R.S. Vol. 5, p. 869.)
- 1963, No. 139—The New Zealand Society of Accountants Amendment Act 1963: Part II. (R.S. Vol. 5, p. 902.)
- 1968, No. 137—The New Zealand Society of Accountants Amendment Act 1968: Sections 2 to 20. (R.S. Vol. 5, p. 914.)
- 1971, No. 118—The New Zealand Society of Accountants Amendment Act 1971. (R.S. Vol. 5, p. 921.)
- 1977, No. 69—The New Zealand Society of Accountants Amendment Act 1977: Sections 2 to 4, 7, and 8. (R.S. Vol. 5, p. 922.)
- 1978, No. 115—The New Zealand Society of Accountants Amendment Act 1978. (R.S. Vol. 5, p. 924.)
- 1982, No. 172—The New Zealand Society of Accountants Amendment Act 1982.
- 1992, No. 37—The New Zealand Society of Accountants Amendment Act 1992.
- 1993, No. 21—The New Zealand Society of Accountants Amendment Act 1993: Sections 2 and 3.